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Friday
January 9, 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: January 29; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Mildred Isler 202–523–3517

PORTLAND, OR

WHEN: February 17; at 9 am.

WHERE: Bonneville Power Administration Auditorium, 1002 N.E. Holladay Street, Portland, OR.

RESERVATIONS: Call the Portland Federal Information Center on the following local numbers:

Portland 503–221–2222
Seattle 206–442–0570
Tacoma 206–383–5230

LOS ANGELES, CA

WHEN: February 18; at 1:30 pm.

WHERE: Room 8544, Federal Building, 300 N. Los Angeles Street, Los Angeles, CA.

RESERVATIONS: Call the Los Angeles Federal Information Center, 213–894–3800

SAN DIEGO, CA

WHEN: February 20; at 9 am.

WHERE: Room 2S31, Federal Building, 880 Front Street, San Diego, CA.

RESERVATIONS: Call the San Diego Federal Information Center, 619–293–6030

Contents

Federal Register
Vol. 52, No. 6
Friday, January 9, 1987

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5596..... 755

7 CFR
907..... 757
910..... 755
911..... 758
Proposed Rules:
1240..... 797

10 CFR
9..... 759

11 CFR
100..... 760
102..... 760
103..... 760
104..... 760
110..... 760

14 CFR
71..... 775

15 CFR
376..... 776

17 CFR
1..... 777
33..... 777

18 CFR
388..... 779

21 CFR
74..... 902
81..... 902
82..... 902
558..... 780

26 CFR
Proposed Rules:
1..... 802
7..... 802
20..... 802
25..... 802
53..... 802
56..... 802

32 CFR
Proposed Rules:
286..... 802
856..... 803

33 CFR
Proposed Rules:
161..... 806

36 CFR
1232..... 948

40 CFR
Proposed Rules:
85..... 924

46 CFR
Proposed Rules:
580..... 809

48 CFR
208..... 781
Proposed Rules:
215..... 809

50 CFR
17..... 781
611..... 785
663..... 790
672..... 785
675..... 785

Federal Register
Vol. 52, No. 6
Friday, January 9, 1987

Presidential Documents

Title 3—

The President

Proclamation 5596 of January 7, 1987

National Bowling Week, 1987

By the President of the United States of America

A Proclamation

Bowling is the largest indoor participation sport in the United States. Some 70 million Americans take part each year, and millions more enjoy this exciting sport on television. Bowling is an excellent form of exercise and recreation for all people regardless of age.

Bowling is one of the oldest sports in the world. People have competed in some form of bowling for thousands of years. Today, many different forms of bowling are played in many cultures throughout the world.

Bowling has long been part of American life. Many immigrants brought different forms of bowling from their homelands. The popularity of the legend of Rip van Winkle shows that bowling has been part of our society since the birth of our country.

The Congress, by Public Law 99–589, has designated the week beginning January 4, 1987, as "National Bowling Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning January 4, 1987, as National Bowling Week. I call upon the people of the United States to observe that week with appropriate observances and activities.

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

Ronald Reagan

[FR Doc. 87–628
Filed 1–8–87; 11:00 am]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 52, No. 6
Friday, January 9, 1987

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 642]

Navel Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 642 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period January 9, 1987, through January 15, 1987. Such action is needed to balance the supply of fresh navel oranges with the demand for such period, due to the marketing situation confronting the orange industry.

DATE: Regulation 642 (§ 907.942) is effective for the period January 9, 1987, through January 15, 1987.

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

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

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

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

This rule is issued under Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel oranges grown in Arizona and designated part of California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Navel Orange Administrative Committee and upon other available information. It is found that this action will tend to effectuate the declared policy of the act.

This action is consistent with the marketing policy for 1986-87 adopted by the Navel Orange Administrative Committee. The committee met publicly on January 6, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 7 to 4, a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports that the market for navel oranges has improved and demand is good.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. To effectuate the declared purposes of the act, it is necessary to make this regulatory provision effective as specified, and handlers have been apprised of such provision and the effective time.

List of Subjects in 7 CFR Part 907

Marketing agreements and orders, California, Arizona, Oranges (Navel).

1. The authority citation for 7 CFR Part 907 continues to read:

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

2. Section 907.942 Navel Orange Regulation 642 is added to read as follows:

§ 907.942 Navel Orange Regulation 642.

The quantities of navel oranges grown in California and Arizona which may be handled during the period January 9, 1987, through January 15, 1987, are established as follows:

(a) District 1: 1,404,531 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Dated: January 7, 1987.

Thomas R. Clark,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87-595 Filed 1-8-87; 8:45 am]
BILLING CODE 3410-02-M

7 CFR Part 910

[Lemon Regulation 543]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 543 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 265,000 cartons during the period January 11-17, 1987. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 543 (§ 910.843) is effective for the period January 11-17, 1987.

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

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant

economic impact on a substantial number of small entities.

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

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

This regulation is consistent with the marketing policy for 1986–87. The committee met publicly on January 6, 1987, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended, by a vote of 12 to 1, a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that demand is good and prices are steady.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, and Lemons.

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

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

2. Section 910.843 is added to read as follows:

§ 910.843 Lemon Regulation 543.

The quantity of lemons grown in California and Arizona which may be handled during the period January 11 through January 17, 1987, is established at 265,000 cartons.

Dated: January 7, 1987.

Thomas R. Clark,

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

[FR Doc. 87–596 Filed 1–8–87; 8:45 am]

BILLING CODE 3410–02–M

[Amdt. No. 5]

7 CFR Part 911

Limes Grown in Florida; Daily Pack-Out Reports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule requires lime handlers to report to the Florida Lime Administrative Committee the daily pack-out of selected sizes of limes during the March through June period each season. An interim final rule required handlers to report this information to the committee from March 20 through June 30, 1986, during the 1986 shipping season, and during March through June in subsequent seasons. The size and price variation of limes is greatest during the March through June period of the marketing season. The collection and dissemination of this information has assisted growers and handlers in making better harvesting and marketing decisions and will continue to do so.

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under § 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)).

EFFECTIVE DATE: March 1, 1987.

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

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

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

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

The production area of Marketing Order No. 911 consists of all of the State of Florida except the area west of the Suwanee River. Production for the 1985–86 season totaled about 64,000 tons or 2.3 million bushels, of which 39,000 tons or 1.4 million bushels went to fresh market. The remaining 25,000 tons were processed for juice. Total production value was $21 million. It is estimated that 26 handlers of Florida limes under the marketing order for limes grown in Florida will be subject to regulation during the course of the current season. In addition, there are approximately 263 growers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $100,000 and agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The great majority of these firms may be classified as small entities.

Pursuant to the requirements set forth in the RFA the Administrator of AMS has considered the economic impact on small entities. The rule requires lime handlers to report to the Florida Lime Administrative Committee the daily pack-out of certain sizes of limes during March through June of each season. The collection and dissemination of this information during the four early months of the shipping season should assist growers and handlers in making better harvesting and marketing decisions.

Individual handlers already keep pack-out information for use in paying growers. Hence, this additional reporting requirement is expected to have little effect on handler costs or their reporting burdens under the program. The added benefits of disseminating this information throughout the industry from March

through June are expected to outweigh any increased cost experienced by handlers. This is reinforced by the unanimous support for this action expressed by the committee. Committee administrative personnel gather this information by telephone from individual handlers. The total time expenditure required of handlers should not exceed six minutes per day.

Weekly pack-out information is tabulated by size on a total industry basis and disseminated along with the volume shipped and price report distributed to growers and handlers by the committee. It has been and will continue to be helpful to producers in planning harvesting to obtain the sizes desired in the marketplace. This helps assure packers and shippers of the desired sizes and helps them tailor shipments to market needs. By harvesting the sizes desired in the marketplace growers should be able to improve their returns. At the same time, with the sizes desired in the marketplace, shippers and packers should be able to maximize shipments and keep their customers satisfied.

Based on available information, it has been determined that this rule will have no significant economic impact on a substantial number of small entities.

This action finalizes § 911.111 of Subpart—Rules and Regulations (7 CFR 911.110–911.160). It requires handlers to report specific pack-out information on a daily basis to the Florida Lime Administrative Committee during the March through June period each season to help growers make better harvesting decisions and handlers to make better marketing decisions. This action is pursuant to the marketing agreement and Order No. 911, both as amended, regulating the handling of limes grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Lime Administrative Committee, established under the order, is responsible for its local administration.

An interim final rule requiring handlers to report daily pack-out information of selected sizes from March 20 through June 30, 1986, during the 1986 shipping season and during March through June each season thereafter was published in the **Federal Register** on March 27, 1986 (51 FR 10535). Interested persons were invited to file comments on this action until April 28, 1986. No comments were filed.

In the interim final rule, § 911.111(a) read as follows: "sizes 28 and 32." Size 32 was a typographical error and is being changed to the correct size, which is size 36.

Based on the unanimous recommendation of the committee, and other information, it is hereby found that this action, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 911

Marketing agreements and orders, Limes, Florida.

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 911 continues to read as follows:

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

2. Section 911.111 (51 FR 10535, March 27, 1986) is revised to read as follows:

§ 911.111 Pack-out reports.

During the months of March, April, May, and June of each year, each handler shall, at the end of each day's operation, report to the committee the percent of that day's pack-out in the following five size categories:

(a) Sizes 28 and 36,
(b) Size 42,
(c) Size 48,
(d) Size 54, and
(e) Sizes 63 and 72.

Dated: January 2, 1987.

Thomas R. Clark,

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

[FR Doc. 87–419 Filed 1–8–87; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 9

Revision of Specific Exemptions

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations pertaining to specific exemptions to the NRC's Systems of Records. This amendment is necessary to reflect the changes that have been made to Part 9 following the revision and republication of the NRC's Systems of Records notices in their entirety in September 1986 and to inform the public of this administrative change to NRC regulations.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Acting Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7086.

SUPPLEMENTARY INFORMATION: On September 19, 1986, the NRC Systems of Records notices were revised and republished in their entirety for the first time in several years (51 FR 33150). Most systems notices underwent some revision, four of the systems were revoked (NRC–1, 6, 7, and 23), and one system of records (NRC–18) received a new system name because it was expanded to include both of the NRC's investigative offices under a single system notice. Prior to the revision, 10 CFR 9.95 contained a list of 15 NRC systems of records that were exempt from certain provisions of the Privacy Act of 1974. The revocations of NRC–1, Appointment and Promotion Certificate Records; NRC–6, Development and Advancement for Regulatory Employees (DARE) Records; and NRC–23, Personnel Research and Test Validation Records; created the need to delete those three system names from the list. The list also needed to be revised to reflect the change in system name for NRC–18 (i.e., Office of Inspector and Auditor Index File and Associated Records became Investigative Offices Index, Files and Associated Records).

Because this is an amendment dealing with agency practice and procedures, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendment is effective upon publication in the **Federal Register.** Good cause exists to dispense with the usual 30-day delay in the effective date because the amendment is of a minor and administrative nature dealing with a matter of agency conduct, the revision and republication of the NRC Systems of Records and its impact on the information contained in § 9.95.

Environmental Impact—Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule contains no information collection requirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

List of Subjects in 10 CFR Part 9

Freedom of information, Penalty, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendment to 10 CFR Part 9.

PART 9—PUBLIC RECORDS

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

Authority: Sec. 161, 68 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. Section 9.95 is revised to read as follows:

§ 9.95 Specific exemptions.

The following records, contained in the designated NRC Systems of Records (NRC–5, NRC–9, NRC–11, NRC–18, NRC–22, NRC–28, NRC–29, NRC–31, NRC–33, NRC–37, NRC–39, and NRC–40) are exempt from 5 U.S.C. 552a(c)(3), (d), (e)(i), (e)(4) (G), (H), (I), and (f) in accordance with 5 U.S.C. 552a(k). Each of these records is subject to the provisions of § 9.61:

(a) Contracts Records Files, NRC–5;

(b) Equal Employment Opportunity Records Files, NRC–9;

(c) General Personnel Records (Official Personnel Folder and Related Records), NRC–11;

(d) Investigative Offices Index, Files, and Associated Records, NRC–18;

(e) Personnel Performance Appraisals, NRC–22;

(f) Recruiting, Examining, and Placement Records, NRC–28;

(g) Document Control System, NRC–29;

(h) Correspondence and Records Branch, Office of the Secretary, NRC–31;

(i) Special Inquiry File, NRC–33;

(j) Information Security Files and Associated Records, NRC–37;

(k) Personnel Security Files and Associated Records, NRC–39; and

(l) Facility Security Support Files and Associated Records, NRC–40.

Dated at Bethesda, MD, this 24th day of December 1986.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 87–460 Filed 1–8–87; 8:45 am]

BILLING CODE 7590–01–M

FEDERAL ELECTION COMMISSION

11 CFR Parts 100, 102, 103, 104, and 110

[Notice 1987–1]

Contribution and Expenditure Limitations and Prohibitions; Contributions by Persons and Multicandidate Political Committees

AGENCY: Federal Election Commission.

ACTION: Final rule; Transmittal to Congress.

SUMMARY: The Commission's regulations governing contributions by persons and multicandidate political committees at 11 CFR 110.1 and 110.2 have been revised and transmitted to Congress pursuant to 2 U.S.C. 438(d). These regulations implement the contribution limitations established by 2 U.S.C. 441a(a) (1) and (2), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act" or "FECA"), 2 U.S.C. 431 et seq. The revisions clarify the scope of the contribution limitations prescribed by each section, and resolve several issues which have arisen since the regulations were originally promulgated in 1977. These issues concern designation, redesignation and reattribution of contributions, net debts outstanding, spousal and joint contributions, the date of making a contribution, and partnership contributions. In addition, the Commission has made several corresponding revisions to 11 CFR 100.7(c), 100.8(c), 102.9, 103.3 and 104.8(d) to bring those provisions into conformity with the amendments to 11 CFR 110.1 and 110.2. Further information on these revisions is provided in the supplementary information which follows.

DATES: Further action, including the announcement of an effective date, will be taken after these regulations have been before Congress for 30 legislative days pursuant to 2 U.S.C. 438(d).

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 376–5690 or toll free (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Commission is publishing today the final text of revised rules governing limitations on contributions by persons and multicandidate political committees at 11 CFR 110.1 and 110.2. The Commission is also publishing conforming amendments to §§ 100.7, 100.8, 102.9, 103.3 and 104.8 to reflect the changes made in the contribution limitation regulations.

On April 17, 1985 the Commission issued a Notice of Proposed Rulemaking seeking comments on proposed revisions to these regulations. 50 FR 15169. Thirteen comments were received in response to the Notice. On October 16, 1985 the Commission held a public hearing on the proposed regulations.

2 U.S.C. 438(d) requires that any rule or regulation prescribed by the Commission to carry out the provisions of Title 2, United States Code, be transmitted to the Speaker of the House of Representatives and the President of the Senate prior to final promulgation. These regulations were transmitted to Congress on January 6, 1987.

Explanation and Justification

The two principal areas in which the rules published today differ from the previous rules concern redesignation of contributions for different elections and reattribution of contributions to different contributors. See 11 CFR 110.1(b)(5) and 110.1(k). The Commission has adopted specific procedures whereby political committees may seek and obtain from contributors redesignations and reattributions of certain contributions that would otherwise be illegal. Under the revised rules, the timing and operation of the redesignation process is consistent with the timing and operation of the reattribution process. This allows political committees to seek redesignation, reattribution, or a combination of both in a single written request to a contributor.

After considering the public comments and testimony on the net debts outstanding rule and the aggregation of contributions rule, the Commission has decided to retain its longstanding approach in these areas. See 11 CFR 110.1(b)(3) and 110.1(h). The Commission has concluded that the net debts provision is based on the FECA's requirement that the contribution limits apply on a per election basis, and that this rule correctly interprets the statutory requirement that contributions be made with respect to and for the purpose of influencing particular elections. Consequently, the Commission reaffirms today its position that it cannot adopt an approach which places fewer restrictions on the timing or receipt of contributions absent statutory changes.

Section 110.1 Contributions by persons other than multicandidate political committees.

This section has been substantially revised to resolve several issues that have been raised during the administration and enforcement of these

provisions since they were promulgated in 1977. In addition, § 110.1 has been retitled "Contributions by persons other than multicandidate political committees" to reflect that several provisions pertaining to multicandidate committees have been removed from § 110.1 and placed in § 110.2.

Section 110.1(a) Scope.

A new "Scope" paragraph has been included in § 110.1 to provide a statement as to who is subject to the contribution limitations of this section. Paragraph 110.1(a) clarifies that the ability to make contributions under this section does not apply to corporations, labor organizations, foreign nationals or other entities prohibited from contributing to federal candidates. The new "Scope" provision has been added to eliminate any confusion that could arise from the inclusion of these entities in the definition of person in 2 U.S.C. 431(11).

Section 110.1(b) Contributions to candidates; designations; and redesignations.

Revised § 110.1(b)(1) follows current § 110.1(a)(1).

Revised § 110.1(b)(2) generally follows current § 110.1(a)(2) in defining the term "with respect to any election." A new sentence has been added to § 110.1(b)(2)(i) encouraging contributors to supply written designations for their contributions. Written designations ensure that the contributor's intent is clearly conveyed to the recipient candidate or committee. Moreover, written designations promote consistency in reporting by the recipient committee and the contributor, where the contributor is a political committee subject to the limitations of § 110.1. For these reasons, written designations are strongly encouraged, although they are not required. However, a designation would be required if the contributor wishes to make a contribution for an election other than the next upcoming election.

With regard to undesignated contributions, revised § 110.1(b)(2)(ii) requires that they be counted toward the contributor's limit for the next election for that Federal office after they are made. Current § 110.1(a)(2)(ii) (A) and (B) state that undesignated contributions are counted toward the primary election if made on or before that election, and are counted toward the general election if made after the date of the primary election. Since the current language does not address several situations, it is being revised to provide that undesignated contributions simply count against the limits for the next election, whichever election that may be, even if the next election is not in the same election cycle.

Paragraph 110.1(b)(3) reaffirms and clarifies the Commission's position as to the circumstances in which contributions for a particular election may be made and accepted after the election has taken place. Having considered the public comments on this issue, the Commission had decided to continue its previous policy of permitting post-election contributions only to the extent that the candidate's authorized campaign committee has net debts outstanding from that particular election. Paragraph 110.1(b)(3)(i) clarifies that this rule applies to all elections, not just primaries. *See* AO 1977–24.

The approach embodied in § 110.1(b)(3) is based on the Commission's interpretation of specific statutory language. The FECA defines "contribution" as being "for the purpose of influencing any election for Federal office." 2 U.S.C. 431(8). Furthermore, section 441a(a) (1)(A) and (2)(A) of the FECA limits the amounts that may be contributed "with respect to any election for Federal office." 2 U.S.C. 441a(a) (1)(A) and (2)(A). The Commission believes that funds given to a candidate after an election is over cannot meet the Act's requirements that contributions be made with respect to and for the purpose of influencing that election unless they could be used to retire outstanding debts from that election. Absent such debts, contributions to past elections would, in reality, influence future elections. Hence, the net debts rule, by effectuating the contribution limits, furthers the fundamental goal of the FECA, which is to protect the integrity of the electoral process.

The Commission received numerous public comments on the net debts regulation. The responses were divided between those who favored retaining and strengthening the net debts rule and those who argued against such restrictions on post-election contributions. The Commission considered an approach which would have permitted both primary and general election contributions to be made up to the date of the general election, but would have permitted them after that date only to the extent of net debts outstanding. The Commission concluded, however, that such an approach would not be consistent with the Act's per election contribution limitations, and would require new legislation establishing contribution limits on an election cycle basis. Thus, the Commission rejected this avenue, as being beyond the Commission's regulatory authority under the current statute.

Paragraph 110.1(b)(3)(i) explains how candidates should handle post-election contributions that cannot be accepted because they have no net debts outstanding. This provision is based on the principle established by the 1974 legislative history that "Individuals cannot give to any candidate or political committee supporting that candidate more than $1,000 for each election *in which the candidate participates*. . . ." 120 Cong. Rec. S18,525 (daily ed. Oct. 8, 1974) (Statement of Sen. Cannon summarizing the Conference Committee Report, emphasis added). Paragraph 110.1(b)(3)(i) is also consistent with the Commission's interpretation of the current net debts rule. For example, the Commission has stated that where a general election is held, but the candidate does not participate in that election, no separate contribution limit for that general election is available to contributors. AOs 1986–17, 1985–41, and 1980–122; cf. AO 1982–49 (no separate contribution limit is available where the primary election was cancelled) and AO 1980–68 (a candidate must return contributions for a primary runoff election in which the candidate does not participate).

Paragraph 110.1(b)(3)(i) explains the campaign committee's options when it receives post-election contributions in the absence of or in excess of net debts outstanding. Within ten days of receipt, the committee must either deposit the contribution or return it to the contributor. If the treasurer chooses to deposit the contribution, then within sixty days of receipt, the treasurer must do one of the following: (1) Refund the contribution to the contributor; (2) Obtain a redesignation for a different election; or (3) Obtain a reattribution to a different contributor in combination with a redesignation for a different election. It should be noted that a reattribution alone would not be sufficient, since neither contributor could make post-election contributions in the absence of net debts outstanding. However, the contribution could be accepted if it was first reattributed to another contributor, and then redesignated for a different election. The redesignation and reattribution procedures are explained more fully below. For the purposes of these regulations, contributions are "returned" when the negotiable instrument comprising the contribution is sent back to the contributor instead of being deposited. Contributions are "refunded" when the recipient committee sends the

contributor a check for the amount of the contribution which had been previously deposited.

Paragraph 110.1(b)(3)(ii) provides candidates and campaign committees with guidelines for determining whether they have net debts outstanding from a particular election. It defines "net debts outstanding" as total unpaid debts and obligations incurred with respect to a particular election minus cash on hand and receivables available to pay those expenses as of the date of the election. The definition of cash on hand in revised § 110.1(b)(3)(ii) parallels the definition in current § 104.3(a)(1) with one minor exception. In § 110.1(b)(3)(ii) committee investments are valued at fair market value, not at cost, since the fair market value more accurately reflects a committee's financial position. In calculating election-related expenses, a candidate who will not be participating in the next election, or whose authorized committee is terminating, may include necessary winding down costs. However, a candidate who will be running in the next election may not include such costs because he or she is not terminating political activity. It would be difficult to distinguish post-election expenses legitimately related to that election from expenses that are intended to benefit the candidate in future elections. The Commission also considered and rejected inclusion of a committee's assets in the net debts formula. One public comment noted that including assets could force committees to liquidate those assets to pay their debts.

Paragraph 110.1(b)(3)(iii) provides that the net debts outstanding figure, initially calculated as of the date of the election, shall be adjusted as updated financial information becomes available. Campaign committees may retain and use designated post-election contributions so long as they have net debts outstanding from that election at the time the contributions are received. Once a committee's net debts have been extinguished, any contributions designated to pay those debts must be returned, refunded, redesignated or reattributed. If a campaign committee receives several contributions on the same date, which exceed the amount needed to retire its net debts, the committee may choose either to accept a proportionate amount of each contribution, or to accept some contributions in full and return, refund, or seek redesignation or reattribution of the others.

Finally, § 110.1(b)(3)(iv) has been included in the net debts provision to clarify that candidates who participate in the general election may pay their primary election debts with funds properly received for the general election.

To demonstrate how the net debts outstanding rule operates, the Commission has prepared the following hypothetical example:

Illustration

On May 6, 1986 the Candidate wins the primary election. As of that day, the Candidate's principal campaign committee's financial position is as follows:

Outstanding Balance on Loans	$60,000
Other Unpaid Debts and Obligations	15,000
Cash on Hand and Receivables	35,000

1. To determine the committee's net debts outstanding, the treasurer should begin by calculating the total amount of primary related debts and obligations owed by the committee as of the date of the primary. This amount is $60,000 plus $15,000, or $75,000. Please note that total primary debts and obligations should not include any expenses that have been incurred solely with respect to the general election.

2. Next, the treasurer should subtract cash on hand and receivables from total debts. This amount is $75,000 minus $35,000, or $40,000. Hence, the Committee has $40,000 of net debts outstanding as of May 6, 1986. Please note that for purposes of this calculation cash on hand need not include preprimary contributions that are specifically designated for the general election and separately accounted for in accordance with 11 CFR 102.9(e). (If the candidate had not won the primary, the calculation could not include contributions designated for the general, although the candidate could seek redesignation from those contributors who had not reached their contribution ceilings for the primary election.)

3. Between May 6, 1986 and May 30, 1986 the Committee receives $33,000 of designated primary contributions. (Undesignated contributions made after May 6, 1986 count toward the general election and do not automatically reduce the amount of net primary debts. However, the Committee may use such funds to pay primary debts if the undesignated contributions are properly received for the general election.) During this time period the Committee receives an additional bill for primary-related expenses in the amount of $2000. The adjusted amount of net debts outstanding on May 30, 1986 is $9,000, which was calculated as follows:

Previous net debts	$40,000
Additional bill	+2,000
	42,000
Additional primary contributions	−33,000
Adjusted net debts	9,000

4. On June 1, 1986 the Committee receives several contributions designated for primary debt retirement totalling $10,000. The Committee may accept only $9,000 for the primary election, since it has $9,000 of net primary debts on June 1, 1986. Hence the Committee has two options: (1) The Committee can accept 90% of each contribution and refund the other 10%. In addition, the candidate may ask the contributors to redesignate the remaining 10% of their contributions for the general election, assuming this would not cause them to exceed their general election contribution limits. (2) In the alternative, the Committee can accept some primary contributions in full and refund or seek redesignations for the others, so long as only $9000 is accepted and $1000 is refunded or redesignated. Note that the Committee may obtain redesignations for the general election because the Candidate won the primary. If the Candidate had lost, this option would be foreclosed. Note also that the Committee may obtain redesignations for an election in a previous election cycle so long as the Committee has net debts outstanding as of the date it receives the redesignation.

New § 110.1(b)(4) follows current § 110.1(a)(2)(ii) by providing that designations of contributions for particular elections must be made in writing. The designation must appear on the check, money order, or other negotiable instrument, or in an accompanying writing signed by the contributor. The Commission will also consider a contribution redesignated in accordance with 11 CFR 110.1(b)(5) to be properly designated, whether or not the contribution was originally designated.

These guidelines clarify that designations must be made by the contributor and not the recipient committee. They are also intended to be responsive to questions regarding the timing of the designation and whether the designation has to appear on the written instrument. The Commission has also revised 11 CFR 102.9(e) to refer to contributions designated in writing by the contributor, to eliminate any apparent conflict as to who may provide designations.

The Commission has considered and rejected a suggestion to allow

contributors that are political committees to designate their contributions by indicating on the reports they file with the Commission whether the contribution is for the primary or general election. A serious drawback to such a system is that the designation information would not be communicated to the recipient candidate or committee. This may lead to conflicts as to how the designated contribution is reported by the recipient committee and the donor, when the donor is a reporting entity. See, e.g., *Antosh* v. *FEC*, 599 F. Supp. 850 (D.D.C. 1984). In addition, individual contributors could not designate their contributions in this manner because they are not required to file reports. The Commission believes that all contributors should follow the same designation procedures. Therefore, the Commission has decided that the written designation must be sent by the contributor to the candidate or political committee at the time the contribution is made. However, contributors may make subsequent redesignations, provided that certain requirements discussed below are satisfied.

A question has also been raised as to whether contributions received in response to a solicitation for a particular election should be considered to be designated for that election. Under new § 110.1(b)(4), the contributor would be able to effectuate a designation by returning a preprinted form supplied by the soliciting committee that clearly states the election to which the contribution will be applied, provided that the contributor signs the form, and sends it to the committee together with the contribution.

New § 110.1(b)(5) sets forth procedures under which a contribution made for a particular election may be redesignated by the contributor for a different election. Under the new regulations, the recipient candidate or his or her authorized political committee may ask the contributor for a redesignation in three situations: (1) The contribution, either by itself or when added to other contributions from that person, exceeds the contribution limitations for a particular election; (2) The contribution cannot be accepted because it was made after the election for which it was designated, and there are no net debts outstanding from that election; or (3) The contribution is undesignated and will count toward the contributor's limit for the next election, but the candidate wishes to count it toward a previous election for which the candidate has net debts outstanding. However, the new redesignation rule does not permit committees to seek redesignation for contributions prohibited by 2 U.S.C. 441b, 441c, 441e, or 441f. Finally, committees do not need to seek or obtain a redesignation when a contribution can be properly accepted for a particular election, but the committee does not need to use it for that election, and wishes to apply it toward expenditures for another election. *See, e.g.*, AO 1981–9.

The issue of whether to permit redesignations was raised for public comment in the April 17, 1985 Notice of Proposed Rulemaking because this is an area of concern to candidates. *See, e.g.* AO 1984–32. Several public comments favored the concept of redesignation, but differed as to the specific approach to be adopted. The Commission has decided to adopt a system which permits candidates to seek redesignation of contributions for different elections. By allowing redesignation, the Commission is attempting to encourage candidates to pay their campaign debts by eliminating the need to refund impermissible contributions and then solicit contributions for another election.

New § 110.1(b)(5)(ii) establishes the procedures for making redesignations. These new procedures provide a sixty day period from the date a treasurer receives a contribution within which the treasurer must examine the contribution for compliance with the contribution limits, make a written request for redesignation if necessary and receive the written redesignation from the contributor. If the redesignation is not in writing, or is not received within the required sixty day time frame, the contribution must be refunded. Written redesignations signed by the contributor are required to ensure that they effectuate donor intent and to aid accurate recordkeeping and reporting.

The Commission has considered various public comments as to the appropriate time limit for obtaining redesignations. Current § 103.3(b)(2) simply requires the return of contributions within a reasonable time if they cannot be determined to be legal. The new sixty day time limit established by the Commission represents a balance between the need to establish a realistic deadline, on the one hand, and the need to resolve the problems created by excessive contributions as quickly as possible, on the other hand. The sixty day deadline applies to redesignations under § 110.1(b)(5), reattributions under § 110.1(k) and refunds of excessive contributions under § 103.3(b)(3). The sixty day period begins on the date the treasurer of the committee receives the original contribution. The Commission considered beginning the time period on the date of deposit but rejected that approach because committees are required to report the date of receipt. The Commission also considered establishing an interim thirty day period in which the recipient must aggregate contributions from the same contributor, and calculate net debts outstanding, if necessary. Although the Commission did not adopt the interim deadline, in order for political committees to be able to obtain contributor redesignations within the sixty day period, they are encouraged to perform their required aggregations and net debts calculations within thirty days after receiving a contribution. The Commission did adopt a thirty day time limit for refunding contributions from corporations, labor organizations, foreign nationals, and Federal contractors. *See* revised 11 CFR 103.3(b)(1).

The new procedures for redesignating contributions for different elections may be invoked only by authorized committees, because other political committees do not receive contributions on a per election basis.

Paragraph 110.1(b)(5)(iii) establishes two limitations on redesignation. First, contributions redesignated for previous elections must comply with the net debts outstanding rule at § 110.1(b)(3). Second, a redesignation for a different election is not permitted if it would result in an excessive contribution being made for that election. These restrictions prevent the redesignation procedures from being used to circumvent the contribution limitations established by the FECA.

Finally, the Commission has adopted new guidelines for reporting redesignated contributions and maintaining adequate records of redesignations. The recordkeeping provision is located in new § 110.1(1), and the reporting provision may be found at revised § 104.8(d). These are discussed more fully below.

New § 110.1(b)(6) specifies that a contribution is considered to be made when the contributor relinquishes control over the contribution. This provision was added to the regulations because the timing of a contribution is of significance in several situations. For example, the date on which an undesignated contribution is made will determine whether the contribution counts against the contributor's limit for the primary or general election. The date also affects whether the net debts outstanding rule at § 110.1(b)(3) is triggered, because if a contribution is made on or before the date of a

particular election, it will not be subject to a net debt test even though it is received after the election.

The Commission sought comment on several alternative dates, including the date the contributor relinquished control over the contribution, the date of receipt, the date appearing on the check or negotiable instrument, and the date of deposit. The public response reflected no consensus as to which approach should be taken.

This has been an area of considerable difficulty for the Commission, as there are drawbacks to each of the alternative dates that could be selected. Nonetheless, this is an important question to resolve. Accordingly, the Commission has decided that a contribution shall be considered to be made when the contributor relinquishes control over the contribution. New § 110.1(b)(6) explains that relinquishing control occurs when the contribution is delivered to the candidate, or to the political committee, or to an agent of the political committee. If the contribution is mailed to the candidate or political committee, it is considered to be made on the date of the postmark, regardless of whether it was sent by registered, certified or first class mail. New § 110.1(b)(6) also specifies that in-kind contributions are considered to be made on the date that the goods or services are provided by the contributor.

The approach taken in the new rules is based on the premise that the FECA establishes different dates for the making and receipt of contributions. This will, in some instances, result in reporting discrepancies when the donor and the recipient are both reporting political committees. Committees making contributions will report the date of making on Schedule B (Itemized Disbursements), and committees receiving contributions will report the date of receipt on Schedule A (Itemized Receipts). Although the Commission believes that two different dates are mandated by the Act, difficulties can arise when the two dates straddle an election, thereby causing the contribution to be reported inconsistently. This problem may be compounded by the existence of a significant delay between the date on the check or negotiable instrument and the date of deposit. When such a discrepancy is investigated, the contributor, the recipient, and any intermediaries are responsible for establishing that the date they each reported is correct, and that they complied with the time limits for forwarding and depositing contributions, where applicable. *See* 11 CFR 102.8(a) and 103.3(a). They may rely on evidence such as a contemporaneous log recording the dates on which contributions are made or received, a date stamp marking when contributions are received, and the return receipts for contributions sent by registered or certified mail. Hence, these questions will be resolved on a case-by-case basis. The potential difficulties that could result from these situations lead the Commission to strongly encourage contributors to provide designations.

The Commission also sought public comment as to whether the regulations should define who is an agent for purposes of receiving contributions on behalf of a candidate or committee. Two comments stated that the term "agent" is self-explanatory and that a definition is unnecessary. The Commission agrees with these comments and has decided not to define "agent" in these regulations. Should "agency" questions arise in particular cases, they can be resolved in accordance with established law in this area.

Section 110.1(c) Contributions to political party committees

Paragraph 110.1(c) generally follows current § 110.1(b) by implementing the statutory $20,000 per year limitation on contributions by persons to political committees established and maintained by national political parties. This provision has been modified to clarify that the national committee of a political party may receive contributions up to $20,000 even if it is the authorized committee of a Presidential candidate under 11 CFR 9002.1(c). However, this provision does not permit a contributor to donate $20,000 to the Presidential candidate. A national committee acting as a Presidential candidate's authorized committee must keep separate accounts for the Presidential campaign. 11 CFR 102.12. The Commission did not receive any public comments regarding § 110.1(c) or the clarification.

Section 110.1(d) Contributions to other political committees

Paragraph 110.1(d) combines current paragraphs (c) and (d) into one new provision. This new paragraph follows the current regulations by restating the statutory limitation of $5,000 per year for contributions made to other political committees, including contributions to political committees making independent expenditures under 11 CFR Part 109. None of the public comments received addressed this provision.

Section 110.1(e) Contributions by partnerships

Paragraph 110.1(e) generally follows the current rule by providing that contributions made by a partnership are attributable to the individual partners either in direct proportion to their shares of the partnership profits or according to an agreement made by the partners. This paragraph has been revised slightly to clarify that such contributions are attributable to both the partnership and the individual partners.

The rule also clarifies that a corporate partner may not make contributions to federal candidates, and that the corporate partner's portion of the partnership profits or losses must not be affected by the partnership's political contributions. *See* AOs 1982–63, 1981–56, 1981–54 and 1980–132. In response to a concern raised by one comment, the Commission considered whether to require all contributing partners to sign the written instrument or an attached writing. The Commission has concluded that such a requirement would be burdensome for many partnerships and would duplicate the attribution instructions that the partnership must already provide. Accordingly, new § 110.1(k), which sets forth signature requirements for joint contributions, states that the signature of each contributing partner is not required.

The Commission considered several alternatives to the dual attribution rule for partnership contributions, and received a wide range of responses to its suggestions. One approach was to attribute contributions to the partnership but not to its partners if the amount attributable to individual partners would be less than $50 or $100. However, this approach would be inconsistent with many state laws and the approach taken by the Internal Revenue Code, under which charitable contributions are considered to be made by a partnership on behalf of the partners, and are deductible only by the partners. 26 U.S.C. 701, 702 and 703. There is also no legal basis for exempting small contributions from dual attribution.

The Commission also considered eliminating the limitation on partnership contributions and attributing the contributions only to the individual partners, thereby allowing partnerships to contribute as much as all their individual partners combined could contribute. The Commission concludes that this approach would be in conflict with the FECA because a partnership is a "person" under 2 U.S.C. 431(11) Consequently, a partnership is

prohibited from contributing more than $1,000 to a federal candidate. Thus, the Commission has decided to retain the prior dual attribution rule. It has worked well in the past, and it ensures that members of a partnership do not receive the benefit of an additional contribution ceiling that is not available to others who do not belong to a partnership.

The Commission also sought public comment on several related partnership issues, such as whether a partnership should be treated as a conduit or political committee if it establishes a contribution program to facilitate the making of political contributions by its partners. Another question presented was how to treat the partnership's payment of its political committee's administrative expenses. These questions were addressed in AOs 1984–18, 1982–63, 1982–13, 1981–56, 1981–54, 1981–50 and 1980–72. The public comments that responded to these concerns opposed treating partnerships as conduits, and were divided as to the questions regarding political committees formed by partnerships. Upon further consideration, the Commission has decided not to issue general rules in this area because it has been the Commission's experience that such questions are best resolved on a case-by-case basis. The Advisory Opinion process affords an opportunity to consider the particular circumstances of each case.

Section 110.1(f) Contributions to candidates for more than one federal office.

Section 110.1(f) follows the current rule in setting forth the conditions under which a contributor may give up to $1,000 for each election for each office when a candidate runs for more than one federal office. Although no substantive revisions have been made, this provision was slightly reworded for clarity.

Section 110.1(g) Contributions to retire pre-1975 debts.

Section 110.1(g) follows the current rule by providing that contributions designated to retire debts from elections held prior to January 1, 1975 are not subject to the limitations of Part 110, and that contributions to retire debts resulting from elections held after December 31, 1974 are subject to 11 CFR Part 110. The amended provision is identical to the current rule except that the title was revised and the phrase "clearly designated" was replaced by the phrase "designated in writing", which is defined in new § 110.1(b)(4).

Section 110.1(h) Contributions to committees supporting the same candidate.

Section 110.1(h) remains the same as the wording of the current provision. This section governs the circumstances under which contributions to a candidate and his or her authorized campaign committee(s) must be aggregated with contributions to other political committees for purposes of the contribution limits of § 110.1.

In the Notice of Proposed Rulemaking, the Commission sought comment on several possible revisions to § 110.1(h). Several of the public comments were based on the mistaken impression that the proposals represented an attempt to require such aggregation for the first time. The Commission notes that the aggregation provision has been in the regulations continuously since they were promulgated in 1977, and has been interpreted and applied in a variety of situations over the years. *E.g.*, Policy Statement 1976–46; re: AOR 1976–20, AO 1984–2; and MUR 1414. The aggregation provision is based on the legislative history to the 1976 Amendments to the FECA. H.R. Conf. Report No. 94–1057, 94th Cong., 2d Sess. 57–58 (1976). Having considered the public comments and testimony, the statutory language and legislative history of the FECA, the Commission has decided to retain the current wording of the aggregation rule to assure that there is no misunderstanding as to the Commission's intention to adhere to its longstanding policy in this area.

Section 110.1(i) Contribution by spouses and minors.

Paragraph 110.1(i)(1) explains that the contribution limitations apply separately to each spouse, even if only one spouse has income. It has been revised from current § 110.1(i)(1) to apply to all political contributions by spouses, not just contributions made to candidates. Although the Commission considered whether to delete this provision, it decided not to because it provides helpful guidance, and because deletion might create the misleading impression that both spouses would no longer enjoy separate contribution limits.

Similarly, § 110.1(i)(2) has been revised to specifically permit minor children to contribute to political committees under certain conditions. Although the Notice of Proposed Rulemaking raised the question of revising the language regarding contributions made from the proceeds of a trust, that language is being retained because it has not presented problems to date.

Section 110.1(j) Application of limitations to elections.

Paragraph 110.1(j)(1) generally follows the current provision. A cross reference to the definition of "election" at 11 CFR 100.2 has been included in § 110.1(j)(1).

Paragraph 110.1(j)(2) generally follows the current provision in stating that an election in which a candidate is unopposed is considered to be a separate election.

Paragraph 110.1(j)(3) has been revised to provide separate contribution limits for general elections that are not held because the candidate received a majority of votes in a previous election, and for general elections that are not held because the candidate is unopposed. This provision follows the current rule by providing a separate contribution limit for primaries that are not held because the candidate is unopposed. In all these situations, the date on which the election would have been held is considered to be the date of the election. These revisions are consistent with Commission policy to permit separate contribution limits in these situations. *See* AO 1984–54.

In the Notice of Proposed Rulemaking, the Commission raised the question of whether the changes to § 110.1(j)(3) necessitate any amendments to 11 CFR 104.5(a) regarding the filing of pre- and post-election reports. The Commission has concluded that current § 104.5(a) adequately alerts candidates and their authorized committees to their obligation to file such reports. *See* AO 1986–21.

New § 110.1(j)(4) addresses the situation in which a primary election is not held because the nominee was selected by a caucus or convention having authority to nominate under State law. In that situation, § 110.1(j)(4) provides that there is no separate contribution limit with respect to the primary election. Hence, the candidate is required to refund or seek redesignation of primary contributions if the contributors have exhausted their contribution limits for the caucus or convention. This new provision is consistent with the Commission's decision in AO 1982–49.

Section 110.1(k) Joint contributions and reattribution.

New § 110.1(k) governs contributions made by more than one person in a single written instrument. In drafting this provision, the Commission has included in the regulations for the first time specific regulatory language permitting after the fact reattributions of contributions to other contributors. This

provision also sets forth requirements for making valid joint contributions.

Section 110.1(k)(1) continues the current requirement that joint contributions include the signature of each contributor on the check, money order, or other negotiable instrument, or in a separate writing. The Commission received two public comments objecting to the joint signature requirement on the grounds that it may be burdensome for recipient committees to obtain additional signatures. Although some additional effort may be required, the contribution cannot be considered to be made by more than one person unless there are two signatures. *See* AO 1980–67. The dual signature requirement provides evidence of donative intent on the part of each person whose name appears on an instrument drawn on a joint account. It also affords an opportunity for the contributors to indicate the proper attribution if equal attribution is not intended. Finally, the joint signature requirement reduces the opportunity for contributions to be made in the name of another, which is prohibited by 2 U.S.C. 441f. For these reasons, the Commission has decided to retain the joint signature requirement. However, § 110.1(k)(1) provides an exception for joint contributions made by partnerships. The Commission has concluded that the signature of each contributing partner is not necessary because adequate evidence of donative intent is provided by the attribution statement supplied by the partnership in accordance with 11 CFR 110.1(e).

New § 110.1(k)(2) incorporates and builds upon the provisions of current § 104.8(d) regarding the attribution of contributions between joint contributors. The Commission decided that this provision is more logically included in § 110.1 than in the reporting sections in Part 104. New § 110.1(k)(2) is intended to eliminate some of the questions raised by the apparent differences between § 104.8(d) and other regulations, such as 11 CFR 100.7(c). Under § 104.8(d), joint contributors are required to indicate on the written instrument or in an accompanying writing the amount to be attributed to each contributor. This has presented some difficulties because joint contributors do not always provide attributions, and recipient committees are obliged to contact the contributors to obtain this information. *E.g.* AO 1980–67. Accordingly, the Commission requested public comments as to whether contributions should be attributed equally to each contributor in the absence of written attribution statements. The Notice of Proposed Rulemaking discussed whether equal attribution should apply only to joint contributions from spouses, or whether it should apply to all joint contributions. No public comments addressed these questions.

The Commission has decided to adopt new § 110.1(k)(2), which states that all joint contributions shall be attributed equally to each contributor if the amount attributable to each is not indicated. Section 110.1(k)(2) also permits joint contributors to supply alternative attributions, if they wish to do so. A similar approach was adopted by the Commission in the Presidential matching funds regulations. *See* 11 CFR 9034.2(c)(1)(i) (48 FR 5239; February 4, 1983). The presumption of equal attribution acknowledges the legal status of the contributors as joint tenants in a joint account, each of whom may draw on all the funds in that account. Finally, the Commission has decided that the equal attribution presumption should not be restricted to joint contributions by spouses since the political committee receiving the contribution may not know whether or not the contributors are married.

New § 110.1(k)(3) sets forth procedures enabling political committees to request and obtain written reattributions of contributions to other contributors. The new provision permits reattribution if the original contribution, either by itself, or when added to other contributions from the same contributor, exceeds the contribution limitations for a particular election. A candidate's authorized committee may also seek a reattribution if it receives a designated contribution after an election for which it has no remaining net debts. In that situation, the contribution could be accepted if it is first reattributed to another contributor and then redesignated for another election. However, the new reattribution provisions do not allow committees to seek reattribution if the original contribution is prohibited by 2 U.S.C. 441b, 441c, 441e, or 441f.

The new reattribution procedures set forth in § 110.1(k)(3)(ii) establish a sixty day time period from the date the treasurer receives a contribution within which the treasurer must examine the contribution for compliance with the contribution limits, make a written request for reattribution if necessary and receive the written reattribution signed by all joint contributors. If the reattribution is not received within the sixty day period, or if a reattribution fails to meet these requirements, the contribution must be refunded. The Commission is requiring reattributions to be in writing and to be signed by all joint contributors to ensure that each individual did, in fact, intend to contribute, and to avoid creating an opportunity for contributions to be made in the name of another. Written reattributions also provide the contributors with an opportunity to specify an alternative attribution if equal attribution is not intended, and promote accurate recordkeeping and reporting.

The Commission has chosen a sixty day time limit for the reattribution process, which is consistent with the sixty day deadline for obtaining redesignations. This enables political committees to coordinate their communications requesting reattribution and redesignation.

In the past, the Commission has imposed several restrictions on reattribution. *See* AO 1985–25. For example, the reattribution process has been limited to those situations in which the recipient political committee or its treasurer has a reasonable basis for concluding that the contributor is married and intended to make a joint contribution with his or her spouse. Upon further consideration, the Commission has decided not to impose this restriction since it is often difficult for political committees to ascertain from the face of a negotiable instrument whether the account holders are married. The Commission also considered and rejected inclusion of language which would have prohibited reattributions if the total amount of the contribution exceeded the combined contribution limits for all contributors. In this situation the non-excessive portion of the contribution may be reattributed. The Commission also decided not to require each contributor to state that he or she has sufficient personal funds in the joint account to cover his or her portion of the joint contribution because each account holder enjoys the right to draw upon the entire amount in the account.

Finally, the Commission has adopted new regulations for reporting reattributions and maintaining adequate records of reattributed contributions. New § 110.1(l) contains the recordkeeping provision and revised § 104.8(d) addresses reporting.

Section 110.1(l) Supporting evidence.

Section 110.1(l) is new to the regulations. It provides treasurers of political committees with guidance in establishing that they have accurately reported all designations, redesignations and reattributions they have received. Under current § 104.14(d), treasurers are

responsible for the accuracy of committee reports filed with the FEC. New § 110.1(l) requires political committees receiving designated contributions to retain a written copy of the contributor's designation. If a recipient committee fails to comply, the contribution shall be treated as though it is undesignated. Similarly, the recipient committee is required to maintain copies of all written redesignations and reattributions. Failure to maintain these records will invalidate the redesignation or reattribution, and the original designation or attribution shall control. The Commission is requiring committees to maintain these records in order to demonstrate that illegal contributions have been cured through the redesignation or reattribution process.

New § 110.1(l) also provides that the political committee shall retain the envelope or a copy of the envelope whenever it wishes to rely on a postmark for evidence of when a contribution was made. Although political committees are not required to retain envelopes, it is advisable for them to do so if a contribution was mailed shortly before or on the date of the election. The postmark will enable them to establish that an undesignated contribution counts against the contributor's limit for that election. It will also enable them to accept a contribution designated for that election without having to determine whether they had net debts for that election.

A cross-reference to the § 110.1(l) supporting evidence provision has been included in the recordkeeping provision located at 11 CFR 102.9.

Section 110.2 Contributions by multicandidate political committees.

This section consolidates the provisions in current § 110.1 and § 110.2 that implement the statutory limitations on contributions made by multicandidate political committees. This revision enables multicandidate committees to locate the provisions affecting them in a single section. Section 110.2 has also been reorganized to more closely parallel the format of § 110.1. In addition, a new "Scope" paragraph (§ 110.2(a)) has been added to clarify that § 110.2 applies to all political contributions made by a multicandidate committee, as defined at 11 CFR 100.5(e)(3). The scope paragraph replaces current § 110.2(b).

Under the reorganization, § 110.2(b)(1) restates the $5,000 statutory limitation on contributions by a multicandidate committee to a candidate and his or her authorized political committees currently located in § 110.2(a)(1). New paragraph 110.2(b)(2) has been added to follow new § 110.1(b)(2) as to the definition of the phrase "with respect to any election". New paragraph 110.2(b)(3) generally follows new § 110.1(b)(3) regarding the making and acceptance of post-election contributions to defray a candidate's outstanding debts. However, the explanation of how to calculate net debts outstanding has not been repeated in § 110.2 because multicandidate committees will not need to perform such calculations. Candidates and authorized committees should refer to § 110.1(b)(3) for the pertinent guidelines on this. New § 110.2(b)(4), which follows new § 110.1(b)(4), has been added to illustrate the methods by which multicandidate committees can designate their contributions in writing for a particular election. Multicandidate committees contributing to candidates are encouraged, but not required, to designate their contributions in writing for particular elections. Written designations tend to promote consistency in reporting by the contributing committee and the recipient committee. Moreover, written designations ensure that the contributor's intent is clearly conveyed to the recipient candidate or committee. New § 110.2(b)(5) generally follows new § 110.1(b)(5) to explain the conditions under which a multicandidate committee's contribution to a candidate may be redesignated for a different election, and the procedures for effectuating such a redesignation. New § 110.2(b)(6) follows the provisions of new § 110.1(b)(6) regarding the determination of when a contribution is considered to be made

Paragraph 110.2(c) implements the $15,000 per-year statutory limitation on contributions to the political committees established and maintained by a national political party, including the national committee, and the House and Senate campaign committees. This paragraph has not been significantly revised from current § 110.2(a)(2). However, a minor amendment was included to clarify that the national committee of a political party may receive contributions up to $15,000 per year even if it is also operating as the authorized committee of a Presidential candidate under 11 CFR 9002.1(c). This provision does not permit a multicandidate committee to contribute $15,000 to the Presidential candidate. 11 CFR 102.12 requires a national committee designated as the authorized committee of a Presidential candidate to maintain separate accounts for its function as the principal campaign committee.

Paragraph 110.2(d), which follows current § 110.2(a)(3), sets forth the $5,000 per year statutory contribution limit for multicandidate committee contributions to any other political committee. It also provides that this limitation applies to contributions to political committees making independent expenditures.

Paragraph 110.2(e) follows § 110.2(c) of the present regulations by implementing the $17,500 limitation on contributions from the Republican and Democratic Senatorial campaign committees, and the national party committees to Senatorial candidates, in accordance with 2 U.S.C. 441a(h). The second sentence of this paragraph has been revised for clarity.

Revised § 110.2 incorporates paragraphs (f), (g) and (h) from current § 110.1. These provisions have been specifically included in § 110.2 to clarify that they will continue to apply to multicandidate committees. Paragraph 110.2(f) addresses multicandidate committee contributions to candidates for more than one federal office. Such contributions are permitted provided that the requirements of § 110.1(f)(1), (2) and (3) are satisfied. Paragraph 110.2(g) follows revised § 110.1(g) in exempting from the limitations of Part 110 any contribution made to retire debts from an election held before January 1, 1975. Paragraph 110.2(h) follows § 110.1(h) in setting forth the conditions under which contributions to a candidate and his or her authorized committees must be aggregated with contributions to other political committees for the purposes of the contribution limitations of § 110.2. Paragraph 110.2(h) has been slightly revised to clarify that 110.2(h)(1) refers to recipient political committees.

Finally, revised § 110.2(i) explains which types of elections are considered to be separate elections for the purposes of the contribution limitations. Although this paragraph is largely based on current § 110.2(d), it contains several changes that are identical to the revisions found in amended § 110.1(j).

The Commission has omitted from § 110.2 provisions corresponding to new § 110.1 (k) and (l). A joint contribution/reattribution provision was not included in § 110.2 because political committees do not make joint contributions and do not seek to reattribute their contributions to other political committees. The supporting evidence provision was not repeated in § 110.2 because candidates and political committees can refer to § 110.1(l) for guidance on maintaining records of designations, redesignations and reattributions.

Conforming Amendments

In addition to the foregoing revisions to 11 CFR 110.1 and 110.2, several additional amendments have been made to other sections of the Commission's regulations to bring those sections into conformity with the new language of 11 CFR 110.1 and 110.2. The revisions are located in 11 CFR 100.7(c), 100.8(c), 102.9, 103.3 and 104.8(d). The Notice of Proposed Rulemaking indicated that revisions to regulations other than §§ 110.1 and 110.2 might have to be made.

Section 100.7 Contribution.

Paragraph (c) of this section has been revised to state that contributions by an individual are not attributable to any other individual unless so specified by that other individual in accordance with § 110.1(k). This amendment brings § 100.7(c) into conformity with the joint contribution and reattribution provisions in new § 110.1(k).

Section 100.8 Expenditure.

Section 100.8(c) has been amended to provide that a payment made by an individual is not attributable to any other individual unless that other individual supplies the attribution. It also refers the reader to new § 110.1(k) in the event that the payment qualifies as a contribution under 2 U.S.C. 431(8).

Section 102.9 Accounting for contributions and expenditures.

Section 102.9(e) has been amended in three respects. First, the phrase "which contributions are designated by the candidate or his or her authorized committee(s)" has been changed to read "which contributions are designated in writing by the contributor." This revision is intended to correct an inadvertent change in language which occurred when the original provision (§ 101.2(d)[1977]) was amended in 1980. The Explanation and Justification for the 1980 revisions stated that § 102.9(e) followed former § 101.2(d). However, previous § 101.2(d) recognized the contributor's right to designate contributions and did not grant the candidate the power to redesignate. Therefore, the Commission has decided to amend § 102.9(e) to clarify that contributions may be designated for particular elections only by contributors, and cannot be designated by the recipient candidates or their campaign committees. Consequently, the revision published today is intended to eliminate any confusion created by the apparent conflict between § 102.9(e) and § 110.1.

The second change in § 102.9(e) is relatively minor. In the last sentence of the paragraph, "and" has been changed to "or". This is designed to clarify that a committee would be following an acceptable accounting method for distinguishing between primary and general contributions if it maintains separate books or if it maintains separate accounts for each election.

Finally a new sentence has been added at the end of § 102.9(e) which provides that contributions made for a general election are to be either refunded to the contributors or redesignated or reattributed under 11 CFR 110.1(b)(5), 110.1(k) or 110.2(b)(5) in the event that the candidate is not a candidate in that general election. *See* AO 1986–17. This revision brings § 102.9(e) into conformity with the revised net debts outstanding provisions in 11 CFR 110.1(b)(3) and 110.2(b)(3).

New § 102.9(f) has been added to notify the reader that the treasurer has a duty under 11 CFR 110.1(1) to retain information supplied by contributors regarding designation, redesignation and reattribution of contributions. Section 110.1(1) also provides guidance as to when to retain evidence of the date on which a contribution is made. Failure to maintain the documentation required will invalidate the designation, redesignation, or reattribution. *See* 11 CFR 110.1(1)(5).

Section 103.3 Deposits of receipts and disbursements.

The Commission has adopted a conforming amendment to paragraph (a) of this section. The revision clarifies that upon receipt of a contribution, the treasurer of a political committee has a choice of whether to return the contribution to the contributor or to deposit it in an account at a designated campaign depository. The time limit for depositing the contribution or returning it is ten days from the date on which the treasurer received it. Thus, revised § 103.3(a) allows candidates who decide not to accept contributions from political action committees to return them without depositing them or reporting them. The amendment also permits the treasurer to choose whether to deposit or return contributions of questionable legality. If such contributions are deposited, the treasurer must comply with the procedures set forth in revised § 103.3(b). For the purposes of these regulations, contributions are "returned" when the negotiable instrument comprising the contribution is sent back to the contributor instead of being deposited. Contributions are "refunded" when the recipient committee sends the contributor a check for the amount of the contribution which had been previously deposited.

The Commission has revised § 103.3(b) to clarify the procedures to be followed when a political committee receives a contribution which requires further information before it can be determined to be legal. The procedures set forth in revised § 103.3(b) supplement the redesignation and reattribution procedures set forth in new §§ 110.1(b)(5), 110.1(k) and 110.2(b)(5). These procedures will continue to be located in § 103.3(b), however, because they apply to all impermissible contributions, not just to those that may be redesignated or reattributed.

Although committee treasurers should already be aware of these obligations, the Commission believes it is advisable to include in the regulations a clear statement as to the treasurer's responsibility. Revised § 103.3(b) explains that the treasurer of a political committee is responsible for examining all contributions received for any evidence of illegality, and is also responsible for aggregating all contributions from the same contributor to ascertain whether they exceed the contribution limits. If a contribution from a political committee exceeds $1,000, the treasurer of the recipient committee will also need to ascertain whether the contributing committee is qualified as a multicandidate committee.

Revised § 103.3(b) applies to three different categories of contributions. Section 103.3(b)(1) covers contributions made by entities which are or appear as though they might be corporations, labor organizations, Federal contractors or foreign nationals. Such contributions must be either deposited or returned within ten days. If deposited, the treasurer has thirty days from the date of receipt to make his or her best efforts to determine that they are legal and to make a refund if they cannot be determined to be legal. The treasurer will be deemed to have made best efforts only if he or she made at least one written or oral inquiry concerning the legality of the contribution. Evidence of legality includes a written explanation from the contributor, or an oral explanation which is noted by the treasurer in a subsequent memorandum. Redesignation and reattribution are not permitted for such contributions, since they cannot cure these violations.

Paragraph 103.3(b)(2) applies to contributions whose legality is not in question when received and deposited, but which are later discovered to be illegal. This provision applies, for example, to prohibited corporate contributions made in the name of employees, and individual contributions made in the name of another, as well as

contributions from foreign nationals or Federal contractors when there is no evidence of illegality on the face of the contributions themselves. The rule requires the amount of the contribution to be refunded to the contributor within thirty days after the discovery of the illegality. If the political committee does not have sufficient funds to make the refund, it is required to make the refund from the next funds it receives. This is consistent with the Commission's approach in AO 1985–8.

Paragraph 103.3(b)(3) covers contributions which are excessive, either on their face or in the aggregate, and contributions that cannot be accepted under the net debts outstanding rule. The treasurer has the option to deposit them within ten days of receipt or to return them. If deposited, the treasurer has sixty days from the date of the treasurer's receipt to obtain a redesignation or reattribution under §§ 110.1(b)(5), 110.1(k)(3) or 110.2(b)(5) to cure the illegality. If the redesignation or reattribution is not obtained, the contribution must be refunded within the same sixty day time period.

New § 103.3(b)(4) prohibits the use of the funds while the legality of a contribution is in question. The political committee must either establish a separate account for such contributions or maintain sufficient funds as are needed to cover all potential refunds.

Paragraph 103.3(b)(5) revises the recordkeeping and reporting provisions in current § 103.3(b) (1) and (2). The treasurer is required to maintain a written record noting the basis for the appearance of illegality. The committee's reports shall indicate the questionable nature of the contribution, as well as any refund it makes. The reporting requirements are explained in more detail in new 11 CFR 104.8(d), discussed below.

Section 104.8 Uniform reporting of contributions.

The Commission has adopted a conforming amendment to § 104.8(d). Currently, that provision explains how joint contributions are to be attributed to each contributor. The joint contribution provisions are being moved from current § 104.8(d) to new § 110.1(k). Since Part 104 contains reporting requirements, the Commission has drafted new § 104.8(d) to provide political committees with guidance as to how to report joint contributions, reattributions to other contributors, redesignations for different elections, and refunds to contributors. The new reporting provision is necessary to ensure adequate public disclosure of the circumstances surrounding the making of the contribution, and to prevent the acceptance and use of illegal campaign contributions.

With regard to itemizable joint contributions, § 104.8(d)(1) provides that the amount to be attributed to each contributor shall be reported. Under § 110.1(k)(2), equal attribution will be presumed unless the contributors state otherwise. This provision does not alter the requirements concerning itemization of contributions. For example, if a committee receives a joint contribution for $300, which contains two signatures, it does not need to itemize the contribution, provided that $150 is attributed to each contributor, and they have made no previous contributions. If the $300 check represents two contributions of $250 and $50, the $250 contribution must be itemized.

New § 104.8(d)(2) explains how to report contributions redesignated by the contributor for a different election. New § 104.8(d)(3) governs the reporting of itemized contributions that are reattributed to a different contributor. Both redesignations and reattributions are to be reported by the recipient committee as memo entries on the report covering the reporting period in which they were received. To allow those reading the report to ascertain when the contribution was originally made, the memo entry will also indicate how the contribution was reported initially. In the situation where a political committee makes a contribution, and subsequently provides a redesignation, the contributing committee is also required to note the redesignation in the report covering the time period in which the redesignation was provided. This is to promote uniformity in reporting redesignations. Please note that the recipient candidate or committee must report reattributions and redesignations only if the original contribution was itemizable. Reporting ensures that the excessive portion of the original contribution has been properly remedied.

New § 104.8(d)(4) governs the reporting of contribution refunds. These are to be reported by the committee making the refund, but not as memo entries, since they will affect the committee's total disbursements and cash on hand. A political committee receiving a contribution refund is also obligated to report the refund when it is received.

The Commission has considered whether committees should have the option to disclose refunds, reattributions and redesignations by amending the report(s) which originally listed the contributions. The Commission concludes that this approach would not be advisable in light of the number of amendments which would have to be made, and because the amendments would not clearly reflect when the refund, redesignation or reattribution was made.

List of Subjects

11 CFR Part 100

Campaign funds, Elections.

11 CFR Part 102

Campaign funds, Elections, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 103

Campaign funds, Elections, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 104

Campaign funds, Elections, Political committees and parties, Reporting and recordkeeping requirements.

11 CFR Part 110

Campaign funds, Elections, Political candidates, Political committees and parties, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, Subchapter A, Chapter I of Title 11, *Code of Federal Regulations* is amended as follows:

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

1. The authority citation for Part 110 is revised to read as follows:

Authority: 2 U.S.C. 431(8), 431(9), 432(c)(2), 437d(a)(8), 438(a)(8), 441a, 441b, 441d, 441e, 441f, 441g, 441h and 441i.

2. 11 CFR Part 110 is amended by revising § 110.1 to read as follows:

§ 110.1 Contributions by persons other than multicandidate political committees (2 U.S.C. 441a(a)(1)).

(a) *Scope.* This section applies to all contributions made by any person as defined in 11 CFR 100.10, except multicandidate political committees as defined in 11 CFR 100.5(e)(3) or entities and individuals prohibited from making contributions under 11 CFR 110.4 and 11 CFR Parts 114 and 115.

(b) *Contributions to candidates; designations; and redesignations.*

(1) No person shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office which, in the aggregate, exceed $1,000.

(2) For purposes of this section, "with respect to any election" means—

(i) In the case of a contribution designated in writing by the contributor for a particular election, the election so designated. Contributors to candidates are encouraged to designate their contributions in writing for particular elections. *See* 11 CFR 110.1(b)(4).

(ii) In the case of a contribution not designated in writing by the contributor for a particular election, the next election for that Federal office after the contribution is made.

(3)(i) A contribution designated in writing for a particular election, but made after that election, shall be made only to the extent that the contribution does not exceed net debts outstanding from such election. To the extent that such contribution exceeds net debts outstanding, the candidate or the candidate's authorized political committee shall return or deposit the contribution within ten days from the date of the treasurer's receipt of the contribution as provided by 11 CFR 103.3(a), and if deposited, then within sixty days from the date of the treasurer's receipt the treasurer shall take the following action, as appropriate:

(A) Refund the contribution using a committee check or draft; or

(B) Obtain a written redesignation by the contributor for another election in accordance with 11 CFR 110.1(b)(5); or

(C) Obtain a written reattribution to another contributor in accordance with 11 CFR 110.1(k)(3).

If the candidate is not a candidate in the general election, all contributions made for the general election shall be either returned or refunded to the contributors or redesignated in accordance with 11 CFR 110.1(b)(5), or reattributed in accordance with 11 CFR 110.1(k)(3), as appropriate.

(ii) In order to determine whether there are net debts outstanding from a particular election, the treasurer of the candidate's authorized political committee shall calculate net debts outstanding as of the date of the election. For purposes of this section, "net debts outstanding" means the total amount of unpaid debts and obligations incurred with respect to an election, including the estimated cost of raising funds to liquidate debts incurred with respect to the election and, if the candidate's authorized committee terminates or if the candidate will not be a candidate for the next election, estimated necessary costs associated with termination of political activity, such as the costs of complying with the post-election requirements of the Act and other necessary administrative costs associated with winding down the campaign, including office space rental, staff salaries and office supplies, less the sum of:

(A) The total cash on hand available to pay those debts and obligations, including: currency; balances on deposit in banks, savings and loan institutions, and other depository institutions; traveler's checks; certificates of deposit; treasury bills; and any other committee investments valued at fair market value; and

(B) The total amounts owed to the candidate or political committee in the form of credits, refunds of deposits, returns, or receivables, or a commercially reasonable amount based on the collectibility of those credits, refunds, returns, or receivables.

(iii) The amount of the net debts outstanding shall be adjusted as additional funds are received and expenditures are made. The candidate and his or her authorized political committee(s) may accept contributions made after the date of the election if such contributions are designated in writing by the contributor for that election and if such contributions do not exceed the adjusted amount of net debts outstanding on the date the contribution is received.

(iv) This paragraph shall not be construed to prevent a candidate who is a candidate in the general election or his or her authorized political committee(s) from paying primary election debts and obligations with funds which represent contributions made with respect to the general election.

(4) For purposes of this section, a contribution shall be considered to be designated in writing for a particular election if—

(i) The contribution is made by check, money order, or other negotiable instrument which clearly indicates the particular election with respect to which the contribution is made;

(ii) The contribution is accompanied by a writing, signed by the contributor, which clearly indicates the particular election with respect to which the contribution is made; or

(iii) The contribution is redesignated in accordance with 11 CFR 110.1(b)(5).

(5)(i) The treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election if—

(A) The contribution was designated in writing for a particular election, and the contribution, either on its face or when aggregated with other contributions from the same contributor for the same election, exceeds the limitation on contributions set forth in 11 CFR 110.1(b)(1);

(B) The contribution was designated in writing for a particular election and the contribution was made after that election and the contribution cannot be accepted under the net debts outstanding provisions of 11 CFR 110.1(b)(3);

(C) The contribution was not designated in writing for a particular election, and the contribution exceeds the limitation on contributions set forth in 11 CFR 110.1(b)(1); or

(D) The contribution was not designated in writing for a particular election, and the contribution was received after the date of an election for which there are net debts outstanding on the date the contribution is received.

(ii) A contribution shall be considered to be redesignated for another election if—

(A) The treasurer of the recipient authorized political committee requests that the contributor provide a written redesignation of the contribution and informs the contributor that the contributor may request the refund of the contribution as an alternative to providing a written redesignation; and

(B) Within sixty days from the date of the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of the contribution for another election, which is signed by the contributor.

(iii) A contribution redesignated for another election shall not exceed the limitations on contributions made with respect to that election. A contribution redesignated for a previous election shall be subject to the requirements of 11 CFR 110.1(b)(3) regarding net debts outstanding.

(6) For the purposes of this section, a contribution shall be considered to be made when the contributor relinquishes control over the contribution. A contributor shall be considered to relinquish control over the contribution when it is delivered by the contributor to the candidate, to the political committee, or to an agent of the political committee. A contribution that is mailed to the candidate, or to the political committee or to an agent of the political committee, shall be considered to be made on the date of the postmark. *See* 11 CFR 110.1(1)(4). An in-kind contribution shall be considered to be made on the date that the goods or services are provided by the contributor.

(c) *Contributions to political party committees.* (1) No person shall make contributions to the political committees established and maintained by a

national political party in any calendar year, which, in the aggregate, exceed $20,000.

(2) For purposes of this section, "political committees established and maintained by a national political party" means—

(i) The national committee;

(ii) The House campaign committee; and

(iii) The Senate campaign committee.

(3) Each recipient committee referred to in 11 CFR 110.1(c)(2) may receive up to the $20,000 limitation from a contributor, but the limits of 11 CFR 110.5 shall also apply to contributions made by an individual.

(4) The recipient committee shall not be an authorized political committee of any candidate, except as provided in 11 CFR 9002.1(c).

(d) *Contributions to other political committees.* (1) No person shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(2) The limitation on contributions of this paragraph also applies to contributions made to political committees making independent expenditures under 11 CFR Part 109.

(e) *Contributions by partnerships.* A contribution by a partnership shall be attributed to the partnership and to each partner—

(1) In direct proportion to his or her share of the partnership profits, according to instructions which shall be provided by the partnership to the political committee or candidate; or

(2) By agreement of the partners, as long as—

(i) Only the profits of the partners to whom the contribution is attributed are reduced (or losses increased), and

(ii) These partners' profits are reduced (or losses increased) in proportion to the contribution attributed to each of them.

A contribution by a partnership shall not exceed the limitations on contributions in 11 CFR 110.1 (b), (c), and (d). No portion of such contribution may be made from the profits of a corporation that is a partner.

(f) *Contributions to candidates for more than one Federal office.* If an individual is a candidate for more than one Federal office, a person may make contributions which do not exceed $1,000 to the candidate, or his or her authorized political committees for each election for each office, as long as—

(1) Each contribution is designated in writing by the contributor for a particular office;

(2) The candidate maintains separate campaign organizations, including separate principal campaign committees and separate accounts; and

(3) No principal campaign committee or other authorized political committee of that candidate for one election for one Federal office transfers funds to, loans funds to, makes contributions to, or makes expenditures on behalf of another principal campaign committee or other authorized political committee of that candidate for another election for another Federal office, except as provided in 11 CFR 110.3(a)(2)(iv).

(g) *Contributions to retire pre-1975 debts.* Contributions made to retire debts resulting from elections held prior to January 1, 1975 are not subject to the limitations of 11 CFR Part 110, as long as contributions and solicitations to retire these debts are designated in writing and used for that purpose. Contributions made to retire debts resulting from elections held after December 31, 1974 are subject to the limitations of 11 CFR Part 110.

(h) *Contributions to committees supporting the same candidate.* A person may contribute to a candidate or his or her authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as—

(1) The political committee is not the candidate's principal campaign committee or other authorized political committee or a single candidate committee;

(2) The contributor does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election; and

(3) The contributor does not retain control over the funds.

(i) *Contributions by spouses and minors.* (1) The limitations on contributions of this section shall apply separately to contributions made by each spouse even if only one spouse has income.

(2) Minor children (children under 18 years of age) may make contributions to any candidate or political committee which in the aggregate do not exceed the limitations on contributions of this section, if—

(i) The decision to contribute is made knowingly and voluntarily by the minor child;

(ii) The funds, goods, or services contributed are owned or controlled exclusively by the minor child, such as income earned by the child, the proceeds of a trust for which the child is the beneficiary, or a savings account opened and maintained exclusively in the child's name; and

(iii) The contribution is not made from the proceeds of a gift, the purpose of which was to provide funds to be contributed, or is not in any other way controlled by another individual.

(j) *Application of limitations to elections.* (1) The limitations on contributions of this section shall apply separately with respect to each election as defined in 11 CFR 100.2, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election for the purposes of the limitations on contributions of this section.

(3) A primary or general election which is not held because a candidate is unopposed or received a majority of votes in a previous election is a separate election for the purposes of the limitations on contributions of this section. The date on which the election would have been held shall be considered to be the date of the election.

(4) A primary election which is not held because a candidate was nominated by a caucus or convention with authority to nominate is not a separate election for the purposes of the limitations on contributions of this section.

(k) *Joint contributions and reattributions.* (1) Any contribution made by more than one person, except for a contribution made by a partnership, shall include the signature of each contributor on the check, money order, or other negotiable instrument or in a separate writing.

(2) If a contribution made by more than one person does not indicate the amount to be attributed to each contributor, the contribution shall be attributed equally to each contributor.

(3)(i) If a contribution to a candidate or political committee, either on its face or when aggregated with other contributions from the same contributor, exceeds the limitations on contributions set forth in 11 CFR 110.1 (b), (c) or (d), as appropriate, the treasurer of the recipient political committee may ask the contributor whether the contribution was intended to be a joint contribution by more than one person.

(ii) A contribution shall be considered to be reattributed to another contributor if—

(A) The treasurer of the recipient political committee asks the contributor whether the contribution is intended to be a joint contribution by more than one person, and informs the contributor that he or she may request the return of the excessive portion of the contribution if it

is not intended to be a joint contribution; and

(B) Within sixty days from the date of the treasurer's receipt of the contribution, the contributors provide the treasurer with a written reattribution of the contribution, which is signed by each contributor, and which indicates the amount to be attributed to each contributor if equal attribution is not intended.

(l) *Supporting evidence.* (1) If a political committee receives a contribution designated in writing for a particular election, the treasurer shall retain a copy of the written designation, as required by 11 CFR 110.1(b)(4) or 110.2(b)(4), as appropriate. If the written designation is made on a check or other written instrument, the treasurer shall retain a full-size photocopy of the check or written instrument.

(2) If a political committee receives a written redesignation of a contribution for a different election, the treasurer shall retain the written redesignation provided by the contributor, as required by 11 CFR 110.1(b)(5) or 110.2(b)(5), as appropriate.

(3) If a political committee receives a written reattribution of a contribution to a different contributor, the treasurer shall retain the written reattribution signed by each contributor, as required by 11 CFR 110.1(k).

(4) If a political committee chooses to rely on a postmark as evidence of the date on which a contribution was made, the treasurer shall retain the envelope or a copy of the envelope containing the postmark and other identifying information.

(5) If a political committee does not retain the written records concerning designation required under 11 CFR 110.1(l)(1), the contribution shall not be considered to be designated in writing for a particular election, and the provisions of 11 CFR 110.1(b)(2)(ii) or 110.2(b)(2)(ii) shall apply. If a political committee does not retain the written records concerning redesignation or reattribution required under 11 CFR 110.1(l) (2) or (3), the redesignation or reattribution shall not be effective, and the original designation or attribution shall control.

3. 11 CFR Part 110 is amended by revising § 110.2 to read as follows:

§ 110.2 Contributions by multicandidate political committees (2 U.S.C. 441a(a)(2)).

(a) *Scope.* This section applies to all contributions made by any multicandidate political committee as defined in 11 CFR 100.5(e)(3).

(b) *Contributions to candidates; designations; and redesignations.* (1) No multicandidate political committee shall make contributions to any candidate, his or her authorized political committees or agents with respect to any election for Federal office which, in the aggregate, exceed $5,000.

(2) For purposes of this section, "with respect to any election" means—

(i) In the case of a contribution designated in writing by the contributor for a particular election, the election so designated. Multicandidate political committees making contributions to candidates are encouraged to designate their contributions in writing for particular elections. *See* 11 CFR 110.2(b)(4).

(ii) In the case of a contribution not designated in writing by the contributor for a particular election, the next election for that Federal office after the contribution is made.

(3)(i) A contribution designated in writing for a particular election, but made after that election, shall be made only to the extent that the contribution does not exceed net debts outstanding from such election. To the extent that such contribution exceeds net debts outstanding, the candidate or the candidate's authorized political committee shall return or deposit the contribution within ten days from the date of the treasurer's receipt of the contribution as provided by 11 CFR 103.3(a), and if deposited, then within sixty days from the date of the treasurer's receipt the treasurer shall take the following action, as appropriate:

(A) Refund the contribution using a committee check or draft; or

(B) Obtain a written redesignation by the contributor for another election in accordance with 11 CFR 110.2(b)(5).

If the candidate is not a candidate in the general election, all contributions made for the general election shall be either returned or refunded to the contributors or redesignated in accordance with 11 CFR 110.2(b)(5).

(ii) The treasurer of the candidate's authorized political committee shall calculate net debts outstanding in accordance with 11 CFR 110.1(b)(3)(ii). The amount of the net debts outstanding shall be adjusted as additional funds are received and expenditures are made. The candidate and his or her authorized political committee(s) may accept contributions made after the date of the election if such contributions are designated in writing by the contributor for that election and if such contributions do not exceed the adjusted amount of net debts outstanding on the date the contribution is received.

(4) For purposes of this section, a contribution shall be considered to be designated in writing for a particular election if—

(i) The contribution is made by check, money order, or other negotiable instrument which clearly indicates the particular election with respect to which the contribution is made;

(ii) The contribution is accompanied by a writing, signed by the contributor, which clearly indicates the particular election with respect to which the contribution is made; or

(iii) The contribution is redesignated in accordance with 11 CFR 110.2(b)(5).

(5)(i) The treasurer of an authorized political committee may request a written redesignation of a contribution by the contributor for a different election if—

(A) The contribution was designated in writing for a particular election, and the contribution, either on its face or when aggregated with other contributions from the same contributor for the same election, exceeds the limitation on contributions set forth in 11 CFR 110.2(b)(1);

(B) The contribution was designated in writing for a particular election and the contribution was made after that election and the contribution cannot be accepted under the net debts outstanding provisions of 11 CFR 110.2(b)(3);

(C) The contribution was not designated in writing for a particular election, and the contribution exceeds the limitation on contributions set forth in 11 CFR 110.2(b)(1); or

(D) The contribution was not designated in writing for a particular election and the contribution was received after the date of an election for which there are net debts outstanding on the date the contribution is received.

(ii) A contribution shall be considered to be redesignated for another election if—

(A) The treasurer of the recipient authorized political committee requests that the contributor provide a written redesignation of the contribution and informs the contributor that the contributor may request the refund of the contribution as an alternative to providing a written redesignation; and

(B) Within sixty days from the date of the treasurer's receipt of the contribution, the contributor provides the treasurer with a written redesignation of the contribution for another election, which is signed by the contributor.

(iii) A contribution redesignated for another election shall not exceed the limitations on contributions made with respect to that election. A contribution redesignated for a previous election

shall be subject to the requirements of 11 CFR 110.2(b)(3) regarding net debts outstanding.

(6) For the purposes of this section, a contribution shall be considered to be made when the contributor relinquishes control over the contribution. A contributor shall be considered to relinquish control over the contribution when it is delivered by the contributor to the candidate, to the political committee, or to an agent of the political committee. A contribution that is mailed to the candidate, or to the political committee or to an agent of the political committee, shall be considered to be made on the date of the postmark. *See* 11 CFR 110.1(1)(4). An in-kind contribution shall be considered to be made on the date that the goods or services are provided by the contributor.

(c) *Contributions to political party committees.* (1) No multicandidate political committee shall make contributions to the political committees established and maintained by a national political party in any calendar year which, in the aggregate, exceed $15,000.

(2) For purposes of this section, "political committees established and maintained by a national political party" means—

(i) The national committee;

(ii) The House campaign committee; and

(iii) The Senate campaign committee.

(3) Each recipient committee referred to in 11 CFR 110.2(c)(2) may receive up to the $15,000 limitation from a multicandidate political committee.

(4) The recipient committee shall not be an authorized political committee of any candidate, except as provided in 11 CFR 9002.1(c).

(d) *Contributions to other political committees.* (1) No multicandidate political committee shall make contributions to any other political committee in any calendar year which, in the aggregate, exceed $5,000.

(2) The limitation on contributions of this paragraph also applies to contributions made to political committees making independent expenditures under 11 CFR Part 109.

(e) *Contributions by political party committees to Senatorial candidates.* Notwithstanding any other provision of the Act, or of these regulations, the Republican and Democratic Senatorial campaign committees, or the national committee of a political party, may make contributions of not more than a combined total of $17,500 to a candidate for nomination or election to the Senate during the calendar year of the election for which he or she is a candidate. Any contribution made by such committee to a Senatorial candidate under this paragraph in a year other than the calendar year in which the election is held shall be considered to be made during the calendar year in which the election is held.

(f) *Contributions to candidates for more than one Federal office.* If an individual is a candidate for more than one Federal office, a multicandidate political committee may make contributions which do not exceed $5,000 to the candidate, or his or her authorized political committees for each election for each office, provided that the requirements set forth in 11 CFR 110.1(f)(1), (2), and (3) are satisfied.

(g) *Contributions to retire pre-1975 debts.* Contributions made to retire debts resulting from elections held prior to January 1, 1975 are not subject to the limitations of 11 CFR Part 110, as long as contributions and solicitations to retire these debts are designated in writing and used for that purpose. Contributions made to retire debts resulting from elections held after December 31, 1974 are subject to the limitations of 11 CFR Part 110.

(h) *Contributions to committees supporting the same candidate.* A multicandidate political committee may contribute to a candidate or his or her authorized committee with respect to a particular election and also contribute to a political committee which has supported, or anticipates supporting, the same candidate in the same election, as long as—

(1) The recipient political committee is not the candidate's principal campaign committee or other authorized political committee or a single candidate committee;

(2) The multicandidate political committee does not give with the knowledge that a substantial portion will be contributed to, or expended on behalf of, that candidate for the same election; and

(3) The multicandidate political committee does not retain control over the funds.

(i) *Application of limitations to elections.* (1) The limitations on contributions of this section (other than paragraph (e) of this section) shall apply separately with respect to each election as defined in 11 CFR 100.2, except that all elections held in a calendar year for the office of President of the United States (except a general election for that office) shall be considered to be one election.

(2) An election in which a candidate is unopposed is a separate election for the purposes of the limitations on contributions of this section.

(3) A primary or general election which is not held because a candidate is unopposed or received a majority of votes in a previous election is a separate election for the purposes of the limitations on contributions of this section. The date on which the election would have been held shall be considered to be the date of the election.

(4) A primary election which is not held because a candidate was nominated by a caucus or convention with authority to nominate is not a separate election for the purposes of the limitations on contributions of this section.

PART 100—SCOPE AND DEFINITIONS (2 U.S.C. 431)

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

Authority: 2 U.S.C. 431, 438(a)(8).

5. 11 CFR Part 100 is amended by revising § 100.7(c) to read as follows:

§ 100.7 Contribution (2 U.S.C. 431(8)).

* * * * *

(c) For purposes of 11 CFR 100.7(a) and (b), a contribution or payment made by an individual shall not be attributed to any other individual, unless otherwise specified by that other individual in accordance with 11 CFR 110.1(k).

6. 11 CFR Part 100 is amended by revising § 100.8(c) to read as follows:

§ 100.8 Expenditure (2 U.S.C. 431(9)).

* * * * *

(c) For purposes of 11 CFR 100.8(a) and (b), a payment made by an individual shall not be attributed to any other individual, unless otherwise specified by that other individual. To the extent that a payment made by an individual qualifies as a contribution, the provisions of 11 CFR 110.1(k) shall apply.

PART 102—REGISTRATION, ORGANIZATION, AND RECORDKEEPING BY POLITICAL COMMITTEES (2 U.S.C. 433)

7. The authority citation for Part 102 continues to read as follows:

Authority: 2 U.S.C. 432, 433, 438(a)(8), 441d.

8. 11 CFR Part 102 is amended by revising § 102.9 introductory text and paragraph (e), and by adding paragraph (f) to read as follows:

§ 102.9 Accounting for contributions and expenditures (2 U.S.C. 432(c)).

The treasurer of a political committee or an agent authorized by the treasurer to receive contributions and make expenditures shall fulfill all

recordkeeping duties as set forth at 11 CFR 102.9(a) through (f):

* * * * *

(e) If the candidate, or his or her authorized committee(s), receives contributions prior to the date of the primary election, which contributions are designated in writing by the contributor for use in connection with the general election, such candidate or such committee(s) shall use an acceptable accounting method to distinguish between contributions received for the primary election and contributions received for the general election. Acceptable methods include, but are not limited to:

(1) The designation of separate accounts for each election, caucus or convention or

(2) The establishment of separate books and records for each election.

If a candidate is not a candidate in the general election, any contributions made for the general election shall be refunded to the contributors, redesignated in accordance with 11 CFR 110.1(b)(5) or 110.2(b)(5), or reattributed in accordance with 11 CFR 110.1(k)(3), as appropriate.

(f) The treasurer shall maintain the documentation required by 11 CFR 110.1(1), concerning designations, redesignations, reattributions and the dates of contributions. If the treasurer does not maintain this documentation, 11 CFR 110.1(1)(5) shall apply.

PART 103—CAMPAIGN DEPOSITORIES (2 U.S.C. 432(h))

9. The authority citation for Part 103 continues to read as follows:

Authority: 2 U.S.C. 432(h), 438(a)(8).

10. 11 CFR Part 103 is amended by revising § 103.3 to read as follows:

§ 103.3 Deposit of receipts and disbursements (2 U.S.C. 432(h)(1)).

(a) All receipts by a political committee shall be deposited in account(s) established pursuant to 11 CFR 103.2, except that any contribution may be, within 10 days of the treasurer's receipt, returned to the contributor without being deposited. The treasurer of the committee shall be responsible for making such deposits. All deposits shall be made within 10 days of the treasurer's receipt. A committee shall make all disbursements by check or similar drafts drawn on an account at its designated campaign depository, except for expenditures of $100 or less made from a petty cash fund maintained pursuant to 11 CFR 102.11. Funds may be transferred from the depository for investment purposes, but shall be returned to the depository before such funds are used to make expenditures.

(b) The treasurer shall be responsible for examining all contributions received for evidence of illegality and for ascertaining whether contributions received, when aggregated with other contributions from the same contributor, exceed the contribution limitations of 11 CFR 110.1 or 110.2.

(1) Contributions that present genuine questions as to whether they were made by corporations, labor organizations, foreign nationals, or Federal contractors may be, within ten days of the treasurer's receipt, either deposited into a campaign depository under 11 CFR 103.3(a) or returned to the contributor. If any such contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution. The treasurer shall make at least one written or oral request for evidence of the legality of the contribution. Such evidence includes, but is not limited to, a written statement from the contributor explaining why the contribution is legal, or a written statement by the treasurer memorializing an oral communication explaining why the contribution is legal. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

(2) If the treasurer in exercising his or her responsibilities under 11 CFR 103.3(b) determined that at the time a contribution was received and deposited, it did not appear to be made by a corporation, labor organization, foreign national or Federal contractor, or made in the name of another, but later discovers that it is illegal based on new evidence not available to the political committee at the time of receipt and deposit, the treasurer shall refund the contribution to the contributor within thirty days of the date on which the illegality is discovered. If the political committee does not have sufficient funds to refund the contribution at the time the illegality is discovered, the political committee shall make the refund from the next funds it receives.

(3) Contributions which on their face exceed the contribution limitations set forth in 11 CFR 110.1 or 110.2, and contributions which do not appear to be excessive on their face, but which exceed the contribution limits set forth in 11 CFR 110.1 or 110.2 when aggregated with other contributions from the same contributor, and contributions which cannot be accepted under the net debts outstanding provisions of 11 CFR 110.1(b)(3) and 110.2(b)(3) may be either deposited into a campaign depository under 11 CFR 103.3(a) or returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(b), 110.1(k) or 110.2(b), as appropriate. If a redesignation or reattribution is not obtained, the treasurer shall, within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

(4) Any contribution which appears to be illegal under 11 CFR 103.3(b)(1) or (3), and which is deposited into a campaign depository shall not be used for any disbursements by the political committee until the contribution has been determined to be legal. The political committee must either establish a separate account in a campaign depository for such contributions or maintain sufficient funds to make all such refunds.

(5) If a contribution which appears to be illegal under 11 CFR 103.3(b)(1) or (3) is deposited in a campaign depository, the treasurer shall make and retain a written record noting the basis for the appearance of illegality. A statement noting that the legality of the contribution is in question shall be included in the report noting the receipt of the contribution. If a contribution is refunded to the contributor because it cannot be determined to be legal, the treasurer shall note the refund on the report covering the reporting period in which the refund is made.

PART 104—REPORTS BY POLITICAL COMMITTEES (2 U.S.C. 434)

11. The authority citation for Part 104 is revised to read as follows:

Authority: 2 U.S.C. 431(1), 431(8), 431(9), 432(i), 434, 438(a)(8), 438(b).

12. 11 CFR Part 104 is amended by revising § 104.8(d) to read as follows:

§ 104.8 Uniform reporting of contributions.

* * * * *

(d) (1) If an itemized contribution is made by more than one person in a single written instrument, the treasurer shall report the amount to be attributed to each contributor.

(2) (i) If a contribution is redesignated by a contributor, in accordance with 11 CFR 110.1(b) or 110.2(b), the treasurer of the authorized political committee receiving the contribution shall report the redesignation in a memo entry on Schedule A of the report covering the reporting period in which the redesignation is received. The memo

entry for each redesignated contribution shall be reported in the following manner—

(A) The first part of the memo entry shall disclose all of the information for the contribution as it was originally reported on Schedule A;

(B) The second part of the memo entry shall disclose all of the information for the contribution as it was redesignated by the contributor, including the election for which the contribution was redesignated and the date on which the redesignation was received.

(ii) If a contribution from a political committee is redesignated by the contributing political committee in accordance with 11 CFR 110.1(b) or 110.2(b), the treasurer of such political committee shall report the redesignation in a memo entry on Schedule B of the report covering the reporting period in which the redesignation is made. The memo entry for each redesignated contribution shall be reported in the following manner—

(A) The first part of the memo entry shall disclose all of the information for the contribution as it was originally reported on Schedule B;

(B) The second part of the memo entry shall disclose all of the information for the contribution as it was redesignated by the contributing political committee, including the election for which the contribution was redesignated and the date on which the redesignation was made.

(3) If an itemized contribution is reattributed by the contributor(s) in accordance with 11 CFR 110.1(k), the treasurer shall report the reattribution in a memo entry on Schedule A of the report covering the reporting period in which the reattribution is received. The memo entry for each reattributed contribution shall be reported in the following manner—

(i) The first part of the memo entry shall disclose all of the information for the contribution as it was originally reported on Schedule A;

(ii) The second part of the memo entry shall disclose all of the information for the contribution as it was reattributed by the contributors, including the date on which the reattribution was received.

(4) If a contribution is refunded to the contributor, the treasurer of the political committee making the refund shall report the refund on Schedule B of the report covering the reporting period in which the refund is made, in accordance with 11 CFR 103.3(b)(5) and 104.3(b). If a contribution is refunded to a political committee, the treasurer of the political committee receiving the refund shall report the refund on Schedule A of the report covering the reporting period in which the refund is received, in accordance with 11 CFR 104.3(a).

Dated: January 6, 1987.

Scott E. Thomas,

Chairman, Federal Election Commission.

[FR Doc. 87–437 Filed 1–8–87; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86–ASO–26]

Alteration of Control Zone, Chamblee, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the size of the Chamblee, Georgia, control zone. An arrival extension located northeast of the DeKalb-Peachtree Airport was predicated on the Norcross VORTAC which has been decommissioned. The instrument approach procedure which necessitated the arrival extension was canceled concurrent with the decommissioning. Thus, the floor of controlled airspace in an area northeast of the airport may be raised from the surface to 700 feet above the surface. Additionally, the geographical coordinates of the airport have changed due to airport construction and the new coordinates will be reflected in the amended control zone description.

EFFECTIVE DATE: 0901 UTC, April 9, 1987.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763–7646.

SUPPLEMENTARY INFORMATION:

History

On November 3, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by reducing the size of the Chamblee, Georgia, control zone through elimination of an unneeded arrival extension. In addition, the geographical coordinates (longitude only) will be corrected as those presently listed are slightly in error (51 FR 39866). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends the Chamblee, Georgia, control zone by removing an unneeded arrival extension and correcting the geographical coordinates of the airport upon which the control zone is predicated.

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

List of Subjects in 14 CFR Part 71

Aviation safety, Control zone.

Adoption of the Amendment

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

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

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

§ 71.171 [Amended]

2. Section 71.171 is amended as follows:

Chamblee, GA—[Amended]

By removing the words ". . . long. 84°18'10"W.); within 1.5 miles each side of Norcross VORTAC 242° radial extending from the 5 mile radius zone to 1 mile southwest of the VORTAC." and replacing them with the words ". . . long. 84°18'08"W.)."

Issued in East Point, Georgia, on December 30, 1986.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 87-399 Filed 1-8-87; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 376

[Docket No. 60960-6160]

Robots, Controllers, End-Effectors, Related Vision Systems and Software

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: Robots, robot controllers, end-effectors, related vision systems, and related software are controlled for export under Export Control Commodity Number (ECCN) 1391A on the Commodity Control List (CCL). Exporters applying for authorization to ship these commodities need to supply certain information in conjunction with their license applications. The Export Administration Regulations (15 CFR Parts 368-399) are now being amended to give guidance to exporters when preparing such documentation or when making commodity classification requests.

EFFECTIVE DATE: March 10, 1987.

FOR FURTHER INFORMATION CONTACT: Surendra Dhir, Capital Goods Technology Center, Office of Technology & Policy Analysis, Department of Commerce, Washington, DC 20230 (Telephone: (202) 377-8550).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

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

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Joan Maguire, Regulations Branch, 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 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 contains a collection of information requirement subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

This collection of information requirement is pending approval by the Office of Management and Budget. Persons wishing to comment on this collection of information should address their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Department of Commerce/International Trade Administration.

List of Subjects in 15 CFR Part 376

Exports; Reporting and recordkeeping requirements.

Accordingly, Part 376 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

1. The authority citation for 15 CFR Part 376 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).

2. Section 376.17 is added to read as follows:

§ 376.17 Robots, robot controllers, end-effectors, related vision systems, or related software

An application for authorization to export or reexport robots, robot controllers, end-effectors, related vision systems, or related software (ECCN 1391A) to Country Groups Q, W, and Y and the People's Republic of China and requests for commodity classifications shall contain the following information as applicable.

(a) *General.* (1) Describe fully any robot's capability of using sensors to generate or to modify robot program instructions. For robots using sensors for welding only, describe in particular the manner in which the sensors are used in weld seam tracking.

(2) Specify if the robot, the controller, or the end-effector is specially designed to comply with national safety standards for explosive munitions environments.

(3) If the robot or the end-effector is equipped with self-sealing hydraulic lines, provide the flash point of the hydraulic fluid for hydraulic robots.

(4) If the robot, the controller, or the end-effector is specially designed for underwater use, specify what depth.

(5) Specify if the robot, the controller, or the end-effector is capable of operating at altitudes exceeding 30,000 meters.

(6) Specify if the robot, the controller, or the end-effector is specially designed for outdoor applications and if it meets military specifications for those applications.

(7) Specify if the robot, the controller, or the end-effector is specially designed for operating in an electromagnetic pulse (EMP) environment.

(8) Specify if the robot, the controller, or the end-effector is specially designed or rated as radiation-hardened beyond that necessary to withstand normal industrial (i.e., non-nuclear industry) ionizing radiation.

(9) Specify if the robot is equipped with robot manipulator arms that contain titanium-based alloys or fibrous and filamentary materials. If it is, describe in detail.

(10) Specify if the robot is equipped with precision measuring devices. If it is, provide range, accuracy, linearity, and draft as applicable.

(11) Specify if the robot or the controller is specially designed to move autonomously, other than on a fixed track, the robot structure through three-dimensional space in a simultaneously coordinated manner.

(12) Describe the manner in which the robot may be used in electronics or microelectonics manufacturing.

(13) Describe the manner in which the robot may be used in nuclear industry/manufacturing.

(b) *Robot controllers.* (1) Provide information in accordance with § 376.11 of this part if the controllers are capable of controlling numerically controlled machine tools or dimensional inspection machines.

(2) Refer to computer regulations for general purpose computers used as controllers.

(3) Provide minimum programmable increment.

(4) Specify if the controller is equipped with interface meeting ANSI/IEEE standard 488–1978, or equivalent standard for parallel data exchange and if so, describe.

(5) Describe the programming methods. (e.g., lead-through, key-in, teach-pendent, external computer)

(6) Provide the size of internal computer words in bits.

(7) Describe any incorporated interpolation algorithms.

(8) Describe any capabilities of on-line (real-time) generation or modification of the programmed path, velocity or functions.

(c) *End-effectors.* Specify if the end-effector is equipped with interface meeting ANSI/IEEE standard 488–1978, or equivalent, for parallel data exchange and if so, describe.

(d) *Vision systems.* Provide the following information of the vision system if the robot is equipped with a vision system:

(1) Number of pixels (as well as the addressable matrix) the vision system is capable of processing, and the type of camera used.

(2) Number of single-scene analysis processor, and word size (in bits) of the processor.

(3) Description of any parallel processing capability.

(4) Description of the programming methods in detail.

(5) Description of the capability of the vision system for providing continuous reaction or updating the robot's position while the robot is moving.

(6) Provide the speed of scene-analysis.

(e) *Software.* Provide full descriptions, as specified above, of the robots, the robot controllers, the end-effectors, or the vision systems, for which the software is specially designed. Provide the format (object code, source code, etc.) in which the software will be exported. For vision system software, provide a full description of the software's capabilities of three-dimensional modelling and three-dimensional scene analysis including any Boolean logic operations, if any.

Dated: January 6, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87–424 Filed 1–8–87; 8:45 am]

BILLING CODE 3510–DT–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 1 and 33

Domestic Exchange-Traded Commodity Options; Termination of Pilot Program Status for Options on Physical Commodities and on Agricultural Futures Contracts

AGENCY: Commodity Futures Trading Commission.

ACTION: Final rulemaking.

SUMMARY: In late 1982 the Commodity Futures Trading Commission ("Commission") designated the first options on commodity futures contracts as part of a three-year pilot program for non-agricultural commodities. Subsequently, the Commission adopted a pilot program to permit the trading of options on non-agricultural physical commodities. 47 FR 56996 (December 22, 1982). Finally, on January 23, 1984, a separate three-year pilot program for the trading of options on futures contracts on domestic agricultural commodities was adopted by the Commission. 49 FR 2752. The Commission's experience with option trading under these programs in general has been good. Consequently, on May 13, 1986, the Commission made permanent the trading of options on futures contracts on commodities other than domestic agricultural commodities. The Commission is now making permanent the trading of options on futures contracts on domestic agricultural commodities. It is also making permanent the trading of options on physical commodities other than the domestic agricultural commodities.

EFFECTIVE DATE: These rules shall become effective February 9, 1987.

FOR FURTHER INFORMATION CONTACT: Paul M. Architzel, Chief Counsel, Division of Economic Analysis, 2033 K Street, NW., Washington, DC 20581, (202) 254–6990.

SUPPLEMENTARY INFORMATION:

I. Background

Beginning in 1982, the Commission embarked on a program to re-introduce the trading of commodity options on United States exchanges. The Commission's regulations have permitted the re-establishment of exchange-traded commodity options in a careful, phased manner. Initially, the three-year pilot program to permit the trading of commodity options on domestic boards of trade permitted trading only in options on futures contracts on other than domestic agricultural commodities. 46 FR 54500 (November 3, 1981). This limited program was subsequently expanded to permit the trading of options on physical commodities as well. 47 FR 56996 (December 22, 1982).

After the statutory bar to trading options on domestic agricultural commodities was repealed by section 206 of the Futures Trading Act of 1982, Pub. L. 97–444, 96 Stat. 2294, 2301 (1983), the Commission established a pilot program for the trading of options on domestic agricultural commodities.[1] On January 23, 1984, the Commission adopted amendments to Rule 33.4 (49 FR 2752). These amendments permitted the trading of options on futures contracts on domestic agricultural commodities under essentially the same regulatory scheme as the Commission's existing program governing the trading of options on futures contracts on commodities other than domestic agricultural commodities. In adopting this program, the Commission observed that by removing the statutory bar and

> [i]n permitting a pilot program for the trading of options on domestic agricultural commodities, Congress believed that such options may benefit producers by offering protection from adverse price movements without requiring the sacrifice of potential profits from favorable price movements. Congress also believed that the abuses which characterized the trading of options in the 1930's were unlikely to recur. (citations omitted).

49 FR 2752, 2753.

The Commission proceeded cautiously in establishing the pilot program for the exchange trading of options on futures contracts on domestic agricultural commodities. The Commission had gained valuable experience in connection with its earlier option program. In addition, the Commission published an advance notice of proposed rulemaking raising specific issues regarding the potential use of agricultural options (48 FR 6128 (February 10, 1983)) and also convened an agricultural options advisory committee to provide additional input and advice. Moreover, the Commission conducted a series of public meetings in nine cities across the nation, including Atlanta, Georgia; Cedar Rapids, Iowa; Indianapolis, Indiana; Kansas City, Missouri; Lubbock, Texas; Memphis, Tennessee; Minneapolis, Minnesota; St. Louis, Missouri, and Reno, Nevada.

[1] These commodities are enumerated in section 2(a) of the Commodity Exchange Act and include: Wheat, cotton, rice, corn, oats, barley, rye, flaxseed, grain sorghums, meal feeds, butter, eggs, Irish potatoes, wool, wool tops, fats and oils (including lard, other fats and oils), cottonseed meal, cottonseed, peanuts, soybeans, soybean meal, livestock, livestock products, and frozen concentrated orange juice.

These public meetings provided an additional opportunity for interested members of the public to express their views concerning the development of a pilot program for options on domestic agricultural commodities.

Initially, the Commission limited the number of options on futures contracts on domestic agricultural commodities to two per exchange. On October 29, 1984, and on January 29, 1985, the Commission designated a total of nine such options. These included options on futures contracts on grains, soybeans, livestock, and cotton. A tenth option was designated on the frozen concentrated orange juice futures contract in December 1985. Subsequently, on April 8, 1986, the Commission expanded the number of options permitted on futures contracts on domestic agricultural commodities from two to five per exchange. 51 FR 11905. Currently, fifteen such options have been designated by the Commission including in addition to the above commodities, soybean meal and oil and pork bellies.

Since trading in options on futures contracts on domestic agricultural commodities began, the Commission has noted none of the abuses which were previously associated with option trading in agricultural commodities. In light of this positive experience, Congress directed the Commission

> [t]o eliminate the pilot status of its program for commodity option transactions involving the trading of options on contract markets, including any numerical restrictions on the number of commodities or option contracts for which a contract market may be designated. . . .

Futures Trading Act of 1986, Pub. L. 99–641, section 102 (1986).

II. Final Rules

The Commission has been pleased by the successful introduction of exchange-traded commodity options both in their initial and subsequent pilot programs. Moreover, the Commission's continuing experience with the pilot option programs, including the apparent substantial use of these markets by commercial enterprises, is favorable. Generally, few regulatory problems have been associated with these programs, and the exchanges apparently are discharging adequately their self-regulatory responsibilities. In light of these factors, and the clear mandate from the Congress, the Commission is hereby making permanent the trading of options in its remaining pilot programs.

It should be noted that at the time the Commission made permanent its regulations governing the exchange trading of options on futures contracts in other than domestic agricultural commodities, the Commission thoroughly reviewed all of its option rules. 51 FR 17363. As the Commission indicated in connection with this overall evaluation, it believes that the current regulations are effective and can be credited in part for the success of the re-introduction of commodity option trading. Certain refinements and technical changes to the rules governing the permanent trading of commodity options were made at that time. The Commission has again reviewed its regulations and believes that no additional changes to its option regulations need be made.

Accordingly, the Commission is lifting the limitation contained in Rule 33.4(a)(6) on the number of options on futures contracts on domestic agricultural commodities permitted on each exchange as well as the number of options on physical commodities other than domestic agricultural commodities permitted on each exchange. In addition, the limited period for designation for commodity options under Commission Rule 33.5(c) is being deleted. Finally, the Commission is deleting the authority delegated to its staff to approve exchange rules which extend temporarily the term of option designations beyond the original, three-year period (Rule 1.41b(a)(3)).

III. Related Matters

A. The Regulatory Flexibility Act

The Regulatory Flexibility Act 5 U.S.C. 601 *et seq.*, requires that agencies, in proposing rules, consider the impact of these rules on small businesses. The Commission has previously determined that contract markets are not "small entities" for purposes of the Regulatory Flexibility Act, 47 FR 18618 (April 30, 1982).

These rules govern the trading of options on various contract markets and therefore, if promulgated, would not have a significant economic impact on a substantial number of small entities. Accordingly, the Chairman, on behalf of the Commission, certifies, pursuant to section 3(a) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that these regulations will not have a significant economic impact on a substantial number of small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1980, 44 U.S.C. *et seq.*, imposes certain requirements on Federal agencies, including the Commission, in connection with their conducting or sponsoring any collection of information as defined in that Act. These rule amendments do not impose any additional, nor do they in any way alter existing, paperwork burdens on the public.

C. Administrative Procedure Act

The Administrative Procedure Act requires that notice and an opportunity to comment be provided to the public before agencies adopt final regulations, except where interpretive rules or general statements of policy or rules relating to agency organization, procedure or practice are involved, or where the agency finds for good cause that such notice and comment is impractical, unnecessary or contrary to the public interest. 5 U.S.C. § 553(b). In this instance, the Congress has clearly mandated that the Commission issue these regulations. Moreover, since these regulations make permanent an ongoing program, their adoption has a modest impact, if at all, on the public. For these reasons, the Commission believes that, in this instance, the notice and comment procedure is unnecessary. Accordingly, the Commission is adopting these rules as final on February 9, 1987.

List of Subjects

17 CFR Part 1

Commodity exchanges, Commodity exchange rules.

17 CFR Part 33

Commodity exchange, Commodity exchange designation procedures, Commodity exchange rules, Commodity futures, Commodity options.

In consideration of the foregoing and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(1)(A), 4c(b), 4c(c), 4c(d), 5, 5a, 6 and 8a thereof, 7 U.S.C. 2, 4, 6c(a), 6c(b), 6c(c), 6c(d), 7, 7a, 8 and 12a, the Commission hereby amends Chapter I of Title 17 of the Code of Federal Regulations as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 2, 2a, 4, 4a, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 19, 21, 23, and 24 unless otherwise noted.

2. Section 1.41b is amended by removing paragraph (a)(3) and revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 1.41b Delegation of Authority to the Director of the Division of Trading and Markets and Director of the Division of Economic Analysis.

(a)* * *

(1) Do not materially change the quantity, quality, or other delivery specifications, procedures or obligations under a contract designated for trading by the Commission (such as, but not limited to, rules affecting procedures for inspecting, grading or weighing a commodity, the costs of such procedures, notice deadlines, payment procedures, the content of delivery forms and other similar procedures); or

(2) Reflect routine modifications that are expressly required or anticipated by the specific terms of a contract market rule (such as the specification of delivery grades, growths or differentials, the listing of trading months or the modification of trading hours).

* * * * * *

PART 33—REGULATION OF DOMESTIC EXCHANGE-TRADED COMMODITY OPTION TRANSACTIONS

3. The authority citation for Part 33 continues to read as follows:

Authority: 7 U.S.C. 2, 2a, 4, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6l, 6m, 6n, 6o, 7, 7a, 7b, 8, 9, 11, 12a, 12c, 13a–1, 13b, 19 and 21 unless otherwise noted.

§ 33.4 [Amended]

4. Section 33.4 is amended by removing paragraph (a)(6).

§ 33.5 [Amended]

5. Section 33.5 is amended by removing paragraph (c).

Issued this January 6, 1987, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 87–430 Filed 1–8–87; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

Confidential Treatment of Records and Documents Filed With the Commission

[Docket No. RM87–9–000; Order No. 462]

Issued: January 6, 1987.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is adopting procedures governing requests for confidential treatment of information submitted to the Commission. The rule codifies informal procedures that have evolved in response to requests for confidential treatment of documents and records filed with the Commission.

EFFECTIVE DATE: January 6, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph R. Hartsoe, Federal Energy Regulatory Commission, Office of the General Counsel, 825 North Capitol Street, NE. Washington, DC 20426, (202) 357–8530

SUPPLEMENTARY INFORMATION:

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

I. Introduction

The Federal Energy Regulatory Commission (Commission) is adopting procedures governing requests for confidential treatment of information submitted to the Commission. The rule codifies informal procedures that have evolved in response to requests for confidential treatment of documents and records filed with the Commission.

II. Background

Under the Freedom of Information Act (FOIA),[1] the Commission must provide reasonably described agency records requested by any person, unless the record contains information that meets one or more of the nine exemptions from disclosure provided in the Act.[2] In particular, trade secrets and commercial or financial information (confidential information) are generally exempt from disclosure under the Act.[3] Under the Commission's FOIA regulations every record of the Commission is a public record, unless it falls within one or more of the FOIA exceptions to public disclosure.[4]

Once a proceeding is initiated at the Commission, a docket number is assigned to the proceeding and a public file is opened in that docket. Unless the Secretary of the Commission is requested to place a document in a non-public file, all filings in a particular docket are placed in the public file which is available in the Commission's public reference room.[5] In addition, persons may seek access to the non-public file of a proceeding by submitting a written request that reasonably describes the records sought to the Director of the Division of Public Information,[6] or through discovery in a proceeding set for hearing under subpart E of the Commission's Rules of Practice and Procedure.[7]

III. Discussion

During the course of Commission business, persons may submit to the Commission commercial, financial or other information that they claim to be exempt from disclosure because the material would reveal trade secrets or is otherwise confidential or privileged.[8] Recently, the Commission was asked to issue a "protective order" to prevent disclosure of information supporting an application for qualifying facility status.[9] In denying this request, the Commission discussed procedures for seeking confidential treatment of documents submitted to the Commission. This rule codifies and expands on these procedures and makes them generally available to any person submitting documents to the Commission.

With the exception of the rules relating to certain specific Commission matters,[10] the Commission's regulations currently contain no formal procedures for requesting confidential treatment for information submitted to the Commission. In practice, however, those submitting information have been allowed to designate a document as containing confidential information, and to request the Secretary of the Commission to maintain the document in a non-public file. The Secretary has then placed the document in the non-public file and noted on the docket sheet that confidential material was submitted. If a copy with confidential material removed has been submitted, this copy is placed in the public file. This procedure prevents the immediate

[1] 5 U.S.C. 552 (1982), as amended by the Freedom of Information Reform Act of 1986, Pub. L. No. 99–570.

[2] *See* 5 U.S.C. 552(b) (1982). *See also* 18 CFR Part 388 (1986) (the Freedom of Information Act regulations of the Commission). If the record contains information that is exempt from disclosure, the Commission must still release any reasonably segregable, non-exempt information.

[3] 5 U.S.C. 552(b)(4) (1982).

[4] 18 CFR 388.105 (1986).

[5] 18 CFR 3.8(a) (1986).

[6] 18 CFR 388.107 and 109 (1986). In general, within ten days of receipt of the request, the Director must notify the person requesting the documents of the determination and the bases for the determination. If a request is denied in whole or part, the person requesting the records may appeal the determination to the Chairman of the Commission in writing. The Chairman decides appeals within 20 days after receipt. If on appeal the Chairman upholds the Director's determination in whole or part, the person requesting the documents may seek judicial review of the determination.

[7] 18 CFR Part 385 (1986).

[8] 5 U.S.C. 552(b)(4) (1982).

[9] York Canyon Cogeneration Associates, 37 F.E.R.C. ¶ 61,221 (1986) (Docket No. QF86–555–000) (issued Dec. 9, 1986).

[10] *See* 18 CFR 1b.20, 385.903, 385.1003, and 385.1112 (1986).

public release of information before any responsible official at the Commission has had the opportunity to decide whether the material deserves confidential treatment. The Commission is adopting regulations that codify this practice.

By adopting these procedures, the Commission is making no judgment as to the merits of any case-specific claims of confidentiality and is establishing no new independent substantive standards for deciding such claims. Instead, these procedures merely withhold the documents until the appropriate Commission official has decided whether, or under what conditions, they should be made public. The Commission will continue to apply the substantive standards imposed by the Freedom of Information Act and other relevant statutes, as those standards have been interpreted by the Commission and the courts, and to follow appropriate Commission and judicial precedent governing the production of information in the discovery process.

Since this final rule is a matter of agency organization, procedure, and practice, prior notice and comment are unnecessary under section 4 of the Administrative Procedure Act, 5 U.S.C. 553(b) (1982). In addition, the Commission finds that this rule will improve the handling and consideration of requests for confidential treatment and will thereby benefit the participants in Commission proceedings, as well as any person submitting documents with the Commission. Therefore, the Commission finds good cause to make this rule effective immediately upon issuance, pursuant to 5 U.S.C. 553(d) (1982).

List of Subjects in 18 CFR Part 388

Freedom of information.

Accordingly, the Commission, effective January 6, 1987, amends Part 388 of Title 18, Chapter 1, Code of Federal Regulations, as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. The authority citation for 18 CFR Part 388 continues to read as follows:

Authority: 5 U.S.C. 552 and 553, unless otherwise noted.

PART 388—PUBLIC INFORMATION AND REQUESTS

2. In Part 388, new § 388.110 is added to read as follows:

* * * * *

§ 388.110 Requests for confidential treatment of documents submitted to the Commission.

(a) *Scope.* Any person submitting a document to the Commission may request confidential treatment by claiming that some or all of the information contained in a particular document is exempt from the mandatory public disclosure requirements of the Freedom of Information Act, 5 U.S.C. 552, and should otherwise be withheld from public disclosure.

(b) *Procedures.* A person claiming that information is confidential under paragraph (a) must file:

(1) A written statement requesting confidential treatment for some or all of the information in a document, and the justification for nondisclosure of the information;

(2) The original document, indicating on the front page "Contains Confidential Information," and identifying within the document the information for which the confidential treatment is sought;

(3) Fourteen copies of the document without the information for which confidential treatment is sought, and with a statement indicating that information has been removed for confidential treatment.

(c) *Effect of confidentiality claim.* (1) The Secretary of the Commission will place documents for which confidential treatment is claimed in accordance with paragraph (b)(2) in a non-public file, while the request for confidential treatment is pending. By placing documents in a non-public file, the Commission is not making a determination on any claim for confidentiality. The Commission retains the right to make determinations with regard to any claim of confidentiality, and the discretion to release information as necessary to carry out its jurisdictional responsibilities.

(2) The Secretary of the Commission will place the request for confidential treatment described in paragraph (b)(1) and a copy of the original document described in paragraph (b)(3) in a public file, while the request for confidential treatment is pending.

(d) *Notification before release.* Notice of a decision by the Director of the Division of Public Information, the Chairman of the Commission, a Presiding Officer in a proceeding under Part 385 of this chapter or any other appropriate official to deny a claim, in whole or in part, will be given to any person claiming that information is confidential no less than five days before public disclosure.

[FR Doc. 87-464 Filed 1-8-87; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Pyrantel Tartrate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed for J&R Specialty Supply Co. providing for the use of a 48-gram-per-pound pyrantel tartrate Type A medicated article in making a 19.2-gram-per-pound pyrantel tartrate Type A medicated article. The pyrantel tartrate Type A medicated article subject to this approval is subsequently used to make Type C medicated feeds for swine.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1414.

SUPPLEMENTARY INFORMATION: J&R Specialty Supply Co., 310 Second Ave. SW., P.O. Box 506, Waseca, MN 56093, is the sponsor of a supplement to NADA 138-609 submitted on its behalf by Pfizer, Inc. The supplemental NADA provides for use of a 48-gram-per-pound pyrantel tartrate Type A medicated article to make a 19.2-gram-per-pound pyrantel tartrate Type A medicated article. The firm presently holds an approved NADA for manufacturing a similar 9.6-gram-per-pound pyrantel tartrate Type A medicated article. The pyrantel tartrate Type A medicated articles are used for producing Type C medicated feeds to aid in prevention of migration and establishment and for removal and control of large roundworm (*Ascaris suum*) infections; and to aid in prevention of establishment and for removal and control of nodular worm (*Oesophagostomum* spp.) infections.

The supplemental NADA is approved and 21 CFR 558.485(a)(26) is revised to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support

approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) 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.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

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

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

2. In § 558.485 by revising paragraph (a)(26) to read as follows:

§ 558.485 Pyrantel tartrate.

(a) * * *

(26) To 049768: 9.6 and 19.2 grams per pound, paragraphs (e) (1) through (3) of this section.

* * * * *

Dated: January 5, 1987.

Marvin A. Norcross,

Associate Director for New Animal Drug Evaluation.

[FR Doc. 87–403 Filed 1–8–87; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 208

Federal Acquisition Regulation Supplement; Federal Supply Schedules

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved a change to the Defense Federal Acquisition Regulation Supplement (DFARS) at 208.404–2(a)(S–70) that provides contracting officers flexibility in choosing to use optional Federal Supply Schedules or make open market purchases.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, 202/697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

Present coverage at DFARS 208.404–2(a)(S–70) requires the Department of Defense to consider optional schedules as another source of supply. This means that further competition must be sought before purchases are made from General Services Administration's Federal Supply Schedules which are optional for use by DoD. A proposed rule was published in the **Federal Register** at 51 FR 37207, October 20, 1986, and public comments were solicited. After review of the public comments, the DAR Council approved the proposed rule as a final rule without change. This revision will permit contracting officers to consider whether further competition obtained under an open market purchase would provide sufficient benefits to offset lower administrative costs and reduced contract placement leadtime associated with making a purchase against an optional Federal Supply Schedule when such schedules are available.

B. Regulatory Flexibility Act Information

The revision to DFARS 208.404–2(a)(S–70) does appear to have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). A final Regulatory Flexibility Analysis has been prepared and submitted to the Chief Counsel for Advocacy for the Small Business Administration.

C. Paperwork Reduction Act Information

For the proposed rule, it was estimated that there would be a reduction of 2,030,000 burden hours. A request for OMB clearance was submitted on 10 October 1986. On 19 December 1986, OMB approved the estimated reduction of 2,030,000 burden hours under OMB approval number 0704–0187.

List of Subjects in 48 CFR Part 208

Government procurement.

Charles W. Lloyd,

Excutive Secretary, Defense Acquisition Regulatory Council.

Therefore, 48 CFR Part 208 is amended as follows:

PART 208—REQUIRED SOURCES OF SUPPLIES AND SERVICES

1. The authority citation for 48 CFR Part 208 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 208.404–2 is amended by revising paragraph (a)(S–70) to read as follows:

§ 208.404–2 Optional use.

(a)(S–70) As specified in FAR 8.001(a), optional schedules are preferred sources of supplies and services. Accordingly, contracting officers should make maximum use of optional schedules in meeting requirements for supplies and services. Further competition with respect to optional schedules is not required. However, if, in the contracting officer's judgment, the introduction of competition from nonschedule sources would be in the best interest of the Government in terms of quality, responsiveness, or costs, other procedures may be used.

[FR Doc. 87–435 Filed 1–8–87; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for Lespedeza leptostachya (Prairie Bush-Clover)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines threatened status for *Lespedeza leptostachya* Engelmann (prairie bush-clover). *L. leptostachya* has been extirpated from much of its historic range in northern and south-central Iowa, northern Illinois, southern Minnesota, and western Wisconsin. Construction and agricultural activities, livestock trampling, and unfavorable vegetational changes are threatening the species. However, the plant is extant at 26 sites. This measure implements the protection provided by the Endangered Species Act of 1973, as amended, for this plant.

DATE: The effective date of this rule is February 9, 1987.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business

hours at the Service's Regional Office of Endangered Species, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

FOR FURTHER INFORMATION CONTACT: James M. Engel at the above address (612/725–3276 or FTS 725–3276).

SUPPLEMENTARY INFORMATION:

Background

Lespedeza leptostachya is a herbaceous perennial member of the pea family (Fabaceae) endemic to the Midwest. It is one of about 40 species of *Lespedeza* worldwide. Clewell (1966a) recognized 12 species of *Lespedeza* in North America. *L. leptostachya*, with woody rhizomes, grows to about 40 inches (1 meter) in height, has narrow, linear, compound leaves with silvery-white hairs, and slender terminal flowering spikes with 15–30 flowers. The corolla is white to light purple. Clewell (1966c) presented a detailed description of the species, noting that *L. leptostachya* flowers from late July through mid-Sepember and inhabits dry of mesic native prairies in northern Illinois, northern and south-central Iowa, southern Minnesota, and western Wisconsin. Such prairies are usually well-drained, are often gravelly, and occur on slopes of kames or eskers (hills of glacially deposited material), and river terraces. *L. leptostachya* is a colonizer of open habitats. Clewell (1966c) observed that *Lespedeza* species are shaded or crowded in habitats invaded by perennial grasses and woody species. *Lespedeza* species, however, are adapted to frequent fires and increase in response to fire.

Lespedeza leptostachya has always been rare and local throughout its four-state range. Formerly known from eight Illinois counties, there were approximately 370 plants at four sites in four Illinois counties (Du Page, Lee, Ogle and Winnebago) in 1980. Only 66 individual plants could be located at the four sites in 1981, but it is not known whether a real population decline has taken place (Bowles and Kurz 1981). Each site totals less than one acre (0.4 Hectare). *L. leptostachya* is listed officially as threatened by the Illinois Department of Conservation.

In Iowa, the historically known range of *L. leptostachya* included 22 countries in the northern and south-central sections of the State. There are currently eleven extant populations in eight counties (Clarke, Dickinson, Emmet, Howard, Lucas, Osceola, Story and Winneshiek (Watson 1983, Wilson, Iowa Conservation Commission, pers. comm. Dec. 31, 1986)). The species is listed officially as endangered by the Iowa Conservation Commission. The total number of plants in Iowa is estimated at approximately 1,850 (Watson 1983, Wilson pers. comm.)

In Minnesota, *L. leptostachya* is extant at eight sites in four southern counties (Cottonwood, Jackson, Goodhue, and Renville (Smith 1981)). Over 4,500 plants have been estimated on less than 50 acres (20 hectares). One site contains more than 2,000 plants, the largest known extant populaton. The species is listed officially as threatened by the Minnesota Department of Natural Resources.

In Wisconsin, there are three extant populations of *L. leptostachya* in three counties (Dane, Pierce, and Sauk (Alverson 1981)). Three historic populations are known to be extirpated. The species is listed officially as threatened by the Wisconsin Department of Natural Resources.

Section 12 of the Endangered Species Act of 1973 (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of Section 4(c)(2) of the Act (petition acceptance is now governed by Section 4(b)(3) of the Act, as amended), and of its intention to review the status of the plant taxa named within. *L. leptostachya* was named in the Smithsonian report as threatened and was included in the Service's 1975 notice of review.

Lespedeza leptostachya was also included as a category-1 species in an updated notice of review for plants published in the December 15, 1980, **Federal Register** (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened.

The Endangered Species Act Amendments of 1982 required that petitions, such as that of the Smithsonian, that were still pending as of October 13, 1982, be treated as having been received on that date. Section 4(b)(3) of the Act, as amended, requires that, within 12 months of the receipt of such a petition, a finding be made as to whether the requested action is warranted, not warranted, or warranted but precluded by other activity involving additions to or removals from the Federal Lists of Endangered and Threatened Wildlife and Plants. Therefore, on October 13, 1983, the Service made the finding that listing of *Lespedeza leptostachya* was warranted but precluded by other pending listing activity. This finding was published in the **Federal Register** of January 20, 1984 (49 FR 2485). In the case of such a finding, the petition is recycled and another finding becomes due within 12 months. On October 12, 1984, another finding of warranted but precluded was made with respect to the listing of *Lespedeza leptostachya*. This finding was published in the **Federal Register** of May 10, 1985 (50 FR 19761). Still another finding was due by October 12, 1985, and that finding, to the effect that the petitioned action was warranted, was incorporated in a proposed rule to determine threatened status for *Lespedeza leptostachya*, issued in the **Federal Register** of December 6, 1985 (50 FR 49967).

Summary of Comments and Recommendations

In the proposed rule of December 6, 1985, and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices, inviting general public comment, were published in the *Dixon Telegraph*, Peoria, Illinois, December 20, 1985; the *Ogle County Life*, Oregon, Illinois, December 23, 1985; the *Register-Star*, Rockford, Illinois, December 19, 1985; *The Daily Journal*, Wheaton, Illinois, December 23, 1985; the *Esterville News*, Esterville, Iowa, December 19, 1985; the *Herald-Patriot*, Chariton, Iowa, December 19, 1985; the *Times-Plain Dealer*, Cresco, Iowa, December 18, 1985; the *Decorah Journal*, Decorah, Iowa, December 19, 1985; the *Osceola Tribune*, Osceola, Iowa, December 26, 1985; the *Spirit Lake Beacon*, Spirit Lake, Iowa, December 19, 1985; the *Republican Eagle*, Red Wing, Minnesota, December 19, 1985; the *Jackson County Livewire*, Jackson, Minnesota, December 23, 1985; the *Times Journal*, Olivia, Minnesota, December 18, 1985; the *Cottonwood County Citizen*, Windom, Minnesota, December 18, 1985; *The Wisconsin State Journal*, Madison, Wisconsin, December 19, 1985; and the *Pierce County Herald*, Ellsworth, Wisconsin, December 19, 1985. No public hearing was requested or held.

Seven comments were received. One from the Department of the Army, Corps of Engineers (COE) noted that

Lespedeza leptostachya is not known to occur on COE lands, and that because of the localized distribution and dry prairie habitat requirements, it is unlikely that determining the plant to be a threatened species would have any impact on COE operations. The International Union for Conservation of Nature and Natural Resources, Minnesota's Departments of Natural Resources (DNR) and Transportation (DOT), the U.S. Forest Service and the Iowa Conservation Commission all supported the proposal. The Minnesota DNR advised that an area within Kilen Woods State Park, containing the largest population of *Lespedeza leptostachya* in public ownership, is designated as a Scientific and Natural Area. Minnesota has also initiated a long-term research project for management purposes. The Minnesota DOT noted that seeds of *Lespedeza leptostachya* are being commercially produced. The facility producing these seeds has been contacted and furnished information regarding permitted and lawful activities with the species. The Iowa Conservation Commission provided information on existing populations and identified two additional occurrences of *L. leptostachya* in Story and Osceola Counties. This new information has been incorporated into the appropriate sections of this rule. The Howard County, Iowa, Weed Commissioner requested a picture of the plant and stated that the county would comply with the proposed regulations when road-side spraying is done.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Lespedeza leptostachya* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Lespedeza leptostachya* Engelmann (prairie bush-clover) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Although *L. leptostachya* has always had a limited range, the current range is only a fraction of its former range. Agricultural activity has eliminated most of the species' suitable prairie habitat. Moreover, many of the 26 extant sites are threatened by several factors. One population in Illinois could be destroyed by quarrying activities, although presently it is protected by the owner of the site (Bowles and Kurz 1981). The State's largest population, of 100 plants, is on a State highway roadside currently being studied for widening. In Minnesota, several sites supporting the species are threatened by quarrying, residential development, and agricultural activities (Smith 1981). In Wisconsin, one of the three extant populations is threatened by residential development and vehicle use (Alverson 1981).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* With any rare plant species there is the possibility wildlflower collectors may reduce populations in more accessible sites. Although this species is not known to have been affected by collecting, a potential threat exists.

C. *Disease or predation.* No diseases are known to adversely affect *L. leptostachya.* Heavy livestock grazing may be detrimental to the species (Smith 1981). One site in Iowa is subject to intensive grazing (Watson 1983).

D. *The inadequacy of existing regulatory mechanisms. L. leptostachya* is listed officially as endangered or threatened by the States of Illinois, Iowa, Minnesota, and Wisconsin. Illinois law protects endangered and threatened plants found on State property; Iowa regulations prohibit removal, possession, and sale of any plant species on Federal or State lists; Minnesota statutes prohibit taking, transporting, and sale of State endangered and threatened plants from all lands, except ditches, roadways, and certain types of agricultural and forest lands; Wisconsin regulations prohibit any person from removing or transporting any endangered or threatened wild plant away from its native habitat on public property, or from property he or she does not own or control, except in the course of forestry or agricultural practices or in the construction and maintenance of a utility facility. Although *Lespedeza leptostachya* is offered various forms of protection under these States laws, monitoring and enforcement are difficult due to limited personnel. The Endangered Species Act offers possibilities for protection of this tax on through section 6 by cooperation between the States and the Service and through section 7 (interagency cooperation) requirements. Most of the Iowa populations of *L. leptostachya* are contained within State Preserves. One site in Illinois is owned by the Illinois Department of Transportation. One site in Minnesota is on land owned by the Minnesota Historical Society; another site is owned by a private college. The largest population of *L. leptostachya* in Minnesota, of about 2,000 plants, is located within the boundaries of the Kilen Woods State Park. Portions of the park that contain *Lespedeza leptostachya* are designated as a State Scientific and Natural Area. Two sites in Wisconsin are on land owned by either The Nature Conservancy or the Wisconsin Department of Natural Resources. The Nature Conservancy also has cooperated with several private landowners to protect the species. The Endangered Species Act would afford additional protection to *L. leptostachya.*

E. *Other natural or manmade factors affecting its continued existence.* Because there are relatively few remaining populations of *Lespedeza leptostachya,* and these are small in size, the species could be jeopardized simply by natural fluctuations in numbers and inadvertent human disturbance.

In determining to make this final rule, the Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this taxon. Based on this evaluation, the preferred action is to list *L. leptostachya* as a threatened species, because of the known losses of local populations. For reasons detailed below, it is not considered prudent to designate critical habitat.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The designation of critical habitat is not considered to be prudent when such designation would not be of net benefit to the species involved (50 CFR 424.12). In the present case, the Service believes that designation of critical habitat would not be prudent because no benefit to the taxon can be identified that would outweigh the potential threat of vandalism or collection, which might be exacerbated by the publication of a detailed critical habitat description.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions

against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for land acquisition, if necessary, and cooperation with the States; it also requires that recovery actions be carried out for all listed species. These actions are initiated by the Service following listing. The protection required by Federal agencies and applicable prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 (see revision at 51 FR 19926; June 3, 1986). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. There are no known Federal activities, current or planned, that would affect *Lespedeza leptostachya*.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *L. leptostachya*, all trade prohibitions of section 9(a)(2) of the Act, as implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export this species, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or remove it from an area under Federal jurisdiction and reduce it to possession. Seeds from cultivated specimens of threatened plant species are exempt from those prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. It is anticipated that few trade permits would ever be sought or issued, since this plant is not common in cultivation or in the wild. Requests for copies of the regulations on plants, and inquires regarding them, may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. The reasons for this determination were published in the **Federal Register** of October 25, 1983 (48 FR 49244).

References Cited

Alverson, W.L. 1981. Status report on *Lespedeza leptostachya*. Wisconsin Dept. of Natural Resources. Unpubl. ms. 12 pp.

Bowles, M.L., and D.R. Kurz. 1981. Status report on *Lespedza leptostachya*. Illinois Dept. of Conservation. Unpubl. ms. 7 pp.

Clewell, A.F. 1966a. Native North American species of *Lespedeza*. Rhodora 68:359–405.

———. 1966b. Natural history, cytology, and isolating mechanisms of the North American Lespedezas. Tall Timbers Res. Stat. Bull. 6. 39 pp.

———. 1966c. Identification of the Lespedezas in North America. Tall Timbers Res. Stat. Bull. 7. 29 pp.

Smith, W.R. 1981. Status report on *Lespedezas leptostachya* Engelm. Minnesota Natural Heritage Program. Unpubl. ms. 8 pp.

Watson, W.C. 1983. Status report on *Lespedeza leptostachya* Engelm. in Iowa. Iowa Conservation Commission. Unpubl. ms. 24 pp.

Author

The primary author of this final rule is William F. Harrison (see ADDRESSES section) (612/725–3276 or FTS 725–3276).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Fabaceae—Pea family:						
Lespedeza leptostachya	Prairie bush-clover	U.S.A. (IA, IL, MN, WI)	T	253	NA	NA

Dated: November 28,1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87–465 Filed 1–8–87; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, 675

[Docket No. 70103–7003]

Foreign Fishing, Groundfish of the Gulf of Alaska, Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of 1987 interim initial specifications for groundfish; prohibited species catch limits for certain groundfish species and for Pacific halibut; reapportionments of reserves; and request for comment.

SUMMARY: NOAA announces 1987 initial specifications and initial apportionments of (1) target quotas (TQs) for each category of groundfish in the Gulf of Alaska; (2) prohibited species catch (PSC) limits for certain groundfish species in the Gulf of Alaska; (3) PSC limits for Pacific halibut in the Gulf of Alaska; (4) total allowable catches (TACs) for each category of groundfish in the Bering Sea and Aleutian Islands Area, (5) reapportionments of reserves in both management units, and (6) request comment on this action. This action is necessary to provide groundfish harvest amounts to domestic fishermen in the Gulf of Alaska and to domestic and foreign fishermen in the Bering Sea and Aleutian Islands Area, and to control incidental catches of Pacific halibut and certain groundfish species in the Gulf of Alaska that are fully utilized by domestic fishermen for domestic annual processing (DAP). It is intended as a conservation and management measure, providing for full utilization of available groundfish resources off Alaska during 1987, pending publication of final specifications and apportionments for 1987.

DATES: This notice is effective January 3, 1987. Comments on this action are invited until January 18, 1987.

ADDRESS: Comments should be sent to Robert W. McVey, Director, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (NMFS, 907–586–7229).

SUPPLEMENTARY INFORMATION:

Background

For the Gulf of Alaska, this action establishes, on an interim basis, 1987 TQs for each groundfish species, PSC limits for certain groundfish species, and proposes PSC limits for Pacific halibut. For the Bering Sea and Aleutian Islands Area, it establishes, on an interim basis, TACs for each groundfish species. This action also apportions available TQs and TACs among domestic annual processing (DAP), joint venture processing (JVP), and total allowable level of foreign fishing (TALFF), and reserves.

In the Gulf of Alaska, procedure for establishing TQs for groundfish species comprises one part of Amendment 15 to the Fishery Management Plan (FMP) for the Gulf of Alaska Groundfish Fishery, which is currently undergoing review by the Secretary of Commerce (Secretary) under section 304 of the Magnuson Fishery Conservation and Management Act (Magnuson Act). TQs are analogous to the optimum yields (OYs) for each groundfish species as specified in the current FMP. The FMP was developed under the Magnuson Act and is implemented by rules appearing at 50 CFR 611.92 and Part 672. The immediate authority and procedures for establishing TQs are provided for by an emergency interim rule (52 FR 422, January 6, 1987) implemented under section 305(e) of the Magnuson Act and are identical to those of the proposed amendment (51 FR 44812, December 12, 1986). The sum of the TQs for all species must fall within the established OY range for these species of 116–800 thousand metric tons (mt). Twenty percent of each species' TQ is set aside as a reserve for possible later reapportionment to DAP or JVP. Certain amounts of the reserve are apportioned to TQs as explained below.

In the Bering Sea and Aleutian Islands Area, TACs are established for groundfish species by the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. This FMP was also developed under the Magnuson Act and is implemented by rules appearing at 50 CFR 611.93 and Part 675. Under the FMP, the sum of the individual species' TACs must fall within the OY range of 1.4 to 2.0 million mt. The TAC for each species or species group is reduced by 15 percent, resulting in initial TACs of 85 of OY, which are apportioned to the DAP, JVP, and TALFF on January 1. The remaining 15 percent from each TAC contributes to a non-specific operational reserve, which may be reapportioned by the Director, Alaska Region, NMFS (Regional Director) at any time during the fishing year. For 1987, as in 1986, the operational reserve is initially 300,000 mt. Certain amounts of the reserve are apportioned to TACs as explained below.

The TQs and TACs are apportioned initially among DAP, JVP, reserves, and TALFF for each species under §§ 611.92 and 672.20(f)(2) for the Gulf of Alaska and under §§ 611.93 and 675.20(a) (4) and (5) for the Bering Sea and Aleutian Islands Area. DAP amounts are intended for harvest by U.S. fishermen for delivery and sale to U.S. processors. JVP amounts are intended for joint ventures in which U.S. fishermen deliver their catches to foreign processors at sea. The reserves for both areas are set aside for possible reapportionment to DAP and/or JVP if the initial apportionments prove inadequate, or to TALFF if surpluses are identified later in the fishing year.

Under §§ 611.92, 611.93, 672.20(a), and 675.20(a)(4), the initial amounts of DAP and JVP are determined each year by the Regional Director. The DAP and JVP amounts must equal the actual DAP and JVP of the previous year plus any additional amounts the Regional Director projects will be used by the U.S. fishing industry during the coming fishing year, not to exceed the TQ or TAC. These additional amounts will reflect as accurately as possible the projected increases in U.S. processing and harvesting capacity and the extent to which U.S. processing and harvesting will occur during the coming year. These projections will be based upon the latest

reliable information that is available, including industry surveys, market data, and stated intentions by representatives for the U.S. fishing industry.

Under § 672.20(e), as modified by Amendment 14 (50 FR 43193, October 24, 1985), the PSC limits for Pacific halibut that will be applied to DAP and JVP vessels are published in the **Federal Register** by the Secretary after consultation with the North Pacific Fishery Management Council (Council).

At its September 24–26, 1986, meeting, the Council and its Scientific and Statistical Committee (SSC) and Advisory Panel (AP) reviewed information presented by the Council's Plan Teams concerning the status of stocks in both the Gulf of Alaska and the Bering Sea and Aleutian Islands Area and recommendations by the Gulf of Alaska Plan Team for Pacific halibut PSCs. The Council then recommended to the Regional Director preliminary initial TQs and apportionments and also Pacific halibut PSCs in the Gulf of Alaska. It also recommended initial TACs and their apportionments in the Bering Sea and Aleutian Islands area. The Secretary published the Council's recommendations (51 FR 43397, December 2, 1986) and invited public comments to be submitted to the Regional Director until January 2, 1987. The proposed PSC limits for Pacific halibut were discussed in the same notice and are adjusted in this action. A notice of final PSC limits will be published in the **Federal Register** as soon as practicable. No comments were received by the Regional Director regarding the preliminary initial specifications for groundfish.

At its December 9–12, 1986, meeting, the Council again considered reports from the Plan Teams and its SSC and AP as well as testimony from the public. The Council recommended certain changes in the TQs for 1987 and apportionments between DAP and JVP in the Gulf of Alaska (§ 672.20, Table 1) and 1987 TACs and apportionments among DAP, JVP, and TALFF in the Bering Sea and Aleutian Islands area (§ 675.20, Table 1). Except for a directed joint venture fishery for "other flounders" in the Central Regulatory Area, supported by needed bycatch amounts of other species, and an exploratory joint venture fishery for pollock, the Council set the Gulf of Alaska DAPs equal to TQs. The Council did so in response to testimony that indicates a significant increase in investment in catch/processor and mothership vessels and shoreside processing plants in the Gulf of Alaska, accompanied by an intent to catch and process large amounts of groundfish of most species in 1987. The Council also recommended PSC limits for certain groundfish species and for Pacific halibut in the Gulf of Alaska, and reapportionments of groundfish reserves in the Gulf of Alaska and the Bering Sea and Aleutian Islands area. The following is a discussion of each of these actions.

Gulf of Alaska

The Council considered new information and adopted acceptable biological catches (ABCs), TQs, and apportionments between DAP and JVP for each of the groundfish species, as follows:

Pollock—The pollock biomass decreased to 620,000 mt in 1986, the lowest value since the hydroacoustic surveys began in 1981. An increasing trend in biomass for the next few years is projected, however, due primarily to a strong 1984 year class. The Plan Team set ABC for the Western/Central Area in the range of 70,000 mt to 120,000 mt, using an age-structured projection model.

Due to positive forecasts in biomass trends, tempered by the uncertainty relative to the unlikely spawning success of the current record low population levels, the team recommended that ABC be 95,000 mt, which was adopted by the Council. No new information exists for the Eastern Area where the Plan Team recommended an ABC of 16,600 mt, which the Council rounded to 17,000 mt. The Council adopted TQs for the Western/Central and Eastern Areas of 84,000 and 4,000 mt, respectively, which is less than the ABCs as a response to uncertainty in biomass trends in the Western/Central Area and lack of interest by DAP fishermen in the Eastern Area. As discussed above, the Council recommended that the pollock TQ in the Gulf of Alaska be set equal to DAP to reflect the significant increase in investment in catcher/processor and mothership vessels and shoreside processing plants along the Gulf of Alaska. A preseason survey by NMFS of DAP fishermen and processors in the Gulf of Alaska indicated the intent and capacity to process 85,000 mt of pollock.

The Council recommended an exploratory fishery for pollock outside of Shelikof Strait from January 15 to April 10, 1987. For this purpose, a TQ of 20,000 mt is also established in the Western/Central Regulatory Area outside Shelikof Strait and apportioned to the joint venture fishery.

Pacific cod—This species is in good condition and stable. The Plan Team recommended, and the Council adopted, an ABC equal to 125,000 mt, apportioned among the Western Central, and Eastern Areas as 38,000, 77,000, and 10,000 mt, respectively. The Council adopted TQs for the Western, Central, and Eastern Areas equal to 15,000, 33,000, and 2,000 mt. The TQs are significantly reduced from the ABCs to reduce the incidental catch of Pacific halibut and as a socioeconomic measure to preclude allocations to TALFF and JVP. Although foreign directed longlining for Pacific cod was allowed in the Gulf of Alaska during previous years that the FMP has been in place, that fishery has now been shifted to the Bering Sea to prevent conflicts and interaction with a rapidly growing domestic longline fishery for Pacific cod. Thus, the TQ is nearly equivalent to the DAP except for a small JVP bycatch allowance. The Council intends to provide DAP fishermen maximum fishing efficiency in terms of catches per unit of effort, which would be reduced if DAP fishermen had to compete with joint ventures or foreign directed fisheries. Thus, DAP fishermen will have reduced costs per catch, which will increase their profit margins.

Flounders—The Plan Team calculated an ABC for this species group to be 537,000 mt, apportioned among the Western, Central, and Eastern Areas as 101,000, 345,000, and 90,000 mt, respectively. The Council adopted these ABCs for the Western and Eastern Areas and 346,000 mt for the Central Area. The Council set TQs for the Western, Central, and Eastern Areas equal to 3,000, 5,500, and 500 mt, respectively. It reduced the TQs from the ABCs to reduce the incidental catch of Pacific halibut and to provide DAP fishermen with maximum fishing efficiency in terms of catches per unit of effort, which would be reduced if they had to compete with joint ventures or foreign directed fisheries. Thus, DAP fishermen will have reduced costs per catch, which will increase their profit margins.

Pacific ocean perch—The Plan Team considers this species group to still be depressed. The Council adopted the Plan Team's ABC recommendation of 10,500 mt, apportioned among the Western, Central, and Eastern Areas as 2,800, 3,300, and 4,400 mt, respectively. The Council adopted TQ for the Western, Central, and Eastern Areas of 1,500, 1,500, and 2,000 mt, respectively. The TQs are reduced from the ABCs to continue the rebuilding of this depressed stock.

Sablefish—The Plan Team recommended an ABC of 25,000 mt, which is the point estimate of maximum subtainable yield (MSY) from past

production models. The distribution of the ABC among the regulatory areas, according to the 200-to-1,000-meter depth distribution is: Western—3,750 mt; Central—11,000 mt; West Yakutat District—5,500 mt; East Yakutat/ Southeast Outside Districts—5,250 mt. The Council adopted the Plan Team's recommended ABCs but set TQs totalling 20,000 mt, distributed according to the 400-to-1,000 meter depth distribution, where the commercial fishery largely takes place. The TQs are distributed among the Western and Central Regulatory Areas, and the West Yakutat and East Yakutat-Southeast Outside Districts in the following amounts: 3,000, 8,800, 4,000, and 4,200 mt, respectively. The Secretary has apportioned these TQs as provided by the FMP to DAP hook-and-line (H&L), trawl, and pot gear, which are the only legal gear types for use in the sablefish fishery in the regulatory areas of the Gulf of Alaska, as follows:

APPORTIONMENTS OF TARGET QUOTAS

[metric tons]

AREA	TQ	Percent	Share (mt)
Western	3,000 H&L	55	1,650
	TRAWL	20	600
	POT	25	750
Central	8,800 H&L	80	7,040
	TRAWL	20	1,760
West Yakutat	4,000 H&L	95	3,800
	TRAWL	5	200

APPORTIONMENTS OF TARGET QUOTAS—Continued

[metric tons]

AREA	TQ	Percent	Share (mt)
East Yakutat/ Southeast Outside.	4,200 H&L	95	3,990
	TRAWL	5	210

Pot gear, which was permitted in the Central Area during 1986, is permitted only in the Western Area in 1987 as provided by the phase out schedule in the FMP for this gear type.

Atka mackerel—Stocks of this species continue to decline. Past estimates of yield were likely over optimistic; lack of recruitment for several years has contributed to their decline. The Council adopted the Plan Team recommendation that the ABC be set at zero, allowing only bycatch amounts to support other target fisheries. Hence, TQs among the Western , Central, and Eastern Areas are 100, 100, and 40 mt, respectively.

"Other rockfish"—The Plan Team estimated an ABC based on the performance of the fishery of 3,350 mt, comprised of 1,250 mt for demersal shelf rockfish species (those above 100 fathoms in depth) in the Southeast District and 2,100 mt of all other rockfish species in waters deeper than 100 fathoms in the Southeast Outside District and elsewhere in the Gulf of Alaska. The Council, with advice from its SSC, determined that insufficient data exist to derive ABCs for this species group, but set TQs equal to 1,250 mt in the Southeast Outside District shallower than 100 fathoms and 4,000 mt in waters deeper than 100 fathoms in this District and in all depths elsewhere in the Gulf of Alaska. The 1,25 mt of demersal shelf rockfish species will be managed by the State of Alaska as provided for by the FMP such that the separate quotas managed by the State in the Southeast Outside District will be no more than 1,250 mt.

Thornyhead rockfish—The relative abundance of this species group has declined 53 percent since 1980. The Plan Team recommended that ABC be set at the current level of 3,750 mt, which will constrain the exploitation rate below 5 percent of the exploitable biomass. The Council concurred and established the TQ equal to the ABC Gulfwide.

Squid—The Plan Team set the ABC for squid equal to MSY, or 5,000 mt Gulfwide. The Council determined that insufficient data exist to set ABC, but set TQ equal to 5,000 mt, recognizing that if a fishery were to develop for their species, future analyses could be based on fishery performance.

"Other species"—The Council set TQ for "other species" equal to five percent of the sum of all other TQs as required by the FMP, or 10,312 mt.

The initial TQs in the Gulf of Alaska and their apportionment between DAP and JVP are shown for each species by regulatory area in Table 1.

TABLE 1. INITIAL (AS OF JANUARY 1, EACH YEAR) TARGET QUOTA (TQ), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS, IN THE WESTERN (W), CENTRAL (C), EASTERN (E) AND NAMED MANAGEMENT AREAS. TQ=DAH+RESERVE+TALFF; DAH=DAP+JVP.

Species and area [1]	Species code	TQ	DAH	DAP	JVP	Reserve	TALFF
Pollock:							
W/C	701	84,000	84,000	83,700	300	0	0
Outside Shelikof		20,000	20,000	0	20,000	0	0
E		4,000	4,000	4,000	0	0	0
Total		108,000	108,000	87,700	20,300	0	0
Pacific cod:							
W	702	15,000	15,000	15,000	0	0	0
C		33,000	33,000	32,775	225	0	0
E		2,000	2,000	2,000	0	0	0
Total		50,000	50,000	49,775	225	0	0
Flounders:							
W	129	3,000	3,000	3,000	0	0	0
C		5,500	5,500	4,000	1,500	0	0
E		500	500	500	0	0	0
Total		9,000	9,000	7,500	1,500	0	0

TABLE 1. INITIAL (AS OF JANUARY 1, EACH YEAR) TARGET QUOTA (TQ), DOMESTIC ANNUAL HARVEST (DAH), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), ALL IN METRIC TONS, IN THE WESTERN (W), CENTRAL (C), EASTERN (E) AND NAMED MANAGEMENT AREAS. TQ=DAH+RESERVE+TALFF; DAH=DAP+JVP.—Continued

Species and area [1]	Species code	TQ	DAH	DAP	JVP	Reserve	TALFF
Pacific [2] ocean perch:							
W	780	1,500	1,500	1,500	0	0	0
C		1,500	1,500	1,500	0	0	0
E		2,000	2,000	2,000	0	0	0
Total		5,000	5,000	5,000	0	0	0
Sablefish:							
W	703	3,000	3,000	3,000	0	0	0
C		8,800	8,800	8,800	0	0	0
W. Yakutat		4,000	4,000	4,000	0	0	0
E. Yakutat/SE		4,200	4,200	4,200	0	0	0
Total		20,000	20,000	20,000	0	0	0
Atka mackerel:							
W	207	100	100	100	0	0	0
C		100	100	75	25	0	0
E		40	40	40	0	0	0
Total		240	240	215	25	0	0
Other [3] rockfish:							
Gulfwide	849	4,000	4,000	4,000	0	0	0
C S.E. Outside		1,250	1,250	1,250	0	0	0
Total		5,250	5,250	5,250	0	0	0
Thorny-head rockfish: Gulfwide	749	3,750	3,750	3,700	50	0	0
Squid: Gulfwide	509	5,000	5,000	4,950	50	0	0
Other species [4]: Gulfwide	499	10,312	10, 312	9,212	1,100	0	0

[1] See figure 1 of § 672.20 for description of regulatory areas/districts.
[2] The category "Pacific ocean perch" includes Sebastes alutus (Pacific ocean perch), S. polyspinus (northern rockfish), S. aleutianus (rougheye rockfish), S. borealis (shortraker rockfish), and S. zacentrus (sharpchin rockfish).
[3] The category "other rockfish" includes all fish of the genus (Sebastes) except the category "Pacific ocean perch" as defined in footnote 2 above and Sebastolobus (Thornyhead rockfish).
[4] The category "other species" includes sculpins, sharks, skates, eulachon, smelts, and octopus. The TQ is equal to 5% of the TQs of the target species.

Prohibited Species Catch Limit for Pacific Halibut

The Council received testimony concerning the amounts of Pacific halibut that initially had been proposed (51 FR 43397, December 2, 1986) as PSC limits. Since the initial notice, the Plan Team has again estimated the incidental catch rates of Pacific halibut caught in directed on-bottom trawl groundfish fisheries and off-bottom trawl groundfish fisheries to be 2.53 percent and 0.06 percent, respectively. Using these rates and the mix of groundfish expected to be caught by DAP and joint venture fisherman using on-bottom and off-bottom trawls and hook-and-longline gear, the bycatch and resulting mortality of halibut were estimated and are shown in the following table.

HALIBUT

[In metric tons]

	Bycatch	Mortality
DAP:		
Bottom trawl	2,179	1,089
Midwater trawl	40	20
Longline	786	197
Subtotal	3,005	1,306
JVP:		
Bottom trawl	47	47
Midwater trawl	0	0
Longline	0	0
Subtotal	47	47
Total	3,052	1,353

About 3,005 mt and 47 mt of Pacific halibut are expected to be caught in DAP and JVP fisheries in 1987. Actual mortality, given the difference between DAP and JVP fishing operations, is estimated to be 1,306 mt and 47 mt, respectively. Therefore, the Council recommended that the Secretary establish the total Gulf of Alaska PSC limit for Pacific halibut at 3,000 mt (rounded from 3,005) and 47 mt, respectively, for the 1987 DAP and JVP fisheries. If the Regional Director determines that a PSC limit has been reached by a DAP or JVP fishery, he must prohibit further bottom trawling by that fishery in the Gulf of Alaska for the remainder of the fishing year. He may, however, allow some or all of those vessels to continue to fish for groundfish using bottom trawl gear under specified conditions as described at § 672.20(e).

Prohibited Species Catch Limits of Groundfish

Certain species of groundfish are fully utilized by DAP fishermen. The Magnuson Act requires that all of these species be made available to DAP fishermen. Other fisheries, i.e., the joint ventures, which target on other groundfish species for which they have

an allocation, catch incidentally some of the species that are fully utilized by DAP fishermen. Under Magnuson Act sections 201(d)(2) and 204(b)(6)(B)(ii), no amounts of fully utilized species can be made available for harvest in directed foreign fisheries or received at sea during any year by foreign vessels. In addition, any mortality of fully utilized species in excess of TQ is inconsistent with the provisions of the FMP, which provides only for a harvest equal to the specified TQ for any species category.

The Council has determined that sablefish, Pacific ocean perch, and "other rockfish" will be fully utility by DAP fishermen in 1987. Under the framework procedure implemented by emergency interim rule (52 FR 422, January 6, 1987), which authorizes PSC limits for fully utilized groundfish species in excess of their TQs, the Council has recommended, and the Secretary has concurred, that PSC limits of 48 mt, 111 mt, and 20 mt, respectively, should be established for sablefish, Pacific ocean perch, and "other rockfish" in the joint venture fishery. If the Regional Director determines that a groundfish PSC limit has been reached by the joint venture fisheries, he will publish a notice closing that directed fishery in all or part of the area or district concerned.

Bering Sea and Aleutian Islands Area

The Council considered new information and adopted ABCs and TACs for each of the groundfish species, as follows:

Pollock—The Council adopted the Plan Team's recommendation for 1987 pollock ABCs in the Bering Sea Subarea of 1.2 million mt and in the Aleutian Islands Subarea of 100,000 mt, the same as the 1986 TACs. These values are based on biomass estimates and patterns of recruitment; they represent an exploitation rate of 13.6 percent of the exploitable biomass, which is well within the historical exploitation rate range of 10 to 15 percent for the Bering Sea pollock stock since 1977. The Council set TAC for the Bering Sea Subarea at 1.2 million mt in response to industry interest to fully utilize the Bering Sea pollock stocks. The Council reduced the Aleutian Islands TAC to 88,000 mt from the recommended ABC of 100,000 mt to compensate for amounts of pollock being taken outside the exclusive economic zone by foreign vessels in an area known as the "doughnut hole".

Pacific cod—The Council adopted an ABC for Pacific cod equal to the sum of the ABCs estimated for the Bering Sea and for the Aleutian Islands area of 375,000 mt and 25,000 mt, respectively, or 400,000 mt. The ABC is based on a new biomass estimate for Pacific cod of 1,134,100 mt, using data from a new trawl survey completed in 1986. This estimate is the highest on record. The Council set TAC at 280,000 mt, substantially below ABC, to constrain market supply in response to the U.S. fishing industry's intent to improve its competitiveness in available markets.

Yellowfin sole—The yellowfin sole resource remains in relatively good condition and is still producing slightly above the MSY level of 150,000 mt. The Council adopted a TAC of 187,000 mt, on the basis of the Plan Team's estimate that the ABC is equal to this amount.

Greenland turbot—The Council adopted the Plan Team's new estimate of ABC for this species of 20,000 mt, in the low end of the 16,500–35,000 mt ABC range, which reflects poor recruitment in recent years. Although the ABC is low, it is increased from the earlier estimate on which TAC was proposed. The increase results from updated analyses that reflect revised estimates of average virgin biomass, recruitment at age 4 instead of age 5, and a projected recruitment of 10 percent instead of zero during 1986–1989. The Council adopted TAC equal to ABC.

Arrowtooth flounder—The Council adopted the Plan Team's new estimate for the arrowtooth flounder ABC of 30,900 mt. The new estimate includes results of the 1986 trawl survey. The updated information indicates that abundance of this species has remained relatively high and stable. This ABC is 10 percent of the average biomass during the period 1984–1986 of 309,000 mt. The Council established a TAC of 9,795 mt to avoid exceeding aggregate OY for all species of 2.0 million mt.

Other flatfish—The other flatfish category includes rock sole, flathead sole, Alaska plaice, and miscellaneous flatfish species. The resource remains in abundant condition and the stock is capable of producing above MSY. The Plan Team has recomputed ABC for this flatfish group to be 193,300 mt, based on results of the 1986 NMFS trawl survey. The Council adopted the Plan Team's ABC estimate, but recommended the TAC be set at 148,300 mt to avoid exceeding the aggregate OY for all species of 2.0 million mt.

Sablefish—Sablefish stocks have improved substantially in both of the subareas and are capable of producing MSY. The best estimates of MSY are 2,200 to 3,700 mt for the Bering Sea Subarea and 2,400 to 4,000 mt for the Aleutians Islands Subarea. The Council adopted the Plan Team's recommendation that ABCs equal the upper end of the MSY range (3,700 mt for the Bering Sea and 4,000 mt for the Aleutians Islands Area) and set the TACs equal to the ABCs.

Pacific ocean perch—No significant change is apparent in the status of the Pacific ocean perch stocks. The revised ABC estimates reflect reapportionments in estimates of the biomass between the two regions. In general, the status of the stocks remains stable. Abundance remains substantially below historic high levels in the early 1960's, but indications exist of some improved reeruitment in recent years. The Plan Team recommended ABCs of 3,800 mt in the Bering Sea and 10,900 mt in the Aleutian Islands area. The Council's SSC, however, in reviewing the data, recommended that the respective ABCs should be 2,850 mt and 8,175 mt. The Council adopted the SSC's recommendation and set TACs at 2,850 mt and 8,175 mt in the Bering Sea and in the Aleutian Islands area, respectively.

Other rockfish—No significant change has occurred in the status of the "other rockfish" stocks. In general, the stocks have remained relatively stable but low. The Plan Team recommended that ABCs be 75 percent of the equilibrium yield or 450 mt in the Bering Sea and 1,430 mt in the Aleutian Islands area to promote rebuilding of the stocks in both area. The Council adopted the Plan Team's recommendations and set the TACs equal to the ABCs in both management areas.

Atka mackerel—New information is not available to update the 1986 estimate of ABC, which is 30,800 mt. The Council adopted the Plan Team's recommendation and set the TAC equal to the ABC.

Squid—New information is not available to update the 1986 estimate of ABC, which is 10,000 mt. The Council adopted the Plan Team's recommendation for this ABC but set the TAC equal to 500 mt to avoid exceeding aggregate OY for all species.

Other species—The Plan Team calculated the 1987 ABC based on a 10 percent exploitation rate of the 1985 estimated biomass. The biomass estimate is updated annually from NMFS' trawl surveys. Since the resource is relatively stable, ABC is estimated to be 49,500 mt, 10 percent of the average biomass during the period 1984-1986. The Council adopted the Plan Team's recommendation but set TAC equal to 15,000 mt to avoid exceeding the OY of all species.

The TACs adopted by the Council and the apportionments of those TACs among DAP, JVP, and TALFF are shown in Table 2.

TABLE 2.—1987 ORIGINAL TOTAL ALLOWABLE CATCH (TAC), DOMESTIC ANNUAL PROCESSING (DAP), JOINT VENTURE PROCESSING (JVP), RESERVE [1], AND TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING (TALFF), IN THE BERING SEA (BS), AND ALEUTIAN ISLANDS AREA (AI), OR BOTH, ALL IN METRIC TONS

[TAC=RESERVE+DAP+JVP+TALFF; Initial TAC=0.85 TAC; DAP=JVP+TALFF]

Species	Species Code	Area	TAC	DAH	DAP	JVP	TALFF
Pollock	701	BS	1,200,000	1,020,000	189,987	830,013	5,000
		AI	88,000	88,000	57,210	30,790	0
Pacific ocean perch	780	BS	2,850	2,543	2,423	120	12
		AI	8,175	6,949	6,786	163	0
Rockfish	849	BS	450	442	382	59	9
		AI	1,430	1,215	1,001	214	0
Sablefish	703	BS	3,700	3,495	3,145	350	40
		AI	4,000	3,400	3,317	83	0
Pacific cod	702	BS/AI	280,000	206,705	111,767	94,938	31,295
Yellowfin sole	720	BS/AI	187,000	158,950	100	158,850	5,000
Greenland turbot	721	BS/AI	20,000	15,250	15,213	37	1,750
Arrowtooth flounder	118	BS/AI	9,795	4,1,93	830	3,363	4,133
Other flatfish	129	BS/AI	148,300	111,575	23,103	88,472	14,480
Atka mackerel	207	BS/AI	30,800	30,790	250	30,540	10
Squid	509	BS/AI	500	52	4	48	373
Other species	499	BS/AI	15,000	10,500	500	10,000	2,250

[1] Fifteen percent of the TAC, or 300,000 mt, is apportioned to the operational reserve; of this 28,410 mt is apportioned to JVP and TALFF, effective with the date of filing of this notice. The remaining reserve is 271,590 mt.

[2] Eighty-five percent of the original TAC is established as the initial TAC, which may be augmented from the reserve during the fishing year.

Initial Reapportionment of Reserve

Gulf of Alaska—The Council recommended that the Regional Director reapportion all the reserves for sablefish, Pacific ocean perch, and "other rockfish" to DAP since these species will be fully utilized by DAP fishermen in 1987. All reserves of these species are being reapportioned, therefore, to DAP, effective with date of filing of this notice. Fishermen engaged in joint ventures for flounders will also catch certain amounts of other groundfish species. Accordingly, the Council recommended that the Regional Director reapportion certain reserves to JVP to support that fishery. Reserves are being reapportioned to JVP as follows: Western/Central Area, pollock—300 mt; the Central Area, Pacific cod—225 mt, Atka mackerel—25 mt, thornyhead rockfish—50 mt, squid—50 mt, and "other species"—1,100 mt. The balance of all other reserves are reapportioned to DAP for full utilization by DAP fishermen during 1987.

Bering Sea and Aleutian Isalnds Area—The Council recommended that the Regional Director reapportion certain amounts of the reserve to JVP and TALFF primarily for bycatch purposes except for a JVP target fishery for pollock in the Aleutian Islands area. Accordingly, the reserve has been reapportioned as follows: Pollock—5,000 mt to TALFF in the Bering Sea and 13,200 mt to JVP in the Aleutian Islands area; yellowfin sole—5,000 mt to TALFF; Pacific ocean perch—120 mt to JVP and 12 mt to TALFF; "other rockfish"—59 mt to JVP and 9 mt to TALFF in the Bering Sea; sablefish—350 mt to JVP and 40 mt to TALFF in the Bering Sea; and Atka mackerel—4,615 mt to JVP and 10 mt to TALFF. These reapportionments reduce the operational reserve from 300,000 mt to 271,590 mt, effective with the date of filing of this notice.

Comments Requested

Under §§ 672.20(c) and 675.20(b), the Secretary may apportion reserves on such dates as he determines appropriate. Under §§ 672.20(c), 675.20(b), 611.92(c), and 611.93(b), the Secretary must provide all interested persons an opportunity to comment on the proposed apportionments before they are made, unless he finds that good cause exists for not so doing. The Secretary finds that sufficient bycatches must be made available in time to allow the harvest of target catches. Comments are invited on the specifications, PSCs, apportionments, and releases of reserve for 15 days after the effective date of this notice. Comments should be sent to the Regional Director at the above address.

Other matters

This action is taken under the authority of §§ 611.92(c), 611.93(b), 672.20, and 675.20 and complies with Executive Order 12291.

Immediate implementation of these specifications, PSCs, and apportionments is necessary to provide domestic and foreign fishermen with harvestable amounts of groundfish by the beginning of the 1987 fishing year. Failure to do so will idle vessels and result in economic loss. Therefore, the Secretary for good cause finds that it is impracticable and contrary to the public interest to provide prior notice and opportunity for public comment, or to delay for 30 days the effective date of this rule. The Secretary notes that the public had the opportunity to participate in discussions on the substance of this interim rule during the Council meeting in December 1986. Comments are invited for 15 days after the effective date of this notice.

List of Subjects

50 CFR Part 611

Fisheries, Foreign relations.

50 CFR Parts 672 and 675

Fisheries.

Dated: January 2, 1987.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-294 Filed 1-7-87; 9:50 am]

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50 CFR Part 663

[Docket No. 70101-7001]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of fishing restrictions and request for comments.

SUMMARY: NOAA issues this notice establishing restrictions to limit the levels of fishing in 1987 for widow rockfish, the *Sebastes* complex of rockfish, Pacific ocean perch, and sablefish taken off the coasts of Washington, Oregon, and California, and seeks public comment on these actions. These actions are authorized under regulations implementing the Pacific Coast Groundfish Fishery Management Plan (FMP) and are necessary because biological stress to these stocks has been identified or is expected to occur if landings are not restricted. These actions are intended to lower fishing rates, reduce or prevent biological stress while allowing for unavoidable incidental catches in other fisheries, and avoid or reduce the probability of a fishery closure before the end of the year. This action supersedes fishing restrictions imposed in 1986 for these species.

EFFECTIVE DATE: 0001 hours (Pacific Standard Time) January 1, 1987, until modified, superseded, or rescinded. Comments will be accepted through January 26, 1987.

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

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten at 206–526–6150, E.C. Fullerton at 213–514–6196, or the Pacific Fishery Management Council at 503–221–6352.

SUPPLEMENTARY INFORMATION: This action supersedes the following **Federal Register** notices: for Pacific ocean perch, setting a trip limit in the Columbia subarea (50 FR 53325, December 31, 1985) and closing the fishery in the Vancouver subarea (51 FR 37913, October 27, 1986); and setting trip limits for the *Sebastes* complex of rockfish (51 FR 31776, September 5, 1986), widow rockfish (51 FR 34645, September 30, 1986), and sablefish (50 FR 53325, December 31, 1985). Pursuant to 50 CFR 663.22(a)(3), the management measures at § 663.27(b)(3) are adjusted. The sablefish OY is now allocated 52 percent to trawl gear and 48 percent to fixed gear landings. These allocations serve as quotas. The notices which managed sablefish under an emergency interim rule in 1986 expired on December 31, 1986, and are: the emergency interim rule (51 FR 29933, August 21, 1986) and its extension through December 31 (51 FR 41969, November 20, 1986); the revised allocations and increased trawl trip limit (51 FR 37912, October 27, 1986); and the closure of the fixed gear fishery (51 FR 37913, October 27, 1986).

The FMP provides the means for managing over 80 species of groundfish caught in ocean waters off Washington, Oregon, and California. The FMP differentiates between species with numerical and non-numerical optimum yields (OYs). A species which may be harvested fairly selectively has a numerical OY which is the maximum amount of that species that may be landed in a year; landings in excess of OY are prohibited. Widow rockfish (*Sebastes entomelas*), Pacific ocean perch (S. *alutus*), and sablefish (*Anoplopoma fimbria*) have numerical OYs. When landing rates have become too high, trip limits are imposed to extend the fishery as long as possible throughout the year while allowing incidental catches to be landed and minimizing waste of fish which must be discarded once an OY quota is reached.

Species which are not harvested selectively, or for which there is very little commercial interest or scientific data, are part of the non-numerical OY group and are managed most commonly by gear, area, and landing restrictions. An estimate of the acceptable biological catch (ABC), the annual catch that could be taken without jeopardizing the resource's productivity, has been made for most species in this group. Some species in the non-numerical OY group may be fished above the ABC. However, if one or more species in the group is biologically stressed, or is expected to become stressed if no limits on fishing are set, the Secretary of Commerce (Secretary) may determine that harvest of the group as a whole should be reduced even though some species in the group may not be stressed. This usually has been done by establishing a "harvest guideline" for the group as a whole and setting trip limits to achieve this harvest level. The harvest guideline may be, but is not necessarily, designated as a quota.

The regulations implementing the FMP at 50 CFR Part 663 allow the Secretary to reduce fishing levels if it is determined that continued fishing at current levels would cause biological stress to any species. The Pacific Fishery Management Council (Council) has endorsed the determination of its Groundfish Management Team that if landings of widow rockfish, yellowtail rockfish (included in the *Sebastes* complex of rockfish), Pacific ocean perch, and sablefish are unrestricted, the likelihood of biological stress on those stocks is increased. Pacific ocean perch, in particular, is considered to be under long-term stress and is managed under a rebuilding schedule. Landings of widow rockfish, Pacific ocean perch, and sablefish have been limited since the FMP was implemented in 1982 to minimize stress, or its likelihood, on these stocks; similarly, landings of the *Sebastes* complex have been restricted since 1983.

In its deliberations for 1987 management, the Council considered advice from its Groundfish Management Team (State and Federal fishery and social scientists), Groundfish Advisory Subpanel (fishing industry and consumer representatives), Scientific and Statistical Committee (State, Federal, and university scientists), the concerned public, and a Select Group created by the Council for the purpose of recommending methods of limiting landings with minimal disruption to the fishing industry. The Select Group included representatives from the fishing industry, the Council, and the Groundfish Management Team.

At its November 19–20, 1986, meeting in Portland, Oregon, the Council reviewed the latest data and developed management measures intended to limit landings of groundfish in 1987, thereby minimizing the likelihood and intensity of biological stress on groundfish stocks, and reducing the chances of having to close a fishery before the end of the year. In each case, the Council recommended some kind of trip limit. The Council's recommendations for 1987 and actions taken by the Secretary on those recommendations are presented below. Because the vast majority of groundfish landed off Washington, Oregon, and California is taken from the exclusive economic zone (EEZ) which extends from 3 to 200 nautical miles offshore, all groundfish taken and retained, possessed, or landed under these restrictions will be treated as though they were taken in the EEZ as in 1984-1986.

Widow Rockfish

Council Recommendation: The Council recommended a trip limit of 30,000 pounds of widow rockfish, with only one landing above 3,000 pounds per vessel per week. This limit will be applied coastwide and is subject to inseason adjustments so that the OY is not exceeded before the end of 1987.

Rationale: The widow rockfish resource appears to be in better condition than was indicated by previous analyses. The stock is believed to be close to levels which produce the

maximum sustainable yield (MSY), an average of the largest catch which can be taken continuously over time without depleting the stock. Evidence of juvenescence (an increasing proportion of young fish in the catch) still is apparent but it is not clear whether this indicates stress; in 1985, over 75 percent of the widow rockfish landed were less than nine years old, the age at which all fish of this species are mature. Estimates of average recruitment to the fishery and of the size of 1978–1980 year classes have increased, but estimates for newly recruited year classes are tentative until they have been fished for several years. As a result, it is difficult to determine whether overfishing of larger, mature fish, large incoming year classes, or fishing down a virgin stock accounts for the higher proportion of smaller fish.

Trip limits have been used to limit landings of widow rockfish since 1982. In 1986, the year started with a 30,000-pound weekly trip limit and the OY was 10 percent higher than ABC. At its April meeting, the Council recommended that if the ABC of 9,300 metric tons (mt) were reached, a trip limit of 3,000 pounds (with no frequency limit) would be imposed to allow incidental catches to be landed and to discourage target fishing. The ABC was projected to be reached, and the 3,000-pound trip limit was imposed on September 28, 1986 (51 FR 34645, September 30, 1986). Landings of widow rockfish will exceed ABC but are not expected to reach OY in 1986.

Even though OY will be 23 percent higher in 1987 than in 1986, the rate of landings will need to be restricted in 1987 in order to minimize the probability of biological stress on the stock and to extend the fishery longer than otherwise would be possible. If this were not done, the OY quota could be reached early in the year, possibly by late May or June, resulting in incidental catch and discards which would exceed OY. Accordingly, in 1987, the year will start with a 30,000-pound weekly trip limit as in 1986. Given the higher OY in 1987, it is possible that the 30,000-pound weekly trip limit will sustain this fishery throughout the year without further reduction. If landings are not curtailed sufficiently, further limits may be imposed later in the year.

Secretarial Action: The Secretary concurs with the Council's recommendation and herein announces:

(1) No more than 30,000 pounds (round weight) of widow rockfish may be taken and retained, or landed, per vessel per fishing trip in a one-week period. Only one landing of widow rockfish above 3,000 pounds (round weight) may be made per vessel in that one-week period. "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(2) Landings of widow rockfish above 3,000 pounds are prohibited until January 1, 1987, and only one landing above 3,000 pounds of widow rockfish may be made between January 1–3, 1987. It is unlawful to take and retain, possess, or land fish in excess of the 1986 trip limit until the new trip limit becomes effective on January 1, 1987.

(3) This restriction applies to all widow rockfish taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California. All widow rockfish possessed 0–200 nautical miles offshore of, or landed in, Washington, Oregon, or California are presumed to have been taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

Sebastes Complex

Council Recommendation: The Council recommended that the 10,200 mt harvest guideline used for the *Sebastes* complex in 1986 should be maintained in 1987. To achieve this, the Council recommended that trip limits be the same as at the beginning of 1986: 25,000 pounds for the *Sebastes* complex taken north of Coos Bay, Oregon (containing no more than 10,000 pounds of yellowtail rockfish), with only one landing above 3,000 pounds allowed per vessel per week. It also recommended that fishermen have the option of a biweekly limit which allows landing up to 50,000 pounds in one trip (containing no more than 20,000 pounds of yellowtail rockfish) in a two-week period; or a twice-weekly limit which allows two landings up to 12,500 pounds each (containing no more than 5,000 pounds of yellowtail rockfish each) in a one-week period, but only if proper notification is given to the appropriate State authority. The Council also recommended maintaining the 40,000-pound trip limit for landings of the *Sebastes* complex caught south of Coos Bay, Oregon, with no limit on the number of landings allowed per week.

Rationale: The harvest guideline for the *Sebastes* complex of rockfish caught north of Coos Bay, Oregon (43°21'34" N. latitude) is the same as at the end of 1986, 10,200 mt, just 100 mt higher than in 1985 and 1984, and equals the sum of the ABCs of the species in the complex. Yellowtail rockfish, a dominant component in the *Sebastes* complex in the Vancouver and Columbia areas, was documented as biologically stressed in March 1983 (48 FR 8283, February 28, 1983). Trip limits have been imposed since that time in attempts to reduce the harvest of this species, which had been landed at rates exceeding the annual ABC estimates for the previous five years. Because yellowtail rockfish frequently are caught with other species in the multispecies *Sebastes* complex, limits were placed on the complex as a whole.

In 1986, weekly trip limits for the *Sebastes* complex caught north of Coos Bay were adjusted from 25,000 pounds (containing no more than 10,000 pounds of yellowtail rockfish) in January to 30,000 pounds (containing no more than 12,500 pounds of yellowtail rockfish) at the end of August. Biweekly and twice weekly landing options were available. Landings of the *Sebastes* complex in 1986 are expected to exceed the 10,200-mt harvest guideline and landings of yellowtail rockfish also are expected to be above the 1986 ABC of 3,600 mt for the same area. The Council did not consider these overages to be significant and did not recommend further reductions in the trip limits in 1986.

The stock biomass of yellowtail rockfish has been declining for the past two decades although it has stabilized in the past four years. Recent analyses indicate that the stock may not be stressed as previously thought; the Columbia area stock appears to be relatively healthy whereas the current biomass in the Vancouver area is at the low end of the estimated range of biomass needed to produce MSY. However, it is clear from historical data that unrestricted landings would exceed ABC significantly, thereby increasing the likelihood of biological stress on yellowtail rockfish. Accordingly, trip limits in 1987 are the same as those initially in effect in 1986, which, if they had not been increased in late August, probably would have kept landings close to the 1986 harvest guideline for the *Sebastes* complex and ABC for yellowtail rockfish.

Note: The State of Washington has revised its notification procedures for biweekly and twice-weekly trip limits to be consistent with those of Oregon and California. These revisions appear in paragraphs (3)(b) and (3)(c) below. In addition, the restrictions are simplified and clarified, particularly regarding notification procedures. Except for the amounts of the limits and the changes made by the State of Washington, these restrictions are implemented the same way as in 1986.

Secretarial Action: The Secretary concurs with the Council's recommendations and the technical revisions made to biweekly and twice-weekly trip limit notification procedures

by the State of Washington and herein announces:

(1) Definitions.

(a) *Sebastes* complex means all rockfish managed by the FMP except Pacific ocean perch *(Sebastes alutus)*, widow rockfish *(S. entomelas)*, shortbelly rockfish *(S. jordani)*, and *Sebastolobus* spp. (idiot) rockfish.

(b) "One-week period" means seven consecutive days beginning 0001 hours Sunday and ending 2400 hours Saturday, local time.

(c) "Two-week period" means 14 consecutive days beginning at 0001 hours Sunday and ending 2400 hours Saturday, local time.

(d) All weights are round weights of the whole fish.

(2) General.

(a) These restrictions apply to all fish in the *Sebastes* complex taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California. All fish in the *Sebastes* complex possessed 0–200 nautical miles offshore of, or landed in, Washington, Oregon, or California are presumed to have been taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

(b) There is no limit on the number of landings under 3,000 pounds of the *Sebastes* complex allowed per week.

(c) Coos Bay means 43°21'34" N. latitude, which is the latitude of the north jetty at Coos Bay, Oregon.

(d) It is unlawful to take and retain, possess, or land fish in excess of the 1987 trip limits after December 31, 1986, even if those fish were possessed legally in 1986.

(3) Restrictions on the *Sebastes* Complex Caught North of Coos Bay.

(a) Weekly trip limit. Except for the biweekly and twice-weekly trip limits provided in paragraphs (3)(b) and (3)(c), no more than 25,000 pounds of the *Sebastes* complex, including no more than 10,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip in a one-week period north of Coos Bay. Only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in that one week period.

Note: If fishing under the weekly trip limit, only one landing above 3,000 pounds of the *Sebastes* complex may be made during the week of December 28, 1986–January 3, 1987.

(b) Biweekly trip limit. If the state where the fish will be landed is notified as required by this paragraph, up to 50,000 pounds of the *Sebastes* complex, including no more than 20,000 pounds of yellowtail rockfish, may be taken and retained, possessed, or landed, per vessel per fishing trip in a two-week period north of Coos Bay. After notification is given, and while it remains in effect, only one landing of the *Sebastes* complex above 3,000 pounds may be made per vessel in each two-week period.

Note: Biweekly trip limit options in effect on December 28, 1986, will continue until revoked as provided in this paragraph.

The state where the fish will be landed (Washington, Oregon, or California) must receive a written notice declaring intent to use the biweekly limits before the first day of the first two-week period in which such landings are to occur. The notice is binding for subsequent consecutive two-week periods until revoked in writing, addressed to the appropriate State agency, prior to the two-week period in which the recession is to occur.

Notifications must be submitted to the Oregon Department of Fish and Wildlife, Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 98365, telephone 503–867–4741; P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515; 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462; or to the Washington Department of Fisheries, 115 General Administration Building, Olympia, WA 98504, telephone 206–753–6623; or to the California Department of Fish and Game, Branch Office, 619 Second Street, Eureka, CA 95501, telephone 707–445–6499.

(c) Twice-weekly trip limit. If the state where the fish will be landed is notified as required by this paragraph, up to 12,500 pounds of the *Sebastes* complex, including no more than 5,000 pounds of yellowfish rockfish may be taken and retained, possessed, or landed, per vessel per fishing trip north of Coos Bay. After notification is given, and while it remains in effect, only two landings of the *Sebastes* complex above 3,000 pounds may be made per vessel in a one-week period.

Note: If fishing under the twice-weekly trip limit, only two landings above 3,000 pounds of *Sebastes* complex may be made during the week of December 28, 1986–January 3, 1987. Twice weekly trip limit options in effect on December 28, 1986, will continue until revoked as provided in this paragraph.

The State where the fish will be landed (Washington Oregon, or California) must receive a written notice declaring intent to use the twice-weekly limits before the first day of the first one-week period in which such landings are to occur; the notice is binding for subsequent consecutive one-week periods until revoked in writing, addressed to the appropriate state agency, prior to the week in which the rescission is to occur. Notifications must be submitted to the same addresses given in paragraph (3)(b) of this section for biweekly trip limits.

(4) Restrictions on the *Sebastes* Complex Caught South of Coos Bay.

No more than 40,000 pounds of the *Sebastes* complex may be taken and retained, possessed, or landed, per vessel per fishing trip south of Coos Bay. There is no limit on the number of landings allowed per week of the *Sebastes* complex caught south of Coos Bay.

(5) Operating both North and South of Coos Bay on a Fishing Trip.

(a) Unless the owner or operator of the fishing vessel has notified the State of Oregon as required by paragraph (5)(b), no person fishing for any groundfish species during a single fishing trip may fish both north and south of Coos Bay, or fish in one area and possess or land fish in the other area, if more than 3,000 pounds of the *Sebastes* complex is landed from that fishing trip. If fishing is conducted both north and south of Coos Bay, or if fish are caught north of Coos Bay and possessed or landed south of Coos Bay during the fishing trip, then the restrictions on the *Sebastes* complex caught north of Coos Bay apply. If fishing is conducted south of Coos Bay only, and fish are possessed or landed north of Coos Bay, then the restrictions on the *Sebastes* complex caught south of Coos Bay apply.

(b) Except as provided in paragraph (5)(c), notification must be submitted to one of the following offices of the Oregon Department of Fish and Wildlife, by telephone or in writing, prior to leaving port on a fishing trip: Marine Regional Office, Marine Science Drive, Building No. 3, Newport, OR 97365, telephone 503–867–4741; or P.O. Box 5430, Charleston, OR 97420, telephone 503–888–5515, between 8:00 a.m. and 4:30 p.m., and other times at 503–269–5000 or 503–269–5999; or 53 Portway Street, Astoria, OR 97103, telephone 503–325–2462.

(c) A vessel owner or operator at sea who has not made notification under this paragraph and who wishes to do so, or who wants to change the notification for the current fishing trip, may do so by radiotelephone. (This radiotelephone message must be confirmed in writing by the vessel owner or operator to the address in subparagraph (b) above immediately on return to port; corrections and confirmations must be sent to the same address as the original message.) In this event, the provisions in

paragraph (3) for the *Sebastes* complex caught north of Coos Bay will apply to all of the *Sebastes* complex taken in that trip, no matter where the fish are caught.

Pacific Ocean Perch

Council Recommendation: The Council recommended that, if more than 1,000 pounds of Pacific ocean perch is on board, the coastwide trip limit for that species should be 20 percent (by weight) of all fish on board, or 5,000 pounds, whichever is less. As in 1985 and 1986, landings of Pacific ocean perch less than 1,000 pounds per trip are unrestricted, regardless of the percentage on board.

Rationale: Pacific ocean perch is considered under long-term stress and has been managed for seven years under a 20-year rebuilding schedule intended to increase the stock to levels that will produce the MSY. Pacific ocean perch has been managed by trip limits since the FMP became effective in 1982. The most recent stock assessment indicates there has been no rebuilding of this species since 1979 and even if no Pacific ocean perch were harvested in 1987, desired 20-year rebuilding rates probably would not be met. However, incidental catches of this species in other fisheries are unavoidable, and the trip limit (and OY estimates) are designed to accommodate only these small incidental catches.

In 1986, the fishery opened in January with a trip limit of 10,000 pounds or 20 percent, whichever was less, north of Cape Blanco, Oregon (42°50′ N. latitude). This resulted in high landings from the Vancouver subarea (47°30′ N. latitude to the Canadian border) and subsequent closure of the fishery on December 1, 1986, when the 600-mt OY for that subarea was reached. Landings for 1986 are expected to be below the 950-mt OY for the Columbia subarea (43°00 to 47°30′ N. latitude).

The OY has been reduced from 1,550 mt in 1986 to 1,300 mt in 1987 (500 mt in the Vancouver subarea and 800 mt in the Columbia subarea) to accommodate only incidental catches. The new trip limit, more restrictive than in 1986, should eliminate all target fishing for Pacific ocean perch in these two northern subareas, and is applied coastwide to discourage those who would exceed the limit and allege the fish were caught legally elsewhere. Because Pacific ocean perch is not abundant south of the Columbia subarea, this trip limit is not expected to restrict fisheries there.

Technical Change: To clarify the Council's original intent, the percentage trip limit is applied to all legally retained fish on board. In the past, some fishermen contended that the percentage applied to all fish on board, even if illegally caught.

Secretarial Action: The Secretary concurs with the Council's recommendation and herein announces:

(1) For Pacific ocean perch coastwide (Washington, Oregon and California), no more than 5,000 pounds or 20 percent (round weights), whichever is less, of all legally retained fish on board may be taken and retained, possessed, or landed, per vessel per fishing trip, with the following exception. Up to 1,000 pounds (round weight) of Pacific ocean perch may be taken and retained, possessed, or landed, per vessel per fishing trip, without regard to the 20 percent limitation.

(2) This restriction applies to all Pacific ocean perch taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California. All Pacific ocean perch possessed 0–200 nautical miles offshore of, or landed in, Washington, Oregon, or California is presumed to have been taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

Sablefish

Council Recommendation: The Council recommended that the 1987 OY quota for sablefish be allocated 52 percent for trawl gear and 48 percent for fixed gear, and that landings in excess of these allocations be prohibited. Pursuant to § 663.22(a)(3), this action adjusts the management measures at § 663.27(b)(3) which allocates the last 10 percent of OY equally between trawl and fixed gears and sets a trip limit on trawl landings.

The Council also recommended that the 5,000-pound trip limit for sablefish smaller than 22 inches (in effect for all gears north of Point Conception, California, in 1986) should be maintained for trawl vessels but reduced to 100 pounds for fixed-gear vessels, and applied coastwide for both.

Rationale: Two major gear groups, trawl and fixed gear, harvest sablefish off Washington, Oregon and California. Fixed gear (mostly pot and longline) targets on this species with little bycatch. The trawl fleet catches sablefish incidentally in its multispecies operations, sometimes encountering 25–30 percent sablefish, but the extent of targeting is not known. As catch and effort by both sectors increased, the Council has tried several allocation schemes to manage this fishery.

Current regulations at § 663.27(b)(3) require that the last 10 percent of the sablefish OY be allocated equally between trawl and fixed gears, designate these allocations as quotas beyond which landings are prohibited, and place a percentage trip limit on trawl landings to slow that fishery while enabling incidental catches to be landed. This regulation was not successful in 1985 and the OY was reached unexpectedly early. Similar patterns were developing in 1986, so this regulation was superseded in August by an emergency interim rule (51 FR 29933, August 21, 1986). This rule maintained the basic provisions of the regulation at § 663.27(b)(3) but changed (1) the time the allocation was made (from 90 percent of OY to an earlier date, August 22, 1986, when about 60 percent of OY had been taken); (2) the percentage of the trawl/fixed gear allocations (from 50:50 to 55:45 based on landings over the last five years); and (3) the amount of the trawl trip limit (from the average amount of sablefish in trawl landings that contain sablefish to 8,000 pounds, and later 12,000 pounds). Under the emergency interim rule, it appears that the trawl quota will not be reached in 1986, whereas the fixed gear quota was reached and that fishery closed in late October. It now appears that the fixed gear quota was exceeded, in part due to unreported landings which were not discovered until late in the year.

In considering the management strategy for 1987, the Council's Groundfish Management Team expressed its concern that the ABC for sablefish had been exceeded for five consecutive years, and that if landings continued to exceed ABC, the likelihood of biological stress on the stock would be greatly increased. The Council agreed that landings of sablefish will be restricted if necessary to avoid reaching OY early in the year and recommended lowering the OY (13,600 mt in 1986) to ABC (12,000 mt in 1987). In addition, fixed gear representatives requested a 48 percent share of OY, based on landings over the last ten years, so they would not have to compete with trawl fishermen in January and February when sablefish quality is poor and weather can be dangerous. As a result, the Council recommended allocating OY 52 percent to trawl gear and 48 percent to fixed gear, with the understanding that the OY will be reevaluated if new data become available, and that fishing restrictions could be imposed later in the year if needed to avoid reaching the trawl quota.

A 5,000-pound trip limit on sablefish smaller than 22 inches (total length) has been imposed since 1983 to reduce the likelihood of biological stress which is expected if landings of juvenile sablefish are not curtailed. The Council

decided that there were compelling reasons to continue the size and trip limits in 1987. These reasons include the presence of a strong year class of small fish, the higher price per pound of larger fish, and the prudence of minimizing landings of juvenile fish which become the future brood stock. However, in 1987 the trip limit will be applied coastwide and reduced to 100 pounds for fixed gear.

The changes in trip limits for sablefish smaller than 22 inches will have beneficial but probably minor impacts. Because little trawling occurs south of Point Conception, California, applying the limit coastwide will not restrict the trawl fishery in that area and will make enforcement easier. Similarly, reduction of the trip limit to 100 pounds for fixed gear and applying this limit coastwide is not expected to seriously restrict fixed gear operations. Fixed gear representatives at the November Council meeting offered to land no sablefish smaller than 22 inches because: (1) They are taken infrequently; (2) survivability is good if they are immediately released; (3) larger fish bring a higher ex-vessel price; and (4) excessive catches of juvenile fish can jeopardize the resource. However, by allowing 100 pounds to be landed, the catch of small amounts of sablefish smaller than 22 inches will not result in an enforcement action and so is more reasonable than a complete prohibition. Furthermore, the 100-pound limit will allow incidental catches of sablefish to be landed from the dory fishery that operates out of Newport, California, south of Point Conception.

Technical Change: Clarification is provided that the Federal trip limit for processed ("headed") sablefish will be based on the product recovery ratio (PRR) used by Washington, Oregon, or California, as in the past. It should be noted that the State PRR's usually differ and fishermen should contact fishery enforcement officials in the State where the fish will be landed to determine that State's official PRR.

Secretarial Action: The Secretary concurs with the Council's recommendation and hereby announces:

(1) Gear Quotas.

(a) The sablefish OY (12,000 mt) is allocated fifty 52 percent (6,200 mt) to trawl gear and 48 percent (5,800 mt) to fixed gear landings in 1987. If the OY is changed, the gear allocations also will be changed proportionately, based on these percentages.

(b) These allocations are quotas. When the quota for either gear type is reached, retention or landings of sablefish by that gear type will be prohibited as provided for in § 663.23.

(c) If the overall OY for sablefish is reached, further landings of sablefish by all gear types will be prohibited until January 1, 1988.

(2) Trip and Size Limits.

(a) Trawl gear. No more than 5,000 pounds (round weight) of sablefish smaller than 22 inches (total length), caught with trawl gear may be taken and retained, or landed, per vessel per fishing trip.

(b) Fixed gear. No more than 100 pounds (round weight) of sablefish smaller than 22 inches (total length), caught with fixed gear may be taken and retained, or landed, per vessel per fishing trip.

(c) Total length is measured from the tip of the snout (mouth closed) to the tip of the tail pinched together) without mutilation of the fish or the use of additional force to extend the length of the fish.

(d) For processed ("headed") sablefish:

(i) the minimum size limit is 16 inches measured from the origin of the first dorsal fin (where the front dorsal fin meets the dorsal surface of the body closest to the head) to the tip of the upper lobe of the tail; the dorsal fin and tail must be left intact; and

(ii) the product recovery ratio (PRR) established by the state where the fish is or will be landed is used to convert the processed weight to round weight for purposes of applying the trip limit.

(e) No sablefish may be retained which is in such condition that its length has been extended or cannot be determined by the methods stated above.

(3) This restriction applies to all sablefish taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California. All sablefish possessed 0–200 nautical miles offshore of, or landed in Washington, Oregon, or California are presumed to have been taken and retained 0–200 nautical miles offshore of Washington, Oregon, or California unless otherwise demonstrated by the person in possession of those fish.

(4) Pursuant to § 663.22(a)(3), the management measures at § 663.27(b)(3) are adjusted until further notice.

(5) Fixed gear includes set nets, traps, or pots, longlines, commercial vertical hook-and-line gear, troll gear, and trammel nets.

(6) Trawl gear includes bottom trawls, roller or bobbin trawls, pelagic trawls, and shrimp trawls.

Inseason Adjustments

At subsequent meetings, the Council will review the best data available and recommend modifications to these management measures if appropriate. The Council intends to examine the progress of these fisheries during the year in order to avoid overfishing and to extend the fisheries as long as possible throughout the year.

Other Fisheries

The limits for widow rockfish, Pacific ocean perch, the *Sebastes* complex and sablefish apply to vessels of the United States, including those vessels delivering groundfish to foreign processors. Retention of these species by foreign fishing or processing vessels is limited by incidental percentage limits established under 50 CFR 611.70.

U.S. vessels operating under an experimental fishing permit issued under § 663.10 also are subject to these restrictions unless otherwise provided in the permit.

Landings of groundfish in the pink shrimp, spot, and ridgeback prawn fisheries are governed by regulations at § 663.28. If fishing for groundfish and pink shrimp, spot, or ridgeback prawns in the same fishing trip, the groundfish regulations in this notice apply.

Classification

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

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

Section 663.23 of the groundfish regulations states that the Secretary will publish a notice of action reducing fishing levels in proposed form unless he determines that prior notice and public review are impracticable, unnecessary, or contrary to public interest. If unrestricted, landings unquestionably will result in several ABCs being exceeded in 1987, increasing the likelihood of biological stress on those stocks. Prompt action to limit these fishing rates is necessary to protect the widow rockfish, *Sebastes* complex, Pacific ocean perch, and sablefish stocks and alleviate the necessity for fishery closures before the end of 1987. Consequently, further delay of these actions is impracticable and contrary to the public interest, and these actions are taken in final form effective January 1, 1987.

The public has had opportunity to comment on these management measures. The public participated in the Select Group, Groundfish Management Team, Groundfish Advisory Subpanel, and Council meetings in October and November 1986 that generated the management actions endorsed by the Council and the Secretary. Further public comments will be accepted for 15 days after publication of this notice in the **Federal Register.**

List of Subjects in 50 CFR Part 663

Administrative practice and procedure, Fisheries.

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

Dated: January 2, 1987.

William E. Evans,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 87-291 Filed 1-6-87; 4:56 pm]

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Proposed Rules

Federal Register
Vol. 52, No. 6
Friday, January 9, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

Proposed Rules and Regulations Governing Collection of Assessments and Refunds Under the Honey Research, Promotion, and Consumer Information Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would implement procedures governing the collection of assessments and refunds under the Honey Research, Promotion, and Consumer Information Order (Order). The Order is effective under the Honey Research, Promotion, and Consumer Information Act (Act) and provides for an initial assessment of one-cent per pound for honey produced in the United States or honey or honey products imported into the United States. Persons who produce, produce and handle, or import less than 6000 pounds of honey annually may obtain an exemption from assessment.

DATE: Comments regarding this proposal must be received by January 26, 1987.

ADDRESSES: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written materials shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

Comments on the information collection and recordkeeping requirements contained in this subpart should be addressed to: Marina Gatti, Desk Officer for the Agricultural Marketing Service, Office of Management and Budget, Room 3228, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, (202) 447–5697.

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

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

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

The Honey Research, Promotion, and Consumer Information Act (7 U.S.C. 4601 *et. seq.*) and the Honey Research, Promotion, and Consumer Information Order (7 CFR Part 1240; 51 FR 26147) provides that all handlers and producer-packers who handle honey and all importers who import honey or honey products are subject to regulation under the promotion order for honey produced in, or honey or honey products imported into the United States, including the Commonwealth of Puerto Rico. The Act and Order provide that honey producers, producer-packers, and importers pay the assessment for operating the program, while honey handlers act as collection agents for honey producers covered under the Order.

The honey industry is made up of many small entities, and several larger entities, which are engaged in the production, importation, and marketing of honey. There are generally three categories of honey producers in the United States: The hobbyist; the part-time beekeeper; and commercial beekeepers. There are about 190,000 hobbyist beekeepers; about 10,000 part-time beekeepers; and about 1,600 commercial beekeepers. Because the Act and the Order exempt persons who annually produce or import less than 6,000 pounds of honey, hobbyist beekeepers and a significant number of part-time beekeepers are not required to pay assessments.

Pursuant to requirements set forth in the RFA, the Administrator of the Agricultural Marketing Service has considered the impact on small entities. This action would establish the provisions by which assessments are to be collected from, and refunds returned to, producers and importers, and the procedures required for producers, producer-packers, and importers to obtain an exemption from assessments. This proposal would implement procedures governing the collection of assessments and refunds under the Order. Determinations concerning the RFA and the Order appear at 51 FR 3605 and 51 FR 26147. These provisions were recommended by the National Honey Board (Board), the administrative agency established under the Order.

These regulations are applicable to all honey handled in the United States, and all honey and honey products imported into the United States. The National Honey Board, which is composed of producers, a member of a producer marketing cooperative, handlers, importers, and a public member, has determined that the methods contained in this proposal are the most effective and least burdensome way to carry out the program's itent. The Board reviewed provisions currently in effect under similar research and promotion programs for other agricultural commodities as well as voluntary research and promotion programs currently and previously in effect within the honey industry. The impact on the various industry segments resulting from the establishment of these rules and regulations was also considered. Finally, the Board considered current business practices used by the industry when recommending the reporting and recordkeeping requirements that would be imposed upon producers, producer-packers, handlers, and importers covered under these regulations. Furthermore, persons who are required to pay assessments may request a refund of any assessment paid.

Honey production in the United States approximates 200 million pounds annually, although there is some year-to-year fluctuation due to weather conditions. The 1981 value of U.S.

production of honey was about $90.1 million. This was based on 4.2 million colonies of bees with an average honey yield per colony of 44 pounds.

It is the Department's view that the impact of this action on producers, producer-packers, handlers, and importers would not be adverse. The anticipated costs to producers, producer-packers, handlers, and importers in implementing these regulations would be significantly offset when compared to the potential benefits of these regulations.

The Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) seeks to minimize the paperwork burden imposed by the Federal Government while maximizing the utility of the information requested. In accordance with the procedures contained in Title 5 of the Code of Federal Regulations, Part 1320, the information collection and recordkeeping requirements contained in this subpart have been approved by the Office of Management and Budget (OMB) and have been assigned OMB Control Number 0581–0153. Comments concerning these requirements may be submitted to OMB.

Section 7(c)(6)(B) of the Act and § 1240.37(b) of the Order authorize the Board to recommend to the Secretary such rules and regualtions as are necessary to effectuate the terms and conditions of the Order. Sections 1240.100 through 1240.125 would establish the general rules and regulations which govern the collection of assessments, the procedure for applying for refunds, the application of late payment and interest charges on past due assessments, the filing of reports and maintenance of records, and the procedure for applying for an exemption from assessment. Sections 1240.100 and 1240.105 define certain words in addition to those contained in the Order, which are used throughout the subpart. These terms are defined to clearly delineate their meaning and to simplify the subsequent provisions in which they are used.

These proposed rules also direct communications in connection with the Order and all rules, regulations, and supplemental Orders issued thereunder to the Honey Board. The Board is charged with various duties regarding administration of the Order and therefore, questions, in connection with the various aspects of the program could best be answered by the Board itself.

The purpose of this program is to fund projects relating to research, consumer information, advertising, sales promotion, producer information, and market development to assist, improve, or promote the marketing, distribution, and utilization of honey and honey products. Funds collected under this program will be used for this purpose in accordance with the Order. A provision is included to insure that the Board's contracts comply, and are not inconsistent with, the provisions of this part. This provision also provides adequate safeguards to insure that Board funds are used properly.

This proposal also provides that the Board's by-laws be used as the basis to govern the conduct and organization of Board meetings. The Act and Order provide that all U.S. Department of Agriculture (USDA) costs associated with the conduct of its duties under the Order be reimbursed. These costs will be billed quarterly by USDA to the Board.

Because honey is marketed in many different ways, examples of who first handles honey or who is a producer-packer are included in this subpart to more clearly delineate who is required to collect assessments from producers or who is responsible to pay assessments, and when they should be collected and forwarded to the Board. The Act and the Order provide that the producers, producer-packers, and importers who produce, produce and handle, or import less than 6000 pounds of honey per year shall be exempt from assessment. Therefore, procedures for exempting producers, producer-packers, and importers have been recommended by the Board and are included in this subpart.

To properly administer this provision, the Board has recommended that exemption certificates be issued to qualified producers, producer-packers, and importers. Producers, producer-packers, and importers who wish to obtain an exemption are required to submit an application to the Board along with any appropriate evidence supporting their claim.

The Board would then investigate each such claim and if appropriate, issue an exemption certificate together with an exemption number to the producer, producer-packer, or importer who meets the 6000 pound exemption requirements. First handlers would be required to collect assessments from each honey producer unless an exemption certificate is presented by that producer.

This subpart also prescribes procedures, pursuant to § 1240.42(d) of this part, to exempt producers paying assessments under their State plan from a portion of assessments. The first handler would then be required to forward to the Board the balance due pursuant to this part in excess of the State assessment.

The Order further provides the Board with discretionary authority to recommend that honey which is exported be exempted from assessment. The Board has not recommended such exemption at this time and therefore no such provisions appear in this rule.

The levying of assessments is clarified in this subpart to summarize who may be exempt from assessment and how assessments are levied on imported honey and honey products and on honey pledged as collateral for a loan under the Commodity Credit Corporation Honey Price Support Program.

A late payment charge would be established pursuant to § 1240.41(i) of the Order in the amount of ten percent of the outstanding balance due the Board. The amount of the late payment charge recommended by the Board was determined to be in keeping with good business practices in that it would discourage handlers from using monies collected from producers for their own purposes. Ten percent was considered not excessive but substantive enough that it should serve as an effective deterrent against the improper use of such funds. The late payment charge would be applied to all assessments not paid within 15 days of the date such assessments become due.

In addition to the late payment charge, one and one-half percent per month interest on the outstanding balance, including any accrued interest, would be added to any accounts delinquent over 30 days and would continue monthly until the outstanding balance is paid to the Board. This provision is authorized by § 1240.41(j) of the Order and is intended to insure that assessments are remitted to the Board in a timely manner.

Section 1240.118 sets forth the procedures to be used by producers and importers to apply for a refund of assessments. Producers and importers desiring a refund of assessments are required to submit an application form within 90 days from the date the assessment became payable pursuant to § 1240.114. In order to safeguard the refunding process, producers and importers are required to submit evidence satisfactory to the Board that the assessments have been paid. Refunds would be given by the Board in June and December of each year. In order for the Board to refund assessments on this schedule, the regulations set May 31 and November 30 as the last day to apply for a refund and receive payment on the June and December dates, respectively.

The Board has recommended that a monthly reporting period be established

for handlers paying assessments to the Board. However, should different handler, importer, or producer-packer payment schedules be necessary in order to recognize differences in purchasing practices and procedures, the Board will have the authority to approve such alternate payment schedules. The provision in § 1240.117 clarify how assessments are to be remitted to the Board. This section also provides for assessments to be collected through a cooperating agency, such as another government agency or grower cooperative. The provision also establishes procedures for prepayment of assessments for those handlers or producer-packers who wish to do so.

The provisions in §§ 1240.119 through 1240.125 which involves safeguards; retention period of records; availability of records; confidential books, records, and reports; right of the Secretary; personal liability; and OMB control number, are generally included in research and promoting programs. All the provisions are incidental to, and not inconsistent with, the terms and conditions of the Act and Order. All written comments timely received in response to this request for comments will be considered before a final determination is made on this matter.

Comments on this proposal will be accepted until Janaury 26, 1987. A 15-day comment period is considered adequate because: The final rule should be issued as soon as possible so the Board can begin collecting assessments and administering the program. The affected persons in the honey industry are aware of this program and have planned their operations accordingly. The initial rate of assessment is set by statute and is provided for in the Order. This proposed rule is necessary to set forth the procedures handlers, producer-packers, and importers must follow in collection and paying assessments and reporting to the Board. This rule would also implement the provisions of the Order governing the collection of assessments and refunds. The Order was promulgated pursuant to formal rulemaking in which producers, handlers, producer-packers, and importers participated. The Commodity Credit Corporation (CCC) and the U.S. Customs Service have agreed to collect assessments respectively on honey placed under the CCC Honey Price Support Program and on honey and honey products imported into the United States.

List of Subjects in 7 CFR Part 1240

Honey, Agricultural research, Reporting and recordkeeping requirements, Market development, and Consumer information.

1. The authority citation for 7 CFR Part 1240 continues to read as follows:

Authority: Pub. L. 98–590; 98th Congress; 7 U.S.C. 4601–4612.

The Subpart—General Rules and Regulations would be added to Part 1240 to read as follows:

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Subpart—General Rules and Regulations

Sec.

§ 1240.100 Terms defined.

Unless otherwise defined in this subject, definitions of terms used in this subpart shall have the same meaning as the definitions of such terms which appear in Subpart—Honey Research, Promotion, and Consumer Information Order. Additional terms are defined in § 1240.105.

§ 1240.105 Definitions.

(a) "Principal ingredient" means fifty-one percent or more by weight of the total ingredients contained in honey products.

(b) "First handler" means the person who first handles honey.

(c) "Order" means the Honey Research, Promotion, and Consumer Information Order which appears in this part.

(d) "United States" means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1240.106 Communications.

Communications in connection with the Order and all rules, regulations, and supplemental Orders issued thereunder shall be addressed to the National Honey Board, 9595 Nelson Road, Box C, Longmont, Colorado 80501.

§ 1240.107 Policy and objective.

(a) It shall be the policy of the Board to carry out an effective and continuous coordinated program of marketing research, development, advertising, and promotion in order to help maintain and expand existing domestic and foreign markets for honey and to develop new or improved markets.

(b) It shall be the objective of the Board to carry out programs and projects which will provide maximum benefit to the honey industry and no undue preference shall be given to any of the various industry segments.

§ 1240.108 Contracts.

The Board, with the approval of the Secretary, may enter into contracts or make agreements with persons for the development and submission to it of plans or projects authorized by the Order and for carrying out of such plans or projects. Contractors shall agree to comply with the provisions of this part. Subcontractors who enter into contracts or agreements with a primary contractor and who receive or otherwise utilize funds allocated by the Board shall be subject to the provisions of this part. All records of contractors and subcontractors applicable to contracts entered into by the Board are subject to audit by the Secretary.

§ 1240.109 Procedure.

The organization of the Board and the procedure for conducting meetings of the Board shall be in accordance with the By-Laws of the Board.

§ 1240.110 U.S. Department of Agriculture costs.

The Board shall reimburse the U.S. Department of Agriculture (USDA) from assessments for administrative costs incurred by USDA with respect to the Order after its promulgation and for any administrative expenses incurred by USDA for the conduct of referenda. The Board shall pay those administrative costs incurred by USDA for the conduct of its duties under the Order as determined periodically by the Secretary. USDA will bill the Board quarterly and payment shall be due promptly after the billing of such costs.

§ 1240.111 First handler and producer-packer.

(a) The assessment on each lot of honey handled in the United States shall be paid by the first handler who handles, or by the producer-packer who produces and handles such honey.

(1) The first handler shall collect and pay assessments to the Board unless (i) such handler has obtained from the producer a certficate of exemption from the Board exempting the producer from assessment due to the volume exclusion in § 1240.42(a) of the Order and § 1240.114 of the regulations, or (ii) has received documentation acceptable to the Board that the assessment has been previously paid.

(2) A producer-packer shall pay, or collect and pay, assessments to the Board unless (i) such producer-packer has obtained an exemption from the Board applicable to the honey he or she produced or produced and handled; (ii) such producer-packer has obtained from another producer, whose honey the producer-packer handled, a certificate of exemption from the Board exempting that producer from assessment due to the volume exclusion in § 1240.42(a) of the Order and § 1240.114 of the regulations; or (iii) has received documentation acceptable to the Board that the assessment has been previously paid.

(b) Persons who are first handlers or producer-packers include but are not limited to the following:

(1) When a producer delivers honey from his or her own production to a packer or processor for processing in preparation for marketing and consumption, the packer or processor is the first handler, regardless of whether he or she handles the honey for his or her own account or for the account of the producer or the account of other persons.

(2) When a producer delivers honey to a handler who takes title to such honey, and places it in storage, such handler is the first handler.

(3) When a producer delivers honey to a commercial storage facility for the purpose of holding such honey under his or her own account for later sale, the first handler of such honey would be identified on the basis of later handling of such honey.

(4) When a producer packages and sells honey of his or her own production at a roadside stand or other facility to consumers or sells to wholesale or retail outlets or other buyers, the producer is a producer-packer.

(5) When a producer sells unprocessed or processed honey from his or her own production directly to a commercial user or food processor who utilizes such honey as an ingredient in the manufacture of formulated products, the producer is a producer-packer.

(6) When a producer uses honey from his or her own production in the manufacture of formulated products for his or her own account and for the account of others, the producer is the producer-packer.

(7) When a producer delivers a lot of honey to a processor who processes and packages a portion of such lot of honey for his or her own account and sells the balance of the lot, with or without further processing, to another processor or commercial user, the first processor is the first handler for all the honey.

(8) When a producer supplies honey to a cooperative marketing organization which sells or markets the honey, with or without further processing and packaging, the cooperative marketing organization becomes the first handler upon physical delivery to such cooperative.

(9) When a producer uses honey from his or her own production for feeding his or her own bees, such honey is not handled at that time. Honey in any form sold and shipped to any persons for the purpose of feeding bees is handled and is subject to assessment. The buyer of the honey for feeding bees is the first handler.

§ 1240.113 Importer.

Each lot of honey and honey products imported into the United States is subject to assessment under this part. Such assessment shall be paid by the importer of such honey and honey products at the time of importation into the United States. Any person who imports honey or honey products into the United States as principal, agent, broker, or consignee for honey produced outside the United States and imported into the United States shall be the importer.

§ 1240.114 Exemption procedures.

(a) Producers who produce, producer-packers who produce and handle, and importers who import less than 6,000 pounds of honey per year wishing to claim an exemption from assessments pursuant to § 1240.42(a) and (b) should submit an application to the Board for a certificate of exemption.

(b) Upon receipt of the claim for exemption, the Board shall investigate, to the extent practicable, the request for exemption. The Board will then issue, if deemed appropriate, an exemption certificate to each person who is eligible to receive one. Producers who are exempt from assessment must present their certificates of exemption to their first handler in order to not be subject to assessment on honey. Handlers are required to maintain records showing the exemptee's name and address along with their certificate number assigned by the Board.

(c) The Secretary, upon recommendation by the Board, may exempt that portion of assessments collected under a qualifed State plan. *Provided,* That the State plan meets all of the requirements in § 1240.2(d) of the Order.

(1) First handlers collecting assessments from producers for the State plan and the Board shall forward that portion of assessments collected under the order in excess of the State assessment to the Board.

(2) Upon request of the Board, producers having an exemption from a portion of the assessments under this Order due to payment of assessments under a State plan, shall be required to furnish evidence to the Board that the assessments to the State have been paid.

§ 1240.115 Levy of assessments.

(a) An assessment of one cent per pound is levied on honey produced in, or imported into, the United States and on honey used in honey products imported into the United States except that the following shall be exempt from the provisions of this section: (1) Any persons holding a valid exemption certificate during the twelve month period ending on December 31; (2) that portion of honey which does not enter the current of commerce which is utilized solely to sustain a producer's or producer-packer's own colonies of bees; (3) that portion of otherwise assessable honey which is contained in imported products wherein honey is not a principal ingredient. Honey subject to assessment shall be assessed only once.

(b) Assessments shall be levied with respect to honey pledged as collateral for a loan under the Honey Price Support Program in accordance with an agreement entered into between the Honey Board and the Commodity Credit Corporation (CCC). The assessment will be deducted from the proceeds of the loan by CCC and forwarded to the Board, except that the assessment shall not be deducted in the case of a honey marketing cooperative that has already deducted the assessment or that protion of the assessment paid to a qualified State plan exempted by the Board. When such loan is redeemed, the Secretary shall provide the producer with proof of payment of assessment.

(c) The U.S. Customs Service (USCS) will collect assessments on all honey or honey products where honey is the principal ingredient imported under its tariff schedule (TSUSA number 155.70) at the time of entry and forward such assessment as per the agreement between the USCS and USDA.

(d) A late payment charge shall be imposed on any handler, importer, or

producer-packer who fails to pay to the Board within the time prescribed in this subpart the total amount of assessment due for which any such handler, importer, or producer-packer is liable. Fifteen days after the assessment becomes due on a one-time late payment charge of 10 percent will be added to any outstanding funds due the Board.

(e) In addition to the late payment charge, one and one-half percent per month interest on the outstanding balance will be added to any accounts delinquent over 30 days and will continue monthly until the outstanding balance is paid to the Board.

§ 1240.116 Reporting period and reports.

(a) For the purpose of the payment of assessments, a calendar month shall be considered the reporting period; however, other accounting periods may be used when registered with and approved by the Board in writing.

(b) Each first handler and producer-packer shall pay the required assessment pursuant to § 1240.41 of the Order directly to the Board, for each period, on or before the 15th day following the end of such period. Payment shall be in the form of a check, draft, or money order payable to the Board and shall be accompanied by a report pursuant to § 1240.50.

(d) (1) Each importer shall file with the Board a monthly report containing at least the following information:

(i) The importer's name and address.

(ii) The quantity of honey and honey products imported into the United States.

(iii) The amount of assessment paid on honey or honey products imported into the United States to the U.S. Customs Service at the time of importation.

(iv) The amount of any honey or honey products on which the assessment was not paid to the U.S. Customs Service at the time of importation into the United States.

(2) Each importer shall pay any required assessment not paid at the time of importation to the Board for honey or honey products imported into the United States.

(e) In the event of a first handler's, producer-packer's, or importer's death, bankruptcy, receivership, or incapacity to act, the representative of the handler, producer-packer, or importer or his or her estate, shall be considered the first handler, producer-packer, or importer for the purposes of this part.

§ 1240.117 Payment of assessments.

(a) *Time of payment.* The assessment shall become due at the time assessable honey is first handled or imported into the United States pursuant to this part.

(b) *Responsibility for payment.* The first handler, producer-packer, or importer is responsible for payment of assessments. The first handler or producer-packer may collect the assessment from the producer, or deduct such assessment from the proceeds paid to the producer on whose honey the assessment is made, provided he or she furnishes the producer with evidence of such payment. Any such collection or deduction of assessment shall be made not later than the time when the assessment becomes payable to the Board. Failure of the handler or producer-packer to collect or deduct such assessment does not relieve the handler or producer-packer of his or her obligation to remit the assessment to the Board.

(c) *Payment directly to the Board.* (1) Except as provided in paragraph (d) of this section, each first handler, producer-packer, or importer when applicable, shall pay assessments directly to the Board, at the address referenced in § 1240.106, by check, draft, or money order payable to the Board not later than 15 days after the assessments are due together with a report on Board forms.

(2) All reports shall contain at least the following information:

(i) Date of report (which is also date of payment to the Board);

(ii) Period covered by report; and

(iii) Total quantity of honey determined as assessable during the reporting period.

(3) Handler or producer-packers who collect assessments from producers or withhold assessments from their accounts or pay the assessments themselves shall also include a list of all such producers whose honey was handled during the period, their addresses, and the total assessable quantities handled for each such producer.

(d) *Prepayment of assessment.* (1) In lieu of the monthly assessment payment specified in paragraph (b) of this section, the Board may permit first handlers or producer-packers to make advance payments of their total estimated assessments for the season to the Board prior to their actual determination of assessable honey.

(2) Persons using such procedure shall provide a monthly accounting of actual handling and assessments.

(3) Specific requirements, instructions, and forms for making such advance payments shall be provided by the Board upon request.

(e) *Payment through cooperating agency.* The Board may authorize other organizations to collect assessments in its behalf. Such an agreement shall not provide any cooperating agency with authority to collect confidential information from handlers; to qualify, the cooperating agency must on its own accord have access to all information required by the Board for collection purposes. If the Board requires further evidence of payment than provided, it may acquire such evidence from individual handlers.

All such agreements are subject to the requirements of § 1240.52 of the Order, the provisions of section 9(g) of the Act, and all applicable rules and regulations and financial safeguards in effect under the Act and the Order; and all affected persons shall agree to, and conduct their operations and activities in accordance with, such requirements.

§ 1240.118 Refunds.

A refund of assessments may be obtained by a producer or importer only by following the procedure prescribed in this section.

(a) *Application form.* A producer or importer shall obtain a refund form from the Board by written request which shall bear the producer's or importer's signature. For partnerships, corporations, associations, or other business entities, a partner or an officer of the entity must sign the request and indicate his or her title.

(b) *Submission of refund application to Board.* Any producer or importer requesting a refund shall mail an application on the prescribed form to the Board within 90 days from the date the assessment became payable pursuant to § 1240.114. The refund application shall show the following:

(1) producer's or importer's name and address;

(2) first handler's or handler's name(s) and address(es);

(3) the number of pounds of honey on which a refund is requested;

(4) date or inclusive dates on which assessments were paid; and

(5) producer's or importer's signature. Where more than one producer or importer shared in the assessment payment, joint or separate refund application forms may be filed. In any such case the refund application shall show in addition to other required information the names, addresses, and proportionate shares of such producers or importers and the signature of each.

(c) *Proof of payment of assessment.* Evidence of payment of assessments satisfactory to the Board shall accompany the producer's or importer's refund application.

(d) *Payment of refund.* Refunds will be made in June and December only; applications for refunds payable in June must be received by May 31 and applications for payment in December by November 30. For joint applications, the remittance shall be made payable jointly to all eligible producers or importers signing the refund application form.

§ 1240.119 Safeguards.

The Board may require reports by designated handlers on the handling and disposition of exempted honey. Also, authorized employees of the Board or the Secretary may inspect such books and records as are appropriate and necessary to verify the reports on such disposition.

§ 1240.120 Retention period for records.

Each first handler, producer-packer, and importer required to make reports pursuant to this subpart shall maintain and retain for at least two years beyond the marketing year of their applicability: one copy of each report made to the Board, records of all exempt producers including certification of exemption as necessary to verify the address of each exempt producer, and such records as are necessary to verify such reports.

§ 1240.121 Availability of records.

Each first handler, producer-packer, and importer required to make reports pursuant to this subpart shall make available for inspection by authorized employees of the Board or the Secretary during regular business hours, such records as are appropriate and necessary to verify reports required under this subpart.

§ 1240.122 Confidential books, records, and reports.

All information obtained from the books, records, and reports of handlers, producer-packers, and importers and all information with respect to refunds of assessments made to indivudal producers and importers shall be kept confidential in the manner and to the extent provided for in § 1240.52 of the Order.

§ 1240.123 Right of the Secretary.

All fiscal matters, programs, projects, rules or regulations, reports, or other substantive action proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1240.124 Personal liability.

No member of the Board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, or employee except for acts of willful misconduct, gross negligence, or those which are criminal in nature.

§ 1240.125 OMB control number.

The control number assigned to the information collection requirements by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96–511, is as follows: 0581–0153.

Signed this day at Washington, DC, December 24, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 87–610 Filed 1–8–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 7, 20, 25, 53, and 56

[EE–154–78]

Lobbying by Public Charities; Extension of Comment and Request Periods

AGENCY: Internal Revenue Service, Treasury.

ACTION: Extension of time for submitting comments and requests for a public hearing.

SUMMARY: This document provides notice of an extension of the time for submitting comments and requests for a public hearing concerning the notice of proposed rulemaking relating to lobbying expenditures by certain tax-exempt public charities. The extended deadline is April 3, 1987.

DATE: Written comments and requests for a public hearing must be delivered or mailed by April 3, 1987.

ADDRESS: Send comments and requests for a public hearing to Commissioner or Internal Revenue, Attn: CC:LR:T (EE–154–78), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Paul G. Accettura, 202–566–3544 (not a toll-free number).

SUPPLEMENTARY INFORMATION: By a notice of proposed rulemaking published in the **Federal Register** for Wednesday, November 5, 1986, (51 FR 40211), comments and requests for a public hearing with respect to the proposed rules were to be mailed or delivered by February 3, 1987. The date by which comments and requests for a public hearing are to be delivered or mailed is extended to April 3, 1987.

James J. McGovern,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 87–434 Filed 1–8–87; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 286

[DoD Directive 5400.7 and DoD 5400.7–R]

DoD Freedom of Information Act Program

AGENCY: Department of Defense.

ACTION: Proposed amendment to final rule.

SUMMARY: This proposed rule is published pursuant to the requirements imposed by section 954 of the National Defense Authorization Act for Fiscal Year 1987 and Pub. L. 99–661. Section 954 provides for the Secretary of Defense to recover costs of technical data released under the provisions of the Freedom of Information Act (5 U.S.C. 552). This proposed amendment provides the criteria for the collection of fees and fee rates for such technical data.

DATE: Comments should be received by February 9, 1987.

ADDRESS: Send comments to: Colonel Charlie Y. Talbott, Office of the Assistant Secretary of Defense (Public Affairs), Washington, DC 20301–1400.

FOR FURTHER INFORMATION CONTACT: Colonel Charlie Y. Talbott, (202) 697–1180.

SUPPLEMENTARY INFORMATION: 32 CFR Part 286 was published in the **Federal Register** on April 29, 1980 (45 FR 28323).

List of Subjects in 32 CFR Part 286

Freedom of information.

PART 286—[AMENDED]

Accordingly, 32 CFR Part 286 is proposed to be amended as follows:

1. The authority citation for Part 286 is revised to read as follows:

Authority: Pub. L. 99–661, section 2328 and 5 U.S.C. 552.

2. SUBPART G is amended to add § 286.62 to read as follows:

§ 286.62 Collection of fees and fee rates for technical data.

(a) *Technical data.* Technical data, other than technical data that discloses critical technology with military or

space application, if required to be released under section 552 of Title 5 (relating to the Freedom of Information Act), shall be released after the person requesting such information pays all reasonable costs attributed to search and duplication of the records to be released. The Department of Defense (DoD), or Components thereof, shall retain the amounts received by such a release, and it shall be merged with and available for the same purpose and the same time period as the appropriation from which the costs incurred in complying with requests for technical data were paid.

(b) *Waiver.* The DoD automatic fee waiver threshold is $15.00. When direct search and duplication costs for a Freedom of Information Act request for technical data as described in paragraph (a) of this section, total $15.00 or less, fees shall be waived automatically. The DoD, or Components thereof, shall also waive payment of costs which are in an amount greater than the costs chargeable under paragraph (a) of this section if:

(1) The request is made by a citizen of the United States or a United States corporation, and such citizen or corporation certifies that the technical data requested is required to enable such citizen or corporation to submit an offer or determine whether it is capable of submitting an offer to provide the product to which the technical data relates to the United States or a contractor with the United States (except that the Component may require the citizen or corporation to pay a deposit in an amount equal to not more than the cost of complying with the request, to be refunded upon submission of an offer by the citizen or corporation);

(2) The release of technical data is requested in order to comply with the terms of an international agreement; or

(3) The Component determines in accordance with Section 552(a)(4)(A) of Title 5 that such a waiver is in the interest of the United States.

(c) *Fee Rates.*—(1) *Search Time.* (i) Manual Search.

Type	Grade	Hourly rate
Clerical	E9/GS8 and below	$10
Professional	01–06/GS9–GS15	20
Executive	07/GS16/ES1 and above	35

(ii) Computer search is based on direct cost of the central processing unit, input-output devices, and memory capacity of the actual computer configuration. The wage (based upon the scale in paragraph (c)(1)(i) of this section) for the computer analyst/operator determining how to conduct the search, and subsequently executing the search will be recorded as part of the computer search.

(2) *Duplication.*

Type	Cost per page (cents)
Pre-printed material	02
Office copy	15
Microfiche	25
Aperture cards	60
Large engineering drawings	[1] 20

[1] Per inch of length and width.

(3) *Audiovisual documentary materials.* Search costs are computed as for any other record. Duplication cost is the actual direct cost of reproducing the material including the wage (based upon the scale in paragraph (c)(1)(i) of this section) of the person doing the work. Audiovisual materials provided to a requester need not be in reproduceable format or quality.

(4) *Other records.* Direct search and duplication cost for any record not described above shall be computed in the manner described for audiovisual documentary material.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

January 6, 1987.

[FR Doc. 87–418 Filed 1–8–87; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

32 CFR Part 856

Aircraft Arresting Systems

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: The Department of the Air Force is revising Part 856 of Chapter VII, Title 32, of the Code of Federal Regulations, which establishes policy on managing aircraft arresting systems. This revision provides additional information and makes minor changes to update and to clarify the part.

DATE: Comments must be received by February 9, 1987.

ADDRESS: HQ USAF/LEEV, Washington, DC 20332–5000.

FOR FURTHER INFORMATION CONTACT: Lt Col Purcell, HW USAF/LEEV, Washington, DC 20332–5000, telephone (202) 767–6240.

SUPPLEMENTARY INFORMATION: This revision deletes references to HQ USAF/PRE and eliminates reference to obsolete aircraft.

The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

List of Subjects in 32 CFR Part 856

Aircraft, Airports and aviation safety.

The revised Part 856 is proposed to read as follows:

PART 856—AIRCRAFT ARRESTING SYSTEMS

Sec.

Authority: Sec. 8012, 70A Stat. 488; 10 U.S.C. 8012.

§ 856.0 Purpose.

This part establishes policy on managing aircraft arresting systems. It applies to all locations where arrestment capable aircraft use the runway complex, either routinely or in an emergency situation. It applies to U.S. Air Force Reserve and Air National Guard units.

§ 856.1 Concept on the use of aircraft arresting systems.

The Air Force has revised its policy on the use or arresting systems to allow for both operational and emergency arrestments. At some bases, certain aircraft (for example, the F–4) routinely make operational arrestments under certain adverse weather and runway conditions. This procedure reduces accidents and incidents resulting from the loss of directional control or braking action. However, aircraft that do not have tailhooks (for example, the T–38) have structural limitations allowing an arrestment only in an emergency stopping situation. Related policy management and operation of these systems is in the following publications.

(a) AFR 60–11, Aircraft Movement on the Ground.

(b) AFM 86–2, Standard Facility Requirements.

(c) AFM 88–14, Visual Air Navigation Facilities.

(d) AFR 88–16, Stardards for Marking Airfields.

§856.2 Definitions.

(a) *Aircraft arresting system (AAS).* A series of components used to engage an aircraft and absorb the forward momentum of a routine or emergency landing or aborted takeoff. (Each system consists, generally, of energy absorbers and one or more securing or snaring receivers such as hook-cables or pendant-cables attached to a net.)

(1) *Aircraft arresting barrier (BARRIER).* A device not dependent on an aircraft hook, to engage and absorb the forward momentum of an emergency or an aborted takeoff.

(2) *Aircraft arresting cable (H/C).* A device used to engage hook-equipped aircraft to absorb the kinetic energy of a landing or aborted takeoff aircraft.

(b) *Aircraft arresting complex.* An airfield layout comprised of one or more aircraft arresting systems of the same or different types. (See §856.3 for classification or runways).

(c) *Arresting capable aircraft.* Aircraft which has recognized arrestment procedures in its appropriate Flight Manual.

(d) *Cycle time.* The time measured between the engagement of an aircraft with an arresting system and completely repositioning the arresting system for another engagement. This includes normal inspection and system cooling time according to the appropriate 35E8 series Technical Orders (TO).

(e) *Emergency arresting system (EAS).* Used primarily to prevent damage to aircraft and possible loss of life during an aborted takeoff or a landing emergency.

(f) *Energy absorber.* The mechanism through which the kinetic energy of the aircraft is dissipated. Examples of energy absorbers are weights and rotary hydraulic or friction brakes.

(g) *Hook-cable.* A cable or wire rope which is engaged by the arresting hook of an aircraft during an arrestment.

(h) *Location identification.* An arresting system is identified by stating whether it is located either on the approach end or the departure end of the runway. (That is, a BAK-12 on the approach end of runway 36 is on the south end of the runway.) Always use the term "approach end" or "departure end" in referring to an arresting system which is installed near the end of the runway.

(i) *Mobile aircraft arresting system (MAAS).* A rapidly installed and relocatable arresting system developed for use at air bases in high threat areas where runways may be damaged by enemy attack. The system uses BAK 12 energy absorbers mounted on trailers which can be rapidly anchored in place.

(j) *Operational arresting system (OAS).* Generally a rapid cycle system used to enhance the tactical mission or to avert a possible emergency which may be caused by meteorological conditions, a short runway, or known or suspected aircraft malfunctions. The OAS is used on a daily basis as opposed to the emergency-only use of an EAS.

(k) *Pendant-cable.* A cable or wire rope suspended from the net of an aircraft arresting barrier which engages a structural portion of the aircraft during an arrestment.

(l) *Reset time.* The time required to make the arresting system ready for another engagement after aircraft release.

§ 856.3 What systems are authorized.

ANG units are authorized systems in accordance with AFM 86–2. An EAS or an OAS should be installed on each runway used by arrestment compatible aircraft. An additional system (of either type) also should be installed if the installation's primary mission involves the operation of arrestment capable aircraft, or if the runway's closure (because of an inoperative system) would seriously degrade mission capability. When developing an aircraft arresting complex, maximum mission capability should be provided within the limits imposed by cost effectiveness. In evaluating the requirement for installing an arresting system, there are four classes of runways which must be considered:

(a) *Class A runway.* This runway is intended primarily for operating tactical or training aircraft. For example, a fully developed Class A runway could have the following arresting systems:

(1) An arresting barrier at each end, generally located in the overrun, but placed to provide the runout prescribed in AFM 86–2.

(2) A bi-directional emergency arresting system on each end of the runway, placed 950 to 1500 feet up the runway from the threshold. (This system may also have an OAS capability.)

(3) A bi-directional operational arrestment system placed 1500 to 2500 feet up the runway from the threshold. It must be placed at least 1200 feet from the EAS, and far enough from it to avoid any possible conflict with the runout from the EAS.

(4) An OAS placed at the midpoint of the runway. The installation of this additional system must be specifically approved by HQ USAF.

(b) *Class B runway.* A runway that is a prime alternate for a Class A runway. It should have an EAS or OAS 950 to 1500 feet from each end of the runway, as well as a backup EAS In the overrun.

(c) *Class C runway.* A runway that requires only a single EAS capability on each end of the runway for either hook or nonhook equipped aircraft.

(d) *Class D runway.* A runway that does not have an arresting system requirement.

§ 856.4 Authorized use of aircraft arresting systems.

A deviation from the following policy is authorized only when directed by the installation commander (or designated representative) because of meteorological conditions, safety of flight, or peculiar operational conditions:

(a) Under normal operations and conditions, unidirectional barrier nets or arresting cables are disconnected and, preferably, removed on the approach end of the runway. Aircraft will take off and land toward the most compatible arresting system available; however, tailhook-equipped aircraft do not take off over a raised remote-controlled net barrier if a more compatible arresting system is available. If there is no remote-control function, or cold weather makes the remote function unreliable, the barrier net is raised manually and left in a cocked position on the departure end of the runway. Bi-directional arresting gear is kept in the ready position on the approach end of the runway, unless directed otherwise and noted in Flight Information Publications (FLIP).

(b) If arrestment capable aircraft are landing with known or suspected radio failure, the departure end barrier net is raised and the hook cable positioned for aircraft engagement. Also, the arresting gear at the approach end is positioned for engagement, unless the aircraft is vulnerable to an inadvertent engagement because of an unguarded tailhook.

(c) During ice and snow removal, barrier net and hook cables may be removed from the runway, but the runway should be returned to operational status as quickly as possible. Runways and overruns should be cleared to allow for an obstacle-free runout of the arresting system, plus the length of the arrested aircraft.

§ 856.5 Pilot responsibilities.

Each pilot must understand the capabilities and limitations of each arresting system, and how it may affect

his or her aircraft operations. Information on the compatibility of these systems should be included in the Aircraft Flight Manual. In addition, the pilot must:

(a) Determine the status of the arresting system at each base of takeoff and intended landing, as well as any alternate or planned emergency bases, before beginning a flight.

(b) For remote control systems, use the emergency radio phraseology, "barrier, barrier, barrier" or "cable, cable, cable," when emergency conditions require the tower to raise the barrier net or ready a hook-cable for possible engagement.

(c) Know the effect of each aircraft configuration on the probability of a successful engagement. The pilot should also be aware of possible damage caused by an inadvertent engagement, landing on, rolling over, or impacting hook-cables or other associated arresting equipment.

§ 856.6 Use of systems by non-United States government aircraft.

In an emergency, the pilot of a non-U.S. government aircraft, on request, may use the aircraft arresting system at an Air Force base or a joint-use airport in the U.S. or overseas.

§ 856.7 Installing a system at a joint-use airport.

At a civil airport used jointly by the Air Force and a civil agency, the procedures for installing an arresting system are as follows:

(a) At a civil airport used jointly by the Air National Guard and a civil agency, the procedures for installing an arresting system are in ANGR 86–1, Chapter 2.

(b) The responsible Air Force commander notifies the airport manager that the Air Force needs to install an arresting system.

(c) If the airport manager agrees that the system should be installed, the Air Force commander submits the required plans or sketches to the Federal Aviation Administration (FAA) regional office through the Air Force representative of the FAA region.

(d) If the airport manager or the FAA disagrees with these specifications, the Air Force commander informs the MAJCOM, which can request that HQ USAF/LEEV resolve the disagreement.

(e) If an arresting system is required, but the lease does not authorize, or prohibits the government from placing an additional structure on the leased premises, the Air Force commander submits a request through the MAJCOM to HQ USAF/LEEV for action as prescribed by AFR 87–1, and attaches a brief statement explaining or quoting the lease restriction.

§ 856.8 Agreements required for operation of the systems.

(a) Military rights agreement at an oversea base. These systems are installed under the military rights agreement with the host government. If a separate agreement is specifically required to install the system, the base commander takes action to obtain it from the host government and coordinates these negotiations with the local U.S. diplomatic representative. If the commander cannot reach an agreement, the MAJCOM is notified. If still unresolved after MAJCOM's efforts, then HQ USAF/LEEV is notified.

(b) Liability agreements at a joint-use civil airport. If the Air Force installs an arresting system for the primary use of U.S. military aircraft at a joint-use civil airport, the FAA acts for, and on behalf of, the Air Force in operating this equipment. However:

(1) Any third-party claim presented for damage, injury, or death, resulting from the FAA operation of the system for military aircraft or from the Air Force or Air National Guard maintenance of the system, is the responsibility of the Air Force and is processed under Part 842 of this chapter (as prescribed for any claim against the Air Force).

(2) A separate agreement between the Air Force and the FAA is not required concerning liability for damage arising from the intentional operation of the system by FAA personnel for civil aircraft, because such claims are the responsibility of FAA.

(c) Operational agreement with FAA for a joint-use civil report. The MAJCOM has authority to negotiate the written agreement for this use, but may redelegate this authority to the base commander. The agreement must describe FAA functions and responsibilities covering the remote control operation of arresting systems by FAA air traffic controllers (§ 856.9).

§ 856.9 Format for letter of agreement with FAA.

The following operational agreement is entered into between the (FAA office and address) and (designated command) for the operation and use of aircraft arresting equipment installed on (designated runway, airport name and address).

(a) *General provisions.* (1) This agreement governs the use of the arresting barrier (BARRIER), and hook-cable arresting systems for military aircraft and in an emergency for civil aircraft at pilot request.

(2) This agreement becomes effective when the tower chief receives notice in writing from the base commander that:

(i) The arresting system has been accepted from the contractor and is commissioned and fully operational, or

(ii) The arresting system is available on a limited basis for emergency use. If the arresting system has not been accepted from the contractor, this notification must be accompanied by a written statement from the contractor authorizing the emergency use of the system, and waiving any claim against the FAA for damage to the system as the result of such use, or

(iii) A NOTAM has been issued specifying condition (i) or (ii) of this section. Before receipt of the letter from the base commander, the tower arresting system controls will be de-energized by the military and placarded "INOPERATIVE" by the Chief Controller, and will not be activated by tower personnel under any circumstance.

(3) Automatic aircraft arresting systems can be installed on the runway or in the overrun. The barrier or hook-cable will be raised or lowered by control tower personnel by a remote-control panel in the control tower.

(4) When the arresting systems are in commission or emergency use status as described above, controllers will operate the tower arresting system controls at the request of a pilot of any military aircraft (regardless of the service concerned, type of aircraft, or whether the operation is routine or emergency) and at the request of a civil pilot in an emergency. The tower will also comply with requests for arresting system operations by a mobile control unit, the base operations officer, or a designated representative.

(5) NOTAMS covering operational or outage status of the barrier or hook cable will be originated by the military. During a NOTAMed outage for repair or maintenance, the tower personnel will operate the controls provided that the outage NOTAM contains the statement "available for emergency use" and the tower is provided a copy. Otherwise, tower controls will be de-energized by the military and posted "INOPERATIVE" by the Chief, Controller, and will not be activated by tower personnel under any circumstances.

(6) During the NOTAMed outages owing to failure of tower controls or control lines to the facility, or on notification by tower personnel of malfunction of the arresting system mechanism or remote control system (see (b)(8) of this section for notice), the

military crew at the system site will have full and final responsibility for operating the arresting device. The arresting system crew will maintain a listening watch on air and ground frequencies and have transmitting and receiving capability with the tower on the ground control frequency keeping personnel informed of the position of the system.

(b) *Operations.* (1) Normally all military aircraft takeoffs and landings are made toward an operational arresting system in the "ready" configuration. It is the pilot's responsibility to request the control tower operator to raise or lower the barrier or hook cable.

(Note.—For normal operations, request to raise the barrier or cable shall be interpreted to mean the runway approach end barrier or cable.) Example: "Duluth Tower, Joy 32 on base gear down and locked raise cable." When the pilot advises the control tower that he or she is ready for takeoff, a request for the barrier or cable to be raised may be made. The departure end cable will also be raised as for normal operations.

(2) When barrier/cable is requested, tower personnel advise the pilot of the indicated barrier/cable position as part of takeoff or landing information. Example: "Joy 32 cleared for takeoff, barrier indicates up."

(3) The barrier/cable operating status may be requested by the pilot at any time.

(4) The barrier/cable controls are in the down position except when the pilots or other authorized personnel request that the barrier/cable be raised.

(5) Tower personnel raise the departure end barrier and both approach and departure end cables for known or suspected radio failure landing by any arrestment capable military aircraft. If there is doubt regarding the ability of an aircraft to engage a system, the system should be activated.

(6) The standard emergency phraseology for the barrier to be raised to the up position is "barrier, barrier, barrier" and for the cable to be raised is "cable, cable, cable."

(7) Tower personnel initiate normal crash procedures when an aircraft engages the barrier/cable if these procedures have not previously been initiated.

(8) When there is a malfunction of the barrier or hook-cable mechanism or remote control system, the tower personnel notify Base Operations immediately.

Executed at _____
Dated _____

For the Federal Aviation Agency—

(Signed) _____

(Title) _____

(Region) _____

(Address) _____

For the Air Force—

(Signed) _____

(Title) _____

(MAJCOM) _____

(Address) _____

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 87-463 Filed 1-8-87; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 161

[CGD 85-076]

Berwick Bay Vessel Traffic Service

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend the regulations which apply to towing operations during periods of high water in the area covered by Berwick Bay Vessel Traffic Service (VTS) at Morgan City, Louisiana. A review of recent casualties within the VTS area indicated the need to tailor the regulations to better address the nature of the problems actually experienced. In addition, the present regulations have proven to be complex and difficult to apply. These amendments would focus on actual needs and deficiencies, eliminate unreasonable burdens resulting from the present system of determining required horsepower for towboats, and simplify implementation of the high water limitations.

DATES: Comments must be received by February 9, 1987.

ADDRESSES: Comments may be mailed to Commandant (G-CMC/44) (CGD 85-076), U.S. Coast Guard, Washington, DC 20593. Comments may be delivered to and will be available for inspection or copying at the Office of the Marine Safety Council, Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593, (202) 267-1477, between 8 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Powers, (202) 267-0415.

SUPPLEMENTARY INFORMATION: The public is invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Comments should include the name and address of the person making them, identify this notice (CGD 85-076) and the specific section of the proposal to which each comment applies, and give the reason for the comments. If an acknowledgment is desired, a stamped, addressed postcard or envelope should be enclosed.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it's determined that the opportunity to make an oral presentation will aid in the rulemaking process.

Drafting Information

The principal persons involved in drafting this proposal are Mr. Michael J. Powers, Project Manager, Office of Navigation, LCDR Richard E. Ford, PSSTA Houston, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background

At the request of various members of the towing industry, the Captain of the Port, New Orleans, (COTP) agreed to host a meeting called by the towing industry to discuss the Berwick Bay Vessel Traffic Service (VTS) regulations and their impact on the industry. This meeting was held at the COTP's offices on October 16, 1984, and was attended by approximately a dozen members of the towing industry, a representative of the American Waterways Operators, Inc. (AWO), representatives of the Southern Pacific Transportation Co. (SPTCO), as well as several members of the COTP's staff.

During the meeting, various problems with the VTS regulations were discussed, particularly those relating to the situation in which a towing operation could be adequately powered under the circumstances of a particular case but still not meet the minimum horsepower requirements of the existing high water or extreme high water limitations. A detailed study of Berwick Bay's traffic patterns and accident rates was presented by the COTP, along with several proposals that would greatly improve and simplify the regulations and make them more flexible. A copy of this study, entitled "Review of VTS Berwick Bay High Water and Extreme High Water Regulations", is available from Commandant (G-NSS-2), U.S. Coast Guard, 2100 2nd. St., SW., Washington, DC 20593.

This study and the proposals to amend the regulations were favorably received by the members of the towing industry, who requested they be presented again at the COTP's offices on November 14, 1984. This presentation was also favorably received. In response to yet another request from the industry, the material was presented a third time before a meeting of the Vessel Operations Committee of AWO in Washington, DC on February 26, 1985. As a result of this third presentation the proposals were found to merit taking regulatory action.

Discussion of Proposed Amendments

The proposed amendments are based on the Coast Guard study, which reviewed casualties within the VTS area from January 1, 1982, to September 30, 1984, and assessed the effectiveness of the existing regulations in reducing accidents. Specifically, mathematical formulas have been developed using the length of a tow to decide the minimum horsepower for a particular operation. The formulas are adjusted for upbound/downbound and daytime/nighttime transits. Since promulgation of the current rules, on January 5, 1984, (49 FR 577), the Coast Guard has had an opportunity to evaluate horsepower to length ratios as a vessel traffic management tool. The conclusions of the traffic/accident study and the number of waivers requested by tow operators who could not meet specific length/horsepower requirements indicated a need to reconsider the VTS rules. In effect, this proposal would revise the general limitations (§ 161.767) and combine the southbound (§ 161.768), northbound (§ 161.769), and extreme high water limitations (§ 161.770) into a single section (proposed § 161.768). Special requirements for extreme high water and integrated/non-integrated operations would be dropped or addressed otherwise in the proposed amendments.

Proposed § 161.703 would be amended to remove the definition of "integrated tow". Comments received indicated integrated tows are poor handlers, regardless of whether they are proceeding with or against the current, and should not be permitted to exceed two barges in length. Therefore, references to integrated/non-integrated tows would be dropped from the high water limitations and a new limitation restricting any tow with a box end in the lead to a maximum length of two barges would be added in proposed § 161.767(d).

A definition of the term "length of tow" would be added to § 161.703 for use in new § 161.768 for calculating available horsepower. "Length of tow" would replace "overall length"(length of towing vessels and tow) in the proposed formula. "Length of tow" is more descriptive of the information presently used to determine the allowance for movements in the Berwick Bay area. This definition includes the combined length of the barges being towed but excludes the length of the tug and the length of hawsers.

Proposed § 161.761 would be amended to specify the new section numbers applicable to the high water towing limitations (§§ 161.761 through 161.768).

In proposed § 161.767(a), the term "northbound" would be replaced by "upbound" to apply customary nautical language for vessels moving upstream against the current.

Section 161.767(b) is unchanged.

Proposed § 161.767(c) is new and would limit the length of tows with a box end in the lead to a maximum of two barges. This provision is discussed previously under § 161.703.

A note would be added to § 161.767, recommending variations in barge width and barge draft not exceed 10% of the widest barge or the barge drawing the most water respectively. This note is similar to existing § 161.767 (c). However, the existing limitation is overly restrictive and can safely be relaxed by making it advisory in nature rather than mandatory. Tows with clearly excessive draft and beam variations can be required, if necessary, by a Captain of the Port order to make other arrangements, such as tripping. "Tripping" is the process of breaking up a string of barges before entering a narrow waterway, shuttling one or more barges at a time through the area, and reassembling the string once all barges have reached the other side.

Proposed § 161.768 is new and replaces existing § 161.768, Southbound limitations, § 161.769, Northbound limitations, and § 161.770 Extreme high water limitations. This section would impose specific horsepower to length ratios based on whether or not the tows are carrying a cargo of particular hazard (COPH).

Proposed § 161.768(a) would require each tow carrying any COPH to have a minimum available horsepower equal to three times the length of tow or 600, whichever is greater. The increased horsepower for movements of COPH, when compared with horsepower for non-COPH movements, will minimize their risk for accidents. The Coast Guard realizes the formula for COPH movements is the same as the formula for downbound/nighttime movements. The Coast Guard considers the hazardous nature of COPH to warrant a level of safety at all times no less than and no more than the most cautious movement requirement—downbound/nighttime. This is not considered an unreasonable requirement; and commensurately, upbound/daytime movements of COPH would afford the greatest level of safety. By using length of tow to determine required horsepower, this proposal would allow a graduated transition between length and horsepower. This formula more accurately reflects actual maneuverability requirements of COPH tows of various lengths. Existing regulations (§ 161.767(d)) require tows carrying a COPH to have at least 1,000 available horsepower, regardless of length. The present requirement does not take into consideration the increased maneuverability that may be needed for large tow lash-ups and imposes excessively high horsepower requirements for tows in the 200' to 333' length range.

Proposed § 161.768(b) outlines minimum horsepower requirements for tows during daylight/nighttime and upbound/downbound transits when not carrying a COPH. These requirements are organized in the form of a table incorporating appropriate formulas for minimum horsepower requirements depending upon the length of a tow and time/direction of movement. A distinguishing feature of the table is the establishment of horsepower to length ratios instead of the present scheme of a fixed horsepower throughout a range of lengths (e.g. 1,200 horsepower for tows from 400' to 600' in length). The existing regulations do not provide for a graduated transition between the several horsepower requirements. This results in radically different horsepower requirements for tows with only minor differences in length. For example, during the daytime, a 400' tow presently requires a minimum of 600 horsepower (existing § 161.770(a)(3)), while a 401' tow requires a minimum of 1,200 horsepower (existing § 161.770(a)(2)) or twice the horsepower of the 400' tow. The proposed formulas are based on graphs prepared for the Coast Guard study which plotted selected accidents by length of tow vs. horsepower. Horsepower/length ratios were developed for day/night, up/down movements based on major groupings of accidents and the minimum acceptable horsepower that may have assisted in preventing the accidents.

Proposed § 161.768(c) would permit a deviation of 5% from the available horsepower required under paragraphs (a) or (b) of proposed § 161.768. The

Coast Guard study recommended allowing some leeway to provide for minor variations in horsepower. In situations requiring a deviation of more than 5%, existing § 161.715 permits the Captain of the Port, New Orleans, to authorize deviations from these or any Berwick Bay VTS regulation if that officer finds the proposed operation can be done safely.

Proposed § 161.768(d) would exempt towboats having an available horsepower of 3,000 horsepower or more from the horsepower to length requirements of proposed § 161.768. This exemption resulted from the study indicating an almost total lack of accidents involving this much horsepower. These operations would still be limited to a maximum overall length (towing vessels and tows) of 1,180' under proposed § 161.767(c).

In addition to the changes proposed above, the Coast Guard is particularly interested in obtaining comments regarding the fleeting of barges north of Berwick Bay. Of specific interest is how the proposed regulations would impact tow operations within the Berwick Bay area.

Regulatory Evaluation

These proposed regulations are considered to be nonmajor under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). A Regulatory Impact Analysis under Executive Order 12291 is not required. A separate Draft Regulatory Evaluation has not been prepared because the expected impact of the proposed regulations is so minimal the proposal does not warrant a full Evaluation.

The proposed amendments would affect only towing operations during periods when the High Water Towing Limitations are in effect. These amendments, as do the existing regulations, restrict length, horsepower, and configuration of vessels with tows and may require certain operations to break up tows or add power. However, because the amendments would replace the existing fixed horsepower requirements based on a range of lengths (e.g. 1,200 horsepower for a 400' to 600' range) with a direct horsepower to length requirement, some operations would be permitted to operate with more barges or less available horsepower than permitted under the existing regulations (See the discussion in the preamble on proposed § 161.768(b)). In other words, depending on the circumstances of the particular operation, the proposed changes would increase the operational costs for some operations but could reduce them for others. Because of the numerous variables from one operation to the next, the overall extent of these benefits and burdens is not precisely quantifiable. However, an estimate of the savings can be made from the expected decrease in the number of tow breakups that would occur should this proposal be implemented.

It is known that tripping (as defined in the discussion of § 161.761) through the VTS Area can take up to twelve hours and cost an additional $800 to $3,000 in manhours, fuel, and revisions to schedules. If the average tripping cost is $1,900 per trip (midway between $800 and $3,000) and this figure is multiplied by 60 (the estimated number of operations per year that require tripping under the regulations but would not require tripping under this proposal), the total savings could be approximately $114,000 per year. However, as mentioned earlier, some operations not requiring tripping under the existing regulations might require it under these proposals.

In any event, the real benefits of this rulemaking are to make the limitations more fair and less arbitrary and to make them easier to understand and apply in the field. Savings which one operator may incur on a particular operation would be, under the broad scheme, only a secondary benefit.

Because these proposals are keyed to the results of the Coast Guard study based on actual usage of the VTS Area, these amendments should improve safety in some instances but in all cases maintain at least the present level of safety without unnecessary "overkill."

The Coast Guard specifically asks for comments on this draft regulatory evaluation.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 through 612) requires an initial regulatory flexibility analysis, or a summary thereof, to be placed in the Notice of Proposed Rulemaking if the proposal would have a significant economic impact on a substantial number of small entities. "Small entities" include (1) independently owned and operated small businesses which are not dominant in their field and which otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632), (2) small not-for-profit organizations, and (3) small governmental jurisdictions, such as towns with a population of less than 50,000 inhabitants.

For the reasons discussed above in the regulatory evaluation, the Coast Guard believes these regulations will not have a significant economic effect. Therefore, the Coast Guard certifies under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)) these regulations, if promulgated, would not have a significant economic impact on a substantial number of small entities.

Reporting and Recordkeeping Requirements.

This rule contains no reporting or recordkeeping requirements.

Environmental Impact

This action has been thoroughly reviewed by the Coast Guard and it has been determined to be categorically excluded from further environmental documentation, in accordance with Section 2.B.3(1) of Commandant Instruction (COMDTINST) M16475.1B.

List of Subjects in 33 CFR Part 161

Hazardous materials transportation, Navigation (water), Vessels.

PART 161—VESSEL TRAFFIC MANAGEMENT

For reasons set forth in the preamble, title 33, Part 161 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 161 is revised to read as follows and all other authority citations are removed:

Authority: 33 U.S.C. 1231; 49 CFR 1.46(n)(4).

2. By revising the table of contents for Part 161, Berwick Bay Vessel Traffic Service High Water Towing Limitations, to read as follows.

* * * * *

Berwick Bay Vessel Traffic Service

* * * * *

High Water Towing Limitations

161.761 Applicability.
161.762 Precautionary notices.
161.764 When limitations are in effect.
161.765 Notice of when limitations are in effect.
161.767 Operational limitations.
161.768 Horsepower limitations.

* * * * *

3. By removing the term "Integrated tow" from § 161.703 and by adding in alphabetical order a definition for the term "length of tow" to read as follows:

§ 161.703 Definitions.

* * * * *

"Length of tow" means the combined length in feet of all barges in the tow, exluding the length of hawsers and the length of the tug.

* * * * *

4. By revising § 161.761 to read as follows:

§ 161.761 Applicability.

The high water towing limitations (§ 161.761 through § 161.768) apply to the operation of vessels with tows intending to transit under the lift span of the SPRR bridge or through the navigational openings of either of the two U.S. 90 highway bridges to the north of the SPRR bridge, when those limitations are in effect.

5. By revising §§ 161.767 and 161.768 to read as follows:

§ 161.767 Operational limitations.

(a) Towing on a hawser in either direction is prohibited, with the exception of one self-propelled vessel towing one other vessel upbound.

(b) Barges and towing vessels must be arranged in tandem, with the exception of one vessel towing one other vessel alongside.

(c) A towing vessel or vessel and tow must not exceed an overall length of 1,180 feet.

(d) Tows with a box end in the lead must not exceed two barges in length.

Note: The variation in draft and beam of the barges in a multibarge tow should be minimized in order to avoid unnecessary strain on the coupling wires. It is recommended this variation not exceed 10% of the draft of the barge drawing the most water and 10% of the beam of the widest barge.

§ 161.768 Horsepower limitations.

(a) All tows carrying a cargo of particular hazard must have available horsepower of at least 600 or three times the length of tow, whichever is greater.

(b) All not carrying a cargo of particular hazard must have available horsepower of at least the following:

Direction of transit	Available horsepower for daytime transit	Available horsepower for nighttime transit
Upbound.....	400 or three times (length of tow minus 300 ft.) whichever is is greater.	600 or three times (length of tow minus 200 ft.), whichever is greater.
Downbound..	600 or three times (length of tow minus 200 ft.), whichever is is greater.	600 or three times length of tow, whichever is greater.

"Daytime" means sunrise to sunset. "Nighttime" means sunset to sunrise.

(c) A 5% variance from the available horsepower required under paragraphs (a) and (b) of this section is permitted.

(d) Tows with 3,000 or more available horsepower need not comply with paragraphs (a) and (b) of this section.

§ 161.769 [Removed]

6. By removing § 161.769, Northbound limitations.

§ 161.770 [Removed]

7. By removing § 161.770, Extreme high water limitations.

Dated: December 11, 1986.

Martin H. Daniell,

Rear Admiral, U.S. Coast Guard, Chief Office of Navigation.

[FR Doc. 87-373 Filed 1-8-87; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL MARITIME COMMISSION

46 CFR Part 580

[Docket No. 86-29]

Filing of Service Contracts and Availability of Essential Terms; Extension of Comment Period

AGENCY: Federal Maritime Commission.

ACTION: Proposed rule; Enlargement of time to comment.

SUMMARY: The Commission initiated this proposed rulemaking regarding service contract recordkeeping by **Federal Register** notice of November 13, 1986 (51 FR 41132), and established January 12, 1987, as the date comments were due. Counsel for the Trans-Pacific Freight Conference of Japan and the Japan-Atlantic & Gulf Freight Conference (the Conferences) has now filed a request to extend the time for comments until January 16, 1987. The Conferences base the request on participation by the Conferences' Chairman in another Commission proceeding and the intervening holiday season which has impeded development of the Conferences' position on this matter. Therefore, for good cause shown, the request for an enlargement of time will be granted.

DATE: Comments due on or before January 16, 1987.

ADDRESS: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Rm. 11101, Washington, DC 20573.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740

Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796

Joseph C. Polking,

Secretary.

[FR Doc. 87-438 Filed 1-8-87; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF DEFENSE

48 CFR Part 215

Federal Acquisition Regulation Supplement; Field Pricing Reports

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule.

SUMMARY: The Defense Acquisition Regulatory Council is proposing to modify the field pricing report rule to accommodate the acquisition of spare parts under the Spares Acquisition Integrated with Production (SAIP) Program.

DATE: Interested parties are invited to submit written comments on or before (March 10, 1987) to the Executive Secretary, DAR Council, at the address below, to be considered in formulation of a final rule. Please cite DAR Case 86-70 in all correspondence related to this subject.

ADDRESS: Interested parties should submit written comments to Defense Acquisition Regulatory Council, Attn: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L)(M&RS), Room 3C841, The Pentagon, Washington, DC 20301-3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Regulatory Council is proposing to require the contracting officer to include production scheduling information in the request for field pricing reports and to require the contractor to include this data in the proposal when the Government acquires spare parts under the Spares Acquisition Integrated with Production (SAIP) Program. This data will allow the Government to realize economic benefits by combining spare parts quantities with production quantities.

B. Publicizing

This proposed rule does not have a significant impact on a substantial number of small entities and does not have a significant impact beyond the internal operating procedures of the Department of Defense. The rule requires no new reports, administrative

burden, etc. from the contractor(s). Therefore, it is not required to publicize this proposed coverage for public comment. However, any comments received will be considered in the formulation of a final rule.

C. Regulatory Flexibility Act

Since this rule does not have to be publicized for public comment, the Regulatory Flexibility Act does not apply. Therefore, a Regulatory Flexibility Act Analysis has not been prepared.

D. Paperwork Reduction Act

The rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

List of Subjects in 48 CFR Part 215

Procurement.

Therefore, 48 CFR Part 215 is proposed to be amended as follows:

1. The authority citation for 48 CFR Part 215 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35 and DoD FAR Supplement 201.301.

PART 215—CONTRACTING BY NEGOTIATION

2. Section 215.805–5 is proposed to be amended by adding to paragraph (c)(1), paragraph (S–72) to read as follows:

§ 215.805–5 Field Pricing Support.

* * * * *

(c)(1) * * *

(S–72) When field pricing reports are to be requested for spare parts proposals that have been identified as Spares Acquisition Integrated with Production (SAIP) items (see DoD Instruction 4245.12), the contracting officer shall—

(A) Include a copy of the data entitled "Contractor's Procurement Schedule for SAIP" (Data Item DI–V–7200), or equivalent, in the request so that the benefits of combining new and in-process quantities can be assured (this data is delivered by the contractor on contracts that include SAIP requirements); or

(B) Require the contractor to include this data in its proposal.

* * *

[FR Doc. 87–436 Filed 1–8–87; 8:45 am]

BILLING CODE 3810–01–M

Notices

Federal Register
Vol. 52, No. 6
Friday, January 9, 1987

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

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass National Forest, AK, Ketchikan Area; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service, will prepare an Environmental Impact Statement for the Revilla Island Analysis Area. The Analysis will set standards and guidelines for management activities, provide a detailed schedule of activities, and determine the level of development to take place over a 10-year planning period. Alternative locations of timber harvest units, roads, timber harvest facilities, wildlife and fish projects, and recreation facilities will be identified and evaluated.

Overall guidance for the analysis will be provided by the Alaska Regional Guide, The Tongass Land Management Plan, and the Ketchikan Pulp Company Long-Term Timber Sale Plan for the 1984–89 Operating Period.

A range of alternatives will be examined to determine which combination of activities best balances resource needs with public needs and desires. One alternative will be the no action alternative.

Scoping for the project was conducted in the spring and summer 1985. The issues identified at that time include:

1. Potential Impacts on Recreation and Visual Resources.
2. Opportunities to Enhance Recreation.
3. Potential Impacts on Wildlife and Fish.
4. Opportunities to Benefit Wildlife and Fish.
5. Economics.
6. Subsistence.
7. The Extent and Location of Development.
8. Protection of Archaeological Sites.
9. Conformance with the Tongass Land Management Plan.
10. Protection of Soils and Water Quality.
11. Powerline and Transportation Route Coordination.

This notice is being prepared to provide time for additional comments.

The Fish and Wildlife Service of the Department of the Interior and the National Marine Fisheries Service of the Department of Commerce will be asked to participate as cooperating agencies to evaluate potential impacts on threatened and endangered species habitat if any such species are found to exist within the project.

The Army Corp of Engineers will be asked to participate as a cooperating agency to evaluate potential impacts of terminal transfer facilities on marine habitat and to evaluate potential impacts on wetlands and floodplains.

Win Green, Forest Supervisor, Ketchikan Area, Tongass National Forest, Federal Building, Ketchikan, Alaska 99901 is the Responsible Official.

The Draft Environmental Impact Statement should be available for public review by May 1987. The Final Environmental Impact Statement is scheduled to be completed in September 1987.

Written comments and suggestions concerning the analysis should be sent to Win Green, Forest Supervisor, Tongass National Forest, Ketchikan, Alaska 99901 by March 15, 1987.

Questions about the proposed action and Environmental Impact Statement should be directed to Martin Prather, Team Leader, P.O. Box 6137, Tongass National Forest, Ketchikan, Alaska 99901, Phone (907) 225–2148.

Dated: January 2, 1987.

Win Green,

Forest Supervisor.

[FR Doc. 87–405 Filed 1–8–87; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; H. Lee Moffit Cancer Center et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–300. Applicant: H. Lee Moffit Cancer Center, Tampa, FL 33682. Instrument: Electron Microscope, Model CM 10. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 51 FR 33282. Instrument ordered: December 27, 1985.

Docket No. 86–303. Applicant: Allegheny Hospital, Pittsburgh, PA 15212–9986. Instrument: Electron Microscope, Model CM 10 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 51 FR 33283. Instrument ordered: July 14, 1986.

Docket No. 86–313. Applicant: State University of New York at Binghamton, Binghamton, NY 13901. Instrument: Electron Microscope, Model H–7000 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice at 51 FR 34680. Instrument ordered: May 2, 1986.

Docket No. 86–315. Applicant: University of Oregon, Eugene, OR 97403. Instrument: Electron Microscope, Model CM 12 with Accessories. Manufacturer: N.V. Philips, The Netherlands Intended use: See notice at 51 FR 34680. Instrument ordered: May 20, 1986.

Docket No. 86–317. Applicant: University of Arizona, Tucson, AZ 85721. Instrument: Electron Microscope/SEG, Model JEM–4000EX with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 51 FR 34680. Instrument ordered: March 31, 1986.

Docket No. 86–322. Applicant: Gulf Coast Research Labortory, Ocean Springs, MS 39564. Instrument: Electron Microscope, Model JEM–100SX. Manufacturer: JEOL, Japan. Intended use: See notice at 51 FR 36738. Instrument ordered: July 7, 1986.

Docket No. 86–324. Applicant: Los Angeles County Medical Center, Los Angeles, CA 90033. Instrument: Electron Microscope, Model EM 109. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 36738. Instrument ordered: May 29, 1986.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these

instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 87-455 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-427-602]

Final Determination of Sales of Less Than Fair Value: Brass Sheet and Strip From France

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that brass sheet and strip from France are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from France that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: Janaury 9, 1987.

FOR FURTHER INFORMATION CONTACT: Paul Tambakis or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-4136 or 377-5288.

SUPPLEMENTARY INFORMATION: .

Final Determination

We have determined that brass sheet and strip from France are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(d) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices provided by petitioners. We have found the weighted-average margin for the company investigated to be 42.24 percent, *ad valorem*.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the U.S. industry that casts, rolls, and finishes brass sheet and strip.

In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from France materially injure a U.S. industry (US ITC Pub. No. 1837).

On April 21, 1986, we presented an antidumping duty questionnaire to Trefimetaux S.A., which accounts for at least 60 percent of exports of the subject merchandise to the United States. We requested a response in 30 days. On May 19, 1986, at the request of Trefimetaux, we granted a 14-day extension of the due date for the questionnaire response. We received a partial response on June 6. On June 20 and June 26, we requested that Trefimetaux submit additional information by July 7, 1986. Since we did not receive a response by the due date to our requests for additional information, we informed Trefimetaux on July 8 that a complete response to our supplemental requests must be submitted by August 18 for consideration in our final determination. We received a partial supplemental response on August 18, 1986. On August 18, 1986, we made an affirmative preliminary determination (August 22, 1986, 51 FR 30096).

On September 5, 1986, we informed Trefimetaux that the revised response of August 18, 1986, was incomplete. Respondent failed to provide a complete listing of home market sales, as specifically requested in our questionnaire, dated April 21, 1986, and our correspondence of June 20 and 26, 1986. Consequently, we are without adequate home market data for purposes of this investigation.

On September 16, 1986, Trefimetaux requested that we extend the period for the final determination until no later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2)(A) of the Act. On October 23, 1986, we granted this request and postponed our final determination until not later than January 5, 1987 (October 29, 1986, 51 FR 39556).

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments, and on August 29, 1986, Trefimetaux requested a hearing in this investigation. Subsequently, on September 12, 1986, respondent withdrew its request for a public hearing in this investigation. Written comments on the issues arising in this investigation were submitted in lieu of the public hearing.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under item numbers 612.3960, 612.3982, and 612.3986 of the *Tariff Schedules of the United States Annotated (TSUSA)*.

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparison

In order to determine whether sales of the subject merchandise to the United

States were made at less than fair value, we compared the United States purchase price and exporter's sales price, based on information from the responses, with the foreign market value, based on the best information available. We used the best information available as required by section 776(b) of the Act, because we did not receive a complete response.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet and strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

For the reasons stated in the preliminary determination, we have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results.

Accordingly, since there were no tolled sales in the United States, we did not ask the respondent to provide information on home market tolled sales. Therefore, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market.

United States Price

As provided for in section 772(b) of the Act, we used both purchase price and exporter's sale price of the subject merchandise to represent the United States price, since some merchandise was sold to unrelated purchasers prior to importation into the United States and other merchandise was sold to unrelated purchasers in the United States after the date of importation.

We calculated the purchase price and exporter's sales price based on the c.i.f. duty paid, packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, brokerage and handling, port taxes, ocean freight, commercial risk insurance, marine insurance, U.S. duty, U.S. inland freight and insurance. Where we used exporter's sales price, we made additional deductions for credit expenses, other U.S. selling expenses, and the value added through further manufacture prior to sale in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we used home market prices to determine foreign market value. Respondent failed to provide a listing of home market sales for a related company, which was necessary for accurate comparisons. Therefore, we have used home market price information provided in the petition as the best information available, pursuant to section 776(b) of the Act. We calculated ex-factory prices by using the French producer's home market prices, discounts, credit terms and packing costs alleged in the petition. When we compared foreign market value with purchase price sales, we made an adjustment for differences in credit expenses in accordance with § 353.15 of the regulations (19 CFR 353.15). When we compared foreign market value with exporter's sales price, we treated credit expenses as deductions instead of adjusting for the differences. We deducted home market packing costs and added U.S. packing costs.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16) of the Act, on the basis of grade (alloy composition), gauge and width groupings.

Where there are no identical products in the home market with which to compare products sold to the United States, we ordinarily make adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. However, no such adjustments were made in this investigation, except with respect to traverse-wound coils, since we used the best information available, pursuant to section 776(b) of the Act. The partial response submitted by Trefimetaux on home market sales, including cost data for differences in merchandise, was disregarded by the Department in calculating foreign market value in this final determination because the response was not complete. We did, however, make an adjustment to account for traverse-wound coils sold to the United States from information supplied by petitioners, as the best information otherwise available.

Where required, we made currency conversions from French francs to U.S. dollars in accordance with § 353.56(a)(1) of our regulations, using certified daily exchange rates as furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, from September 22 to October 1, 1986, we verified United States sales information provided by the respondent, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected purchase price and exporter's sales price sales.

Petitioners' Comments

Comment 1

Petitioners claim that the respondent's request to postpone the final determination in this investigation should have been denied. Petitioners contend that, because the verification of U.S. sales was completed on schedule, the reason contained in the postponement request of requiring more time to prepare for the verification no longer existed when the Department was considering this request. Petitioners also claim that this extension should have been denied because of respondent's refusal to cooperate in this investigation and because petitioners would suffer hardship if relief is delayed.

DOC Position

We disagree. Section 735(a)(2) of the Act provides that a final determination may be postponed for up to 135 days from the date of the preliminary determination, if exporters who account for a significant proportion of exports of the merchandise under investigation request the postponement following a preliminary affirmative determination. It is clear from the legislative history of the Act that this provision is intended to give the party adversely affected by the preliminary determination—i.e., the petitioner where the determination was negative, and the respondents where the determination was affirmative—with the opportunity to prolong the investigation, thus reducing the likelihood of an arbitrary final determination. See S. Rep. No. 96–249, 96th Cong., 1st Sess. 72 (1979); H. Rep. No. 96–317, 96th Cong., 1st Sess. 67 (1979). Accordingly, we interpret section 735(a)(2) as requiring us to grant properly filed postponement requests absent compelling reasons to the contrary. Compelling reasons to deny this request did not exist in this investigation.

Comment 2

Petitioners believe that the Department was correct in its preliminary determination when it calculated one weighted/average dumping margin applicable to all sheet and strip sales and should, therefore, use this same methodology for the final determination.

DOC Position

We agree. It is the Department's normal practice to set one cash deposit rate for the class or kind of merchandise

covered by its final determination. See, e.g., *Replacement Parts for Self-Propelled Bituminous Paving Equipment from Canada*, 49 FR 1263 (1984).

Comment 3

Petitioners contend that brass strip that is 1.25 inches or less in width should be included in the scope of this investigation, but flat wire, of whatever dimension, should be excluded.

DOC Position

We agree. The scope of this investigation reflects the petitioners' intended coverage. Item numbers 612.3982 and 612.3986 of the *TSUSA* include brass strips less than 1.25 inches in width. The *TSUSA* includes in its definition of brass strip a product less than 1.25 inches in width unless it is flat wire.

Comment 4

Petitioners claim that the Department was correct in considering Trefimetaux and Metayer-Noel, a company wholly owned by Trefimetaux, to be the same company for purposes of this investigation. Metayer-Noel sells brass sheet and strip products in the home market but not in the United States. Petitioners assert that the Department was also correct in using the best information otherwise available, in accordance with 19 U.S.C. 1677e. Petitioners believe that best information available consists of home market prices of comparable merchandise taken directly from the petition.

Trefimetaux argues that it properly omitted from its responses home market sales to unrelated customers of the merchandise under investigation by Metayer-Noel, a subsidiary of Trefimetaux. It cites 19 CFR 353.22 as the appropriate regulation which precludes the use of sales by this related company in determining foreign market value. Respondent claims that there is no basis for the Department to consider Trefimetaux and Metayer-Noel to be the same company in this investigation, because they are legally separate and distinct corporations with separate and distinct production and sales activities. Trefimetaux further claims that reporting these sales would needlessly complicate this investigation and would be a burden on respondent. Trefimetaux, therefore, urges the Department to base foreign market value on the home market sales it submitted in the investigation.

DOC Position

We agree with petitioners. In order to identify the manufacturer, producer or exporter of the merchandise, we require the recipients of our questionnaires to see that related companies also report their sales. Here, Trefimetaux owns virtually 100% of Metayer-Noel, which sells brass sheet and strip products in the home market. Despite our repeated requests, Trefimetaux refused to report Metayer's home market sales, arguing that the regulations do not permit us to "collapse" the companies. While it is true that the regulations do not directly address this issue, the regulations are not intended to cover all factual situations that arise in antidumping cases. In our view, it is necessary for respondents to report sales by related companies to ensure that our investigation covers applicable U.S. and home market sales of the class or kind of merchandise. If respondents were not required to report these sales, they could manipulate their affiliates' selling prices or set up separate home market selling subsidiaries, so as to mask sales at less than fair value. We cannot ensure that we have adequately investigated applicable sales of the merchandise subject to investigation unless related companies' sales are reported. We, therefore, view our reporting requirement as a reasonable exercise of our authority to administer the antidumping law.

Accordingly, we consider Trefimetaux's response concerning foreign market value to be incomplete. Further, since we cannot conclude that the sales Trefimetaux has selectively reported fairly represent the home market price of brass sheet and strip, we were forced to use the best information available for foreign market value, which was the information in the petition.

Comment 5

Petitioners contend that use of best information available to compute foreign market value should include information on home market discounts taken directly from the petition since this is the best information otherwise available and is supported by a market research study.

DOC Position

We agree. See the Department's response to Respondent's Comment 3.

Comment 6

Petitioners claim that the U.S. sales listing is incomplete and should, therefore, be rejected by the Department because Trefimetaux failed to include purchase price sales of reroll merchandise made pursuant to a long-term contract. Petitioners argue that shipments made under this long-term contract are sales within the period of investigation because the date of sale is the date of confirmation of the metal value, and not the date of contract. Petitioners based this argument on their claim that the actual price of the merchandise was unknown at the time of the contract and that the price could not be determined or confirmed until the customer selected the date for booking the metal value, shortly before the merchandise is shipped. Petitioners, therefore, urge the Department to use best information available in determining U.S. price.

DOC Position

We disagree. We have used the date of the long-term contract as the date of sale, rather than the date of shipment, since this is when the basic terms of the contract—price and quantity—are known. The contract provides for the sale of a fixed quantity of brass strip of specific width, alloys and gauges over a fixed period of time. Thus, the quantity terms are certain as of the date of the contract. The price terms consist of two elements which together constitute the price of each shipment under the contract. The first element, cost of fabrication, is established firmly in the contract. The terms covering metal value, the second element of price, provide that the metal value will be established prior to shipment based on publicly quoted sources as of a date chosen by the customer during a period specified in the contract. Because the publicly quoted metal value sources were established as the sole source of the metal value, and because the parties agreed on the time period during which the customer could lock in the publicly quoted metal value, no further negotiations were necessary between the parties to determine the price.

Under general contract law, the parties to an agreement can conclude a sale even if the exact price is not known, as long as the basic terms governing quantity and price are agreed upon. See UCC section 2–305. Here, the price and fabrication terms are fixed in the contract, and the metal value is readily determinable using the specified public sources. Because there is nothing more that the parties need to negotiate or agree to concerning the price of the goods sold, we determine that the date of sale of the merchandise covered by this contract is the date of the contract. See *Voss International v. United States*, 628 F2d 1328 (C.C.P.A. 1980); *Offshore Platform Jackets and Piles from Japan*, 51 FR 11788, 11792–93 (1986); *Cellular Mobile Telephones and Subassemblies from Japan*, 50 FR 45447 (1985).

Further, since the contract date was outside the period of investigation, exports under this contract were excluded in calculating United States price.

Comment 7

Petitioners urge the Department to reject the insufficient information submitted by respondent on U.S. processing costs and profit and, instead, base United States price on best information available. Petitioners allege that Trefimetaux had not quantified the costs and profits for further manufacturing in the United States.

DOC Position

We disagree. We evaluated Trefimetaux's methodology for relating processing expenses to specific operations and found it reasonable. With regard to profit from further manufacturing operations, appropriate adjustments were made based on verified information.

Comment 8

Petitioners make several arguments concerning adjustments to home market prices.

DOC Position

Since we did not use the home market sales from the responses, these comments are moot.

Respondent's Comments

Comment 1

Respondent argues that its U.S. sales listing submitted to the Department is complete and has been verified and should, therefore, be used to calculate United States prices in the final determination. Respondent claims that shipments of reroll made pursuant to a long-term contract do not constitute sales made during the period of investigation and, therefore, need not be reported to the Department for use in determining U.S. purchase price. Respondent bases this claim on the contention that the contract is a legally binding arrangement which constitutes a sale as of the date of the contract.

DOC Response

We agree. See DOC Response to petitioners' comment 6.

Comment 2

Respondent argues that information on U.S. processing costs should be used because the information given to DOC is complete and submitted in accordance with the applicable regulation, 19 CFR 353.10(e)(3).

DOC Position

We agree. See DOC Response to petitioners' comment 7.

Comment 3

Respondent claims that although the Department may decide that Trefimetaux's reported home market sales data is substantially incomplete, this does not preclude the Department from using selected information from the home market responses as best information otherwise available. Respondent specifically urges the Department to use information from the responses on home market discounts because this information is more credible than the arbitrary and unsupported data contained in the petition as to the correct discount.

DOC Position

We disagree. Section 776(b) of the Act requires us to use the best information otherwise available whenever a party refuses to provide requested information in a timely manner. As explained in the Department's response to petitioners' comment 4, the Department cannot use selected portions of an incomplete home market response, as it would allow respondents to selectively submit data that would be to respondent's benefit in the analysis of their home market selling practices. Therefore, we based foreign market value on information taken directly from the petition, including data on home market discounts.

Comment 4

Other comments by Trefimetaux relate to selection of appropriate home market sales for comparison purposes and adjustments to home market prices.

DOC Position

Since we did not use home market sales from the response, these comments are moot.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from France that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 42.24 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "(n)o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Accordingly, the level of export subsidies (as determined in the final affirmative countervailing duty determination on brass sheet and strip from France issued concurrently herewith) will be subtracted from the dumping margin for deposit or bonding purposes.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on brass sheet and strip from France entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

January 5, 1987.

[FR Doc. 87-467 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-601]

Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From Italy

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that brass sheet and strip from Italy are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from Italy that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Judith L. Nehring or Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone (202) 377–1776 or 377–5288.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that brass sheet and strip from Italy are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b). We made fair value comparisons on sales of the class or kind of merchandise to the United States by the sole respondent during the period of investigation, October 1, 1985 thorugh March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. We have found the weighted-average margin for the company investigated to be 12.08 percent, *ad valorem*.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation-Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip; and by the International Association of Machinists and Aerospace Workers, International Union-Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL/CIO–CLC). The petition was filed on behalf of the U.S industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of §353.36 of the Commece Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determine that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, 4/7/86, and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Italy materially injure a U.S. industry (USITC Pub. No. 1837).

On April 18, 1986, we presented an antidumping duty questionnaire to La Metalli Industriale SpA, (LMI), which accounts for virtually all exports of the subject to merchandise to the United States. We requested a response in 30 days. On May 21, 1986, at the request of LMI, we granted a 14-day extension of the due date for the questionnaire response. We received a response on June 2. On June 16, we requested additional information from LMI. We received supplemental responses on June 30, July 14 and September 4, 1986.

On August 18, 1986, we made an affirmative preliminary determination (51 FR 30097, 8/22/86. On October 17, 1986, the respondent requested a postponement of the final determination. We granted this request and postponed the due date for the final determination until not later than January 5, 1987 (51 FR 39679, 10/23/86.

As required by the Act, we afforded interested parties an opportunity to submit oral and written comments, and on September 16, 1986, a hearing was held to allow parties to address the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under the *Tariff Schedules of the United States Annotated, (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986.

The chemical composition of the products under investigation is currently defined in the Cooper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition are defined by other C.D.A or U.N.S. series are not covered by this investigation.

Fair Value Comparison

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States price with the foreign market value.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produce brass sheet and strip from its own stocks of copper and zinc.

For the reasons stated in the preliminary determination, we have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results.

Accordingly, since there were no tolled sales in the United States, we did not ask the respondent to provide information on nome market tolled sales. Therefore, we compared prices of non-tolled sales in the United States to non/tolled sales in the Italian home market.

United States Price

As provided for in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, since the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated the purchase price based on the f.o.b., c.i.f. or c.i.f. duty paid, packed price to unrelated purchasers in the United States.

We made deductions, where appropriate, for foreign inland freight and insurance, brokerage in Italy and the United States, ocean freight, marine insurance, U.S. duty, U.S. freight and insurance.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market

value based on f.o.b., packed, home market prices to unrelated purchasers. We made deductions, where appropriate, for inland freight, insurance and rebates. We made adjustments for differences in circumstances of sale for credit expenses, portions of claimed advertising expenses and technical services expenses pursuant to § 353.15 of our regulations. We deducted home market packing costs and added U.S. packing costs.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16) of the Act, on the basis of form of material (sheets or strips), grade (chemical composition), dimensions, special finishes and traverse wound coils. We also compared merchandise that is sold to the United States in coil form with merchandise that is sold in the home market in coil form. Similarly, we compared U.S. market sales of cut-to-length merchandise with home sales of cut-to-length merchandise.

Where there were no identical products in the home market with which to compare products sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

We adjusted for the differences between commissions on sales to the United States and indirect selling expenses in the home market used as an offset to U.S. commissions, in accordance with § 353.15(c) of the Commerce Regulations.

Certain claims were disallowed in calculating foreign market value. LMI claimed an adjustment in the home market for currency hedging expenses to safeguard against exchange rate fluctuations associated with the purchase of imported raw materials used to produce brass sheet and strip sold in Italy. This claim was disallowed because such expenses are not viewed by the Department as directly related to the sales in question. Rather, the transaction costs of engaging in these hedging operations are considered to be related to the general operations of the company.

LMI also claimed an adjustment for inventory financing costs associated with maintenance of inventory for immediate sale to home market customers. We disallowed this claim because these expenses were incurred prior to sale and, therefore, are not directly related to specific sales.

We disallowed the portion of LMI's technical service claim attributable to salaries because we do not consider salaries which would have been paid to be direct expenses. We also disallowed the portion of LMI's technical service claim related to the amortization of laboratory machinery and related equipment, because these are fixed expenses. Only that portion of the home market technical service claim reflecting travel expenses for customer service was allowed. We also disallowed all of LMI's claimed home market advertising expenses, except a portion of those expenses claimed for its catalog on the use of laminates which were found to be incurred during the period of investigation, because these expenses were found not to be directly related to the sales under investigation.

Lastly, LMI requested an adjustment to home market prices for an expedited handling fee charged to customers to cover administrative costs on sales made directly from warehouse. We disallowed this claim as a circumstance of sale adjustment because of insufficient evidence that these administrative expenses are directly related to the home market sales on which this claim was made.

Currency Conversion

In calculating foreign market value, we made currency conversions from Italian lire to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, we verified all information provided by the respondents, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioners' Comments

Comment #1

Because of errors found at verification, petitioners contend that the Department should determine foreign market value for LMI based on best information otherwise available.

DOC Response

We disagree with petitioners' claim that best information otherwise available should be used for LMI in determining foreign market value. Finding some errors in responses during verification is common. LMI's errors were not of a frequency or magnitude that would warrant the Department to use the petitioners' data as best information otherwise available.

Comment #2

Petitioners argue that salaries related to technical services should not be allowed as a circumstance of sale adjustment because LMI failed to establish that all of its technical service salary expenses were variable expenses related to the products under investigation.

DOC Position

We agree. At verification, LMI was unable to demonstrate adequately that these salaries are directly tied to sales in question. Therefore, the Department did not allow that portion of technical services attributable to salaries.

Comment #3

Petitioners state that travel and related expenses tied to technical services should not be allowed as an adjustment because these expenses are incurred for all products and, therefore, cannot be allocated accurately to the products under investigation.

DOC Position

We disagree. The Department has allowed these travel and related expenses because the documents examined at verification support the claim that the travel and related expenses were directly related to sales of the products under investigation.

Comment #4

Petitioners contend that none of LMI's claimed advertising expenses should be allowed by the Department because LMI did not demonstrate that these expenses were directly incurred for the ultimate customer or incurred for advertising only those brass sheet and strip products under investigation.

DOC Position

The Department agrees with petitioner with regard to advertising expenses claimed for the *SMI Review Magazine*, the Video Cassette on LMI products, and gifts, because we found that these expenses were either outside the period of investigation or that we were not provided a methodology for properly allocating these expenses to the products under investigation. With regard to membership dues in the Italian Copper Institute, the Department considers that the Institute is engaged in promotional activities to benefit the entire copper industry. Its activities are not directed specifically toward LMI copper or LMI copper or the products

under investigation. Therefore, dues to the institute may not be considered directly related to the sales of the products under investigation. The Department has allowed a portion of those expenses attributable to the catalog on the use of laminates, because it is targeted primarily to end users and is, therefore, assumed advertising on behalf of LMI's customers.

Comment #5

Petitioers argue that the average interest rate on U.S. dollar-denominated short-term loans should be disallowed in calculating credit costs on U.S. sales, since these loans were not used to finance sales, but, instead, were used to purchase raw materials destined for both the home and U.S. markets.

DOC Position

We agree. In accordance with established policy, credit costs on U.S. purchase price sales were calculated by using the same short-term financing rate used to calculate credit costs in the home market.

Comment #6

Petitioners state that LMI's claim for the cost of maintaining an annual reserve for bad debt on home market sales should be disallowed as a cost of credit in the home market.

DOC Position

We agree. We consider bad debt, by its very nature, to be an indirect selling expense since, under generally accepted accounting principles, bad debt is recovered over time by future price increases.

Comment #7

Petitioners argue that inventory financing costs claimed by LMI as a circumstance-of-sale adjustment should be disallowed.

DOC position

We agree. These financing costs were incurred prior to sale and, therefore, are not directly related to the sales in question.

Comment #8

Petitioners contend that LMI's currency hedging claim does not relate solely to those products under investigation and that the contracts may not have been related solely to home market sales. For these reasons, the petitioners fell that the claim should not be allowed.

DOC position

We agree. LMI's purchase of forward currency contracts protects LMI against currency fluctuations that may occur in between the time the company orders its raw materials and the time those materials are received and paid for by LMI. Such risks exist with regard to the purchase of raw materials regardless of the destination of the final product. Therefore, these expenses must be viewed as general expenses of LMI, rather than selling expenses unique to the home market. Furthermore, even if these expenses were unique to the home market, they cannot be directly tied to the sales under investigation, and, therefore, do not constitute an allowable circumstance-of-sale adjustment.

Respondent's Comments

Comment #1

Respondent claims that the salary expense for technical services should be allowed as a direct selling expense, because this expense would not have been incurred had the technical services not been provided.

DOC position

We disagree. See DOC's response to petitioners' comment #2.

Comment #2

Because raw materials must be bought in a foreign currency, respondent claims that LMI must purchase forward contracts to protect itself against currency exposure on raw materials purchased for sale in the home market. They claim that these hedging expenses are directly tied to particular home market sales and should be allowed as direct selling expenses.

DOC position

We disagree. See DOC's response to petitioner's Comment #8.

Comment #3

Respondent claims that the commissions paid to Pontinox are made on an arm's length basis and are directly related to particular sales. Therefore, the commissioners should be allowed as a direct selling expense or, at least, an indirect selling expense for the costs incurred in selling the merchandise in the home market.

DOC position

The Department does not allow circumstances-of-sale adjustments for commissions paid to related parties. The principal behind denying such an adjustment for payments to related parties is that such payments are merely intracompany transfers of funds. We have accepted commissions to related parties only when we have determined that those commissions were arm's length or where the commissions are directly related to particular sales under review. (*Drycleaning Machinery from West Germany*, 50 FR 32155, 8/8/85); (*Egg Filler Flats from Canada*, 50 FR 24009, 6/7/86). LMI has not met these prerequisites for a circumstance-of-sale adjustment for home market commissions.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from Italy that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register.** The United States Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which was 12.08 percent of the entered value of the merchandise. The suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury of threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on brass sheet and strip from Italy entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

January 5, 1987.

[FR Doc. 87-468 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-601]

Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From Sweden

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that brass sheet and strip from Sweden are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from Sweden that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that brass sheet and strip from Sweden are being, or are likely to be sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) 19 U.S.C. 1673d). We made fair value comparisons on sales of the class or kind of merchandise to the United States by Granges Metallverken during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. The weighted-average margins are listed in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation-Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union-Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC).

In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Sweden are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11776, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from Sweden materially injure a U.S. industry (USITC Pub. No. 1837).

On April 18, 1986, we presented an antidumping duty questionnaire to counsel for Granges Metallverken, which accounts for at least 60 percent of exports from Sweden of the subject merchandise to the United States. We requested a response in 30 days. On May 12, 1986, at the request of Granges Metallverken, we granted a 14-day extension of the due date for the questionnaire response. We received a response on June 6. On July 1, we requested additional information from Granges Metallverken. We received a response to our supplemental request on July 17.

On August 18, 1986, we made an affirmative preliminary determination (51 FR 30088, August 22, 1986). On August 29, 1986, the respondent requested a postponement of the final determination. We granted this request and postponed the due date for the final determination until not later than January 5, 1987 (51 FR 32675, September 15, 1986).

As required by the Act, we afforded interested parties an opportunity to submit written comments to address the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under item numbers 612.3960, 612.3982, and 612.3986 of the *Tariff Schedules of the United States Annotated (TSUSA).*

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C2000 series. Products whose chemical composition is defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparison

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States price with the foreign market value, based on home market prices.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

For reasons stated in the preliminary determination, we have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to apples" comparison achieves the most accurate results.

However, since there were no tolled sales in the United States, we did not ask the respondent to provide information on home market tolled sales. Therefore, we have compared prices of non-tolled sales in the United States to non-tolled sales in the Swedish home market.

United States Price

As provided in section 772(b) of the Act, where the merchandise was sold to unrelated purchasers prior to importation into the United States, we used the purchase price of the subject merchandise to represent the United States price. We calculated the purchase price based on the c.i.f., delivered, duty

paid, packed price to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, ocean frieght, marine insurance, U.S. brokerage and handling, U.S. inland freight, and U.S. customs duty.

Where the merchandise was sold to unrelated purchasers after importation into the United States, we used exporter's sales prices to represent the United States price, as provided in section 772(c) of the Act. We made deductions, where appropriate, for foreign inland freight and insurance, ocean freight, marine insurance, U.S. brokerage, U.S. inland freight, U.S. customs duty, commissions, credit expenses, other U.S. selling expenses, and the value added through further manufacturer prior to sale in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on delivered packed home market prices to both related and unrelated purchasers. We determined that sales to a related company were made at arm's length. We made deductions to home market prices, where appropriate, for inland freight and insurance. For U.S. purchase price sales, we made adjustments under § 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses in the United States and home market. We offset commissions paid on U.S. purchase price sales with indirect selling expenses in the home market, in accordance with § 353.15 of our regulations.

When comparing foreign market value to U.S. exporter's sales prices, we made a deduction from home market prices for credit expenses in the home market. We also deducted indirect selling expenses in the home market to offset United States selling expenses, in accordance with § 353.15(c) of or regulations.

For both purchase price and exporter's sales price, in order to adjust for differences in packing costs between the two markets, we subtracted home market packing and added U.S. packing to home market prices.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C)(of the Act. In order to select the most similar products, we made comparisons of merchandise groups based on form of material (sheets or strips), grade (chemical composition), coating, dimensions, special finishes and traverse wound coils.

For those categories where there were no identical products in the home market with which to compare a product sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on cost differences supplied by petitioners, since Granges Metallverken (Granges) did not provide us with the differences in costs of materials, direct labor and directly-related factory overhead.

We made a claimed adjustment for differences in quantities sold in accordance with § 353.14 of our regulations.

Currency Conversion

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Swedish kroner to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984. We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations, as it supersedes that section of the regulations.

Verifications

As provided in section 776(a) of the Act, we verified all information provided by the respondent, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioners' Comments

Comment 1

Petitioners argue that the gauge groupings used by the Department in the preliminary determinations were too broad and thereby obscure proper product comparisons. Since Granges itself did not recommend any gauge groupings for comparison purposes or provide information on cost differences attributable to gauge, the Department should use the gauge groupings recommended by petitioners.

DOC Position

We agree and have used the gauge groupings provided by petitioners.

Comment 2

In its preliminary determination the Department failed to account for the physical differences in the finishes of certain alloys sold in the United States. Petitioners contend that Granges did not identify those home market sales with finishes similar to those sold in the United States nor did it provide the cost differences attributable to finishing differences. Accordingly, the Department should use the petitioners' manufacturing experience as the best information otherwise available.

DOC Position

We disagree. In the final determination the Department has compared merchandise with the same finish. Granges' response did identify those home market sales of alloys having finishes similar to the product sold in the United States. The finishes were identified through the use of customer codes.

Comment 3

Petitioners contend that the Department has understated its deduction from exporter's sales price for the value added for further processing in the United States by Granges's related U.S. subsidiary, Metallverken, Inc. (MINC). The value added should also include Granges' home market general and administrative expenses that are directly related to coordinating and managing United States sales, as well as a share of the profit generated with respect to value added. The Department should use the data provided by petitioners (derived from Granges' responses) as the best information otherwise available.

DOC Position

We agree that profit should be included in the value added through further manufacture. Granges did not provide the requested information on profit on a timely basis. We have used information in the response itself as best information available to calculate profit. Profit was calculated by averaging the profit on all U.S. exporter's sales price further manufacture sales and multiplying that average by the ratio of the cost of further manufacture to the total cost of the finished product.

With regard to the general and administrative expenses incurred in the home market on United States sales, adjustments for these expenses were made in the preliminary determination for all exporter's sales price transactions. Based on verification, adjustments for additional home market general and administrative expenses relating to U.S. sales have been made in the final determination.

Comment 4

Petitioners argue that Granges' November 21 response revising its calculation of further manufacture and U.S. selling expenses and its December 19 submission on profit should not be considered because they were not submitted in a timely fashion and were submitted subsequent to verification.

DOC Position

We agree. See DOC response to petitioners' comment 3 in regard to profit. The verification of Granges' exporter's sales price responses (further manufacture and U.S. selling expense response) took place August 6–8. The November 21 response revised figures in essentially all elements of these complex calculations. Although Granges submitted source documents allegedly supporting its calcultions, the Department did not have the opportunity to verify this untimely submission. Accordingly, we did not consider the revision and have used the verified information in our final determination.

Comment 5

Petitioners argue that adjustments to U.S. prices for ocean freight, brokerage, and Swedish inland freight and to home market prices for inland freight and packing should not be allowed since respondents based these adjustments on standard versus actual costs.

DOC Position

The Department either used actual costs or standard costs which verified when tested against actual costs.

Comment 6

Petitioners contend that the "multiplier", which is based on an estimate made by Granges' sales manager of additional expenses incurred in selling brass sheet and strip in the home market, is not supported by any kind of formal documentation and should be eliminated from the ESP offset calculation.

DOC Position

We agree. The ESP offset multiplier claimed by Granges is an estimate which was not supported by factual documentation and could not be verified. Accordingly, it can not be considered in our final determination.

Comment 7

Petitioners argue that no quantity adjustment should be allowed under § 353.14 of the Commerce regulations because Granges did not show that its lower prices in the United States were the result of the larger-volume sales to the United States. Furthermore, the quantity adjustment should be disallowed because it was based on standard, rather than actual cost.

DOC Position

We disagree. Granges has met the criteria of section 353.14 of our regulations by demonstrating that the quantity discounts for brass strip (sheet was not included in the claimed adjustment), which were granted and verified, are warranted on the basis of savings which are specifically attributable to the production of the different quantities involved. The cost savings criterion of this adjustment was verified using calendar year 1986 standard costs from Granges' cost accounting records. The standard costs used were based on actual operating results for calendar year 1985 and, therefore, encompassed the first half of the period of investigation. Additionally, 1986 standard costs for brass strip were checked against 1985 actual costs and no significant variances were noted.

Comment 8

Petitioners claim that in its home market credit expense calculations the Department should use the verified average cost of credit during the period of investigation instead of the lower rate claimed by Granges.

DOC Position

We agree and have used the verified cost of credit.

Comment 9

Petitioners contend that the Department should use the home market cost of credit if it concludes that Granges, not MINC, is financing all of the U.S. sales transactions. Also the Department should use actual and not stated U.S. payment terms, and granges should not be allowed to estimate the date of payment where payment was not yet made.

DOC Position

For both purchase price and exporter's sales price transactions, MINC financed all sales. Accordingly we used the verified cost of credit incurred by MINC as the United States cost of credit.

Wherever possible, we have used actual credit terms. Where payment had not yet been made, we used as payment terms the weighted-average credit terms of sales where payment had been made.

Respondent's Comments

Comment 1

In calculating the cost of further manufacturing, the Department should use the actual costs for January-August, 1986 and not the actual cost for January-May, 1986. Since MINC only began a standard cost system in January, 1986, the longer period would be more reflective of the actual costs.

DOC Position

In Granges' original submission, the cost of further manufacturing and U.S. selling expenses were based on MINC's standard costs for the period January-March 1986. The Department recognized that the newly initiated standard cost system was subject to start up errors and verified cost data for January-May 1986. Additionally, standard costs were tied to actual cost and variances were noted in the verification report. The January-May 1986 actual costs were used in the preliminary determination. It is the Department's position that the January-May 1986 actual cost data verified and used in the preliminary determination is more representative of costs incurred during the period of investigation than the January-August 1986 period proposed by Granges. We also note that the Department considers Granges' revised submission to be untimely. See DOC position to petitioners' comment 4.

Comment 2

Respondent contends that home market sales to related service centers are at arm's length and should be considered in the final determination.

DOC Position

We agree. The Department's verification confirmed that the prices and terms of sale to these related service centers were comparble to prices and terms of sales to unrelated distributors.

Comment 3

The Department should use the product comparisons claimed in Granges' response which take into account similarities in metal content, quality requirement and physical characteristics.

DOC Position

Where possible, the Department did use the product groupings suggested by Granges. Since Granges did not provide cost data for physical differences in merchandise, we used the best information otherwise available when direct product matches were not identifiable. Best information available was either the next most costly product grouping or cost information provided by petitioners.

Comment 4

The Department should make the quantity adjustment which compensates for the smaller order size in the home market.

DOC Position

We agree. See DOC response to petitioners' comment 7.

Comment 5

The ESP offset "multiplier", though not quantifiable, is accurate and should be allowed. It is based on estimates made by Granges' Scandinavian sales manager and is supported by observations made during verification.

DOC Position

We disagree. See DOC responses to petitioners' comment 6.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liguidation of all entries of brass sheet and strip from Sweden that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register in accordance with section 733(d) of the Act. The United States Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which was 9.49 percent of the entered value of the merchandise.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liguidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty or brass sheet and strip from Sweden entered, or with drawn from warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

January 5, 1987.

[FR Doc. 87-469 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-428-602]

Final Determination of Sales at Less Than Fair Value: Brass Sheet and Strip From the Federal Republic of Germany

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We have determined that brass sheet and strip from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from the FRG that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Terri Feldman or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-0160 or 377-3965.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that brass sheet and strip from the FRG are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d). We made fair value comparisons on sales of the class or kind of merchandise to the United States by Wielan-Werke AG (Wieland) and Langenberg Kupfer-und Messingwerke GmbH Ag (Langenberg) during the period of investigation, October 1, 1985 through March 31, 1986. Comparisons were based on United States price and foreign market value, based on home market prices. The weighted-average margins for individual companies investigated are listed in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Company, Chase Brass and Copper Company, Hussey Metals Division, the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United States Steelworkers of America (AFL-CIO/CLC).

In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We determined that the petition contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated such an investigation on March 31, 1986 (51 FR 11774, April 7, 1986), and notified the ITC of our action. On April 24, 1986, the ITC determined that there is a reasonable indication that imports of brass sheet and strip from the FRG materially injure a U.S. industry (USITC Pub. No. 1837).

On April 29, 1986, we presented an antidumping duty questionnaire to Wieland and to Langenberg which account for at least 60 percent of exports of the subject merchandise to the United States. We requested responses in 30 days. On May 7, 1986, at the request of respondents, we granted a 14-day extension of the due date for the questionnaire responses. We received responses from Wieland on June 2 and from Langenberg on June 5, 1986. On June 27 and July 18, we requested

additional information from respondents. We received supplemental responses from respondents on June 14 and July 23, 1986.

On August 18, 1986, we made an affirmative preliminary determination (51 FR 30090, August 22, 1986).

On August 20, 1986, the respondents requested a postponement of the final determination. We granted this request and postponed the due date for the final determination until not later than January 5, 1987 (51 FR 32674, September 15, 1986).

As required by the Act, we afforded interested parties an opportunity to submit written comments to address the issues arising in this investigation.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently provided for under item numbers 612.3960, 612.3982, and 612.3986 of the *Tariff Schedules of the United States Annotated (TSUSA).*

The chemical composition of the products under investigation is currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical composition is defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Fair Value Comparison

In order to determine whether sales of the subject merchandise to the United States were made at less than fair value, we compared the United States price with the foreign market value, based on home market prices.

For this merchandise, there are two types of sales: tolled and non-tolled. In tolled sales, the brass mill's customer provides the mill with the copper and/or zinc, or scrap, purchased from another source, which the mill converts into brass sheet or strip. The mill charges its customer only for the value of the conversion. In non-tolled sales, the brass mill produces brass sheet and strip from its own stocks of copper and zinc.

For the reasons stated in the preliminary determination, we have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. This type of "apples-to-apples" comparison achieves the most accurate results.

When there were a significant number of tolled sales in the United States, we asked the respondents to provide information on home market tolled sales. We compared prices of tolled sales in the United States to tolled sales in the home market. Similarly, we compared prices of non-tolled sales in the United States to non-tolled sales in the home market. In this investigation, Langengerg had a significant number of tolled sales to the United States and in the home market.

For this merchandise, long-term contract are often employed to establish metal and/or fabrication values. Where the two components of value were established by contract on different dates, we have used the date of the latter contract as the date of sale, since this is when the last basic term of the sale is known. We have excluded those sales where the date of sale was outside the period of investigation.

United States Price

As provided for in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for all sales by Langenberg and for most sales by Wieland because, except for certain transactions made by Wieland, the merchandise was sold by these producers to unrelated purchases prior to importation into the United States. For some of Wieland's transactions, where the merchandise was sold to unrelated purchasers after importation into the United States, we used the exporter's sales price (ESP) of the subject merchandise, as provided for in section 772(c) of the Act, for the United States price.

We calculated the purchase price based on the c.i.f. delivered, duty paid, packed price to unrelated customers in the United States. We made deductions, where appropriate, for discounts, foreign inland freight and insurance, U.S. duty, brokerage and handling, ocean freight, amrine insurance, U.S. inland freight and insurance, and end-of-year loyalty rebates.

For Wieland's exporter's sales price (ESP) transactions, we made deductions, where appropriate, for foreign inland freight and insurance, brokerage and handling, ocean frieght, marine insurance, U.S. duty, U.S. freight and insurance, end-of-year loyalty rebates, credit expenses, other U.S. selling expenses and the value added through further manufacture prior to sale in the United States.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on delivered, packed, home market prices to unrelated purchasers. We made deductions, where appropriate, for inland frieght, handling, insurance, and end-of-year loyalty rebates. For U.S. Purchase price sales, we made adjustments under § 353.15 of the Commerce Regulations for differences in circumstances of sale for credit expenses and warranties in the United States and home markets. For Langenberg, we adjusted for differences in home market and U.S. unrelated party commissions. For Wieland, we offset home market unrelated commissions with indirect selling expenses in the United States, in accordance with § 353.15(c) of the Commerce Regulations.

For U.S. exporter's sales price transactions, we made deductions for home market credit expenses, end-of-year loyalty rebates, and warranties. We also deducted indirect selling expenses in the home market to offset other U.S. selling expenses, in accordance with § 353.15(c) of our regulations.

We made claimed adjustments for differences in quantities sold in accordance with § 353.14 of our regulations.

For both purchase price and exporter's sales price comparisons, we substracted home market packing and added U.S. packing to home market prices.

We established separate categories of "such or similar" merchandise, pursuant to section 771(16)(C) of the Act, on the basis of form of material (sheets or strips). Within these material groupings in order to select the most similar products, we made comparisons based on grade (alloy composition), coating and dimensions (guage and width).

When there were no identical product in the home market with which to compare a product sold to the United States, we made adjustments to similar merchandise to account for differences in the physical characteristics of the merchandise, in accordance with section 773(a)(4)(C) of the Act. These adjustments were based on differences in the costs of materials, direct labor and directly related factory overhead.

Currency Conversion

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Deutsche marks to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates furnished by the Federal Reserve Bank of New York. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984. We followed section 615 of the 1984 Act

rather than § 353.56(a)(2) of our regulations, as it supercedes that section of the regulations.

Verification

As provided in section 776(a) of the Act, we verified all information provided by the respondents, using standard verification procedures, including examination of accounting records and original source documents containing relevant information on selected sales.

Petitioners's Comments

Comment 1: Petitioners assert that respondents' overly broad guage groupings do not permit the Commerce Department to compare U.S. sales to the most similar merchandise in the home market. Petitioners urge the Department to use their product groupings as the best information available for product comparison or as an alternative to use Wieland's own product groupings as shown in Wieland's price list.

DOC Position: We agree. We have used petitioner's product gauge groupings for purposes of product comparisons, wherever possible.

Comment 2: Petition contend that alloy composition, form and tinning are of chief importance in making product comparisons along with guage and width. In the absence of verified cost data from the respondents, the Department should use petitioners' cost information as the best information available to make any physical difference adjustments.

DOC Position: We have made product comparisons taking each of the factors noted by petitioners into account. Physical difference adjustments have been made for special features using verified cost data and for differences in alloy composition using London Metal Exchange values. We did not need to use petitioners' cost information any other adjustments for physical differences.

Comment 3: Petitioners challenge the claim that Wieland's home market customers demand more special features of the subject merchandise than do Wieland's U.S. customers. Furthermore, petitioners contend that Wieland has not allowed an adequate verification of these speical features to take place.

DOC Position: We disagree. Wieland established the preponderance of these special features among home market sales.

Comment 4: Petitioners submit that allowances for profit and related home market general operating expenses represent additional value added that should be deducted from Wieland's exporter's sales price. Furthermore, they contend that Wieland's reported manufacturing costs should include the expenses from the loss of scrap caused by the further manufacturing (i.e., by slitting and traverse-winding).

DOC Position: We agree that profit should be included in the value added through further manufacture on ESP sales. Profit was based on petitioners' information as the best information available, as we repeatedly requested and did not receive this information from respondent. General and administrative expenses incurred in the FRG on U.S. sales were deducted in the preliminary determination from all exporter sales price transactions under the indirect selling expenses category. We verified that this category includes home market general and administrative expenses relating to U.S. sales. Expenses attributable to scrap loss have been accounted for in the costs of goods sold information reported by Wieland.

Comment 5: Peitioners contend that the Department should deduct as indirect selling expenses a cash transfer from Wieland Werke to Wieland-Holdings, Inc., as well as the selling expenses incurred by the Rolled Mill Product Division Sales Department for North America.

DOC Position: We determined that the alleged cash transfer was an account payment to Wieland Metals, and, as such, we have not made a selling expense adjustment for it. The selling expenses incurred by the Rolled Mill Product Division Sales Department for North America have been included in the indirect selling expenses adjustment made to U.S. sales.

Comment 6: Petitioners argue that all of Wieland-America's GS&A expenses associated with selling Wieland Werke's product should be deducted from exporter's sales price, in addition to the selling expenses for Wieland Metals. Peititioners further state that Wieland Metal's G&A expenses should not be deducted as U.S. indirect selling expenses.

DOC Position: We have deducted all of Wieland-America's GS&A expenses, as well as that portion of Wieland Metals' GS&A expenses attributable to the sales during the period of investigation, as U.S. indirect selling expenses.

Comment 7: Petitioners assert that the Department should allocate packing costs incurred on ESP sales which have been further processed in the United States solely over these particular ESP sales and not over total U.S. ESP sales.

DOC Position: We agree. We have allocated further U.S. packing expenses over production orders and applied this adjustment only to these sales.

Comment 8: Petitioners claim that no quantity adjustment should be permitted to Wieland and Langernberg because the respondents have not substantiated the criterion of substantially larger sales in the United States than in the FRG. Furthermore, petitioners state that Wieland has not presented any proof of a quantity discount and that Langenberg did not produce to order in the home market, nor offer the purchaser a specific quantity discount.

DOC Position: We disagree. We have applied a qauntity discount to all home market sales because we have found that at least twenty percent of the home market sales received this discount during the 6 month period of investigation as required by section 353.14(b) of the Department's regulations.

Comment 9: Petitioners claim that the date of sale on "consignment sales" is the date when the customer draws upon the consigned inventory and consequently is invoiced by Wieland or by Langenberg. Furthermore, petitioners argue that even if respondents had substantiated the sale to have been made immediately upon shipment to the customer, respondents still would not be entitled to an adjustment for after-sale warehousing because the Department does not consider warehousing costs incurred in sales from inventory to be directly related to the sales which are under consideration and because this adjustment is not a true warehousing expense. Rather, petitioners contend that this expense, as the implicit interest cost of maintaining this inventory, is properly characterized as a general overhead expense which is not deductible either as a direct or as an indirect selling expense.

DOC Position: We have verified that these sales are made under contracts where the terms of sale are agreed to before the merchandise is sent to the purchaser's warehouse and where the purchaser cannot return the merchandise once it has been received in good condtion. Under these circumstances, we consider the costs incurred due to the delay between the time the manufactureer ships the merchandise and the date it actually receives payment to constitute a credit expense rather than a warehousing cost. We have verified the imputed credit costs involved in these transactions and have made appropriate credit expense adjustments.

Comment 10: Petitioners state that the Department should use the verified number of days of outstanding payment in imputing credit expenses in the home market.

DOC Position: We agree. We have used the verified number of payment days in imputing home market credit.

Comment 11: Petitioners suggest that the Department should impute credit costs for Langenberg on a sale-by-sale basis, rather than employing the simple-average number of credit days based on a sample of selected sales in Langenberg's two markets.

DOC Position: We agree. We have imputed credit costs on Langenberg's sales in each market using the dates of shipment and receipt of payment reported on a sale-by-sale basis.

Wieland's Comments

Comment 1: Wieland maintains that the Department should make adjustments for verified differences in physical characteristics for all relevant sales in both the home and U.S. markets because the Department has determined that the specific product costs were accurately submitted, that the allocations of the variances were accurate and that the relationship of product costs to other facts of the investigation were reasonable.

DOC Position: We agree. We have made adjustments for verified differences in physical characteristics, as claimed, using verified cost information.

Comment 2: Wieland claims that its after-sale rebates are fully verified and should be allowed as adjustments to home market prices.

DOC Position: We verified Wieland's after-sale rebates as claimed and verified that the rebates were provided for in the terms of contract. Therefore, we determine these after-sale rebates were directly related to the sales under consideration and accordingly have adjusted for them.

Comment 3: Wieland argues that since it has provided clear documentation demonstrating that warranty adjustments are directly related to warranty costs of the product, the Department should allow these adjustments, as revised to account for metal values.

DOC Position: We agree. We have made deductions for the warranty claims based on fabrication value only, as Wieland has demonstrated that these costs are directly related to the merchandise under investigation.

Comment 4: Wieland states that the Department must base product groupings upon tinning, end-use, quantity, and width, in addition to form, grade, and gauge, to arrive at an accurate comparison of most similar merchandise.

DOC Position: We have made product groupings based on tinning, form, gauge, grade, and width, to the best of our ability, without sacrificing comparison of other physical characteristics. We did not use end-use and quantity to establish such/similar merchandise comparisons.

Comment 5: Wieland asserts that the Department should make separate currency conversions for metal prices and for fabrication prices when prices are not fixed on the same date.

DOC Position: Section 353.56(a)(1) of the Commerce Regulations (19 CFR 353.56 (a)(1)) requires that currency conversions be made as of the date of purchase or agreement to purchase in comparisons based on purchase price. We have determined that the date of sale is the date when all terms of the sale are known and agreed to. Thus, when metal and fabrication prices are set on different dates, the date of sale is the date when the later price is set.

Coment 6: Wieland argues that the Department should calculate the ESP credit period on an actual basis and that the Department should eliminate the related sales by Wieland-Werke, AG, to Wieland Metals, Inc., that were included in the U.S. market data set for the preliminary determination.

DOC Position: We agree. We have made the appropriate correction with regard to ESP credit and have removed the related sales from the data base.

Comment 7: Wieland argues that duty adjustments for ESP sales should be based on the value at the time of entry, rather than Wieland Metals' final selling price to third parties. In addition, Wieland states that these duties should not be deducted where, in fact, it did not have to pay them.

DOC Position: We agree. We have applied the duty adjustment to the value at the time of entry on those sales where duties were paid.

Comment 8: Wieland states that the figure it set out in its questionnaire response for tin coating costs represents the production cost associated with applying a plastic coating and should not be used as an adjustment for tinning. In fact, Wieland maintains that since such an adjustment cannot be determined, tinned and non-tinned products should not be compared with one another.

DOC Position: We agree. We have matched tinned sales to the United States only with home market sales which are tinned.

Comment 9: Wieland maintains that the Department should not distinguish between strip over 300 mm in width and strip under this width when classifying home market sales.

DOC Position: We disagree. We have used those home market sales classified at over 300 mm in width for purposes of comparison with ESP sales involving further processing. Section 772(e)(3) of the Act mandates that we calculate the price and compare ESP sales in the form in which the merchandise enters the United States.

Therefore, based on the verified information that the majority of imported merchandise coming to the United States for further manufacturing is 300–500 mm in width, we selected home market sales over 300 mm in width for comparison purposes.

Langenberg's Comments

Comment 1: Langenberg claims that the Department should adjust for differences in physical characteristics based upon the costs associated with producing strip in different widths.

DOC Position: We agree. We have adjusted for differences in width using verified information.

Comment 2: Langenberg argues that the home market sale of a high cost specialty product not sold in the United States should be eliminated from the data base.

DOC Position: We agree. We verified that the home market sale in question was of a specialty product unlike any product sold in the United States. Thus, we have eliminated this small quantity sale from the data base.

Comment 3: Langenberg believes that the Department must base product groupings upon gauge, quantity and end-use; in addition to form, coating, grade, and width; to arrive at an accurate comparison of most similar merchandise. Conversely, Langenberg states that class, i.e., the distinction between tolled and non-tolled, has no bearing in this comparison. As such, Langenberg urges the Department not to distinguish between tolled and non-tolled products.

DOC Position: We have made product groupings based on class, coating, form, grade, gauge and width. We did not use quantity and end-use as factors to establish such/similar merchandise categories. For the reasons stated in the preliminary determination, we have decided that the most accurate comparison is, when possible, to compare tolled sales to tolled sales and non-tolled sales to non-tolled sales. See the "Fair Value Comparison" section of this notice.

Comment 4: Langenberg states that the Department should not eliminate sales made from February 8, 1986, through March 31, 1986, from the FMV data base.

DOC Position: We agree. We have included these sales in our final determination.

Common Issues

Comment 1: Wieland and Langenberg state that the Department should allow the adjustment for interest expense carrying costs associated with consignment sales because it has substantiated both its post-sale character and the methodology behind the claimed adjustment.

DOC Position: We agree. See DOC Position to petitioners' comment 9.

Comment 2: Respondents contend that the Department should adjust all home market sales downward by the full quantity discount amount or, at a minimum, either calculate fair market value using only those home market sales which received the full discount, or adjust all sales by the amounts listed in the verified cost schedule.

DOC Position: The Department has made an adjustment for quantity discounts. See DOC Position to petitioners' comment 8.

Comment 3: Respondents state that if the Department adjusts for imputed credit expenses in the United States, then it must also do so in the home market.

DOC Position: We agree. We have imputed credit expenses in each of the respondents' market.

Comment 4: Because they sell through service centers in the United States and directly to smaller end-users in the home market, respondents claim they have higher per unit production costs in the home market for the smaller quantities sold and higher indirect costs linked to maintaining extensive home market sales staff. Respondents thus argue that the Department should make a level of trade adjustment to account for these costs.

DOC Position: We disagree. We disallowed the level of trade adjustments because respondents did not show that the same selling expenses incurred on U.S. sales would have been incurred in the home market had there been sales at the same level of trade in that market.

Comment 5: Respondents urge the Department to use exchange rates from a more stable period preceding the period of investigation to convert Deutsche marks to dollars. They argue that such a lag is appropriate under 19 CFR 353.56(b), because of temporary and volatile movements in exchange rates during the period of investigation.

DOC Position: We disagree. The period of investigation was characterized by a substantial depreciation of the dollar against the Deutsche mark. Indeed, this trend was apparent for at least several months prior to the period of investigation. Although this depreciation of the dollar was not entirely steady, the dollar/Deutsche mark exchange rate was clearly subject to a sustained change during the period of investigation. The regulation provides that respondents "will be expected to act within a reasonable period of time to take into account sustained changes in prevailing exchange rates." The Department will consider lagging the exchange rates used in a fair value investigation where there has been a sustained change in exchange rates and where respondents can show that they have acted within a reasonable period of time to adjust their prices in response to the change. In this case, application of the special rule is not warranted because respondents failed to adjust their prices.

Because respondents have alleged that the period of investigation was characterized by temporary exchange rate fluctuations, we have also considered the second part of § 353.56(b) which provides that "no differences between the prices being compared resulting solely from such [temporary] exchange rate fluctuations will be taken into account in fair value investigations." We have determined that each company's margins in this investigation did not result solely from any temporary fluctuations. (We considered temporary exchange rate fluctuations to have taken place on any day on which the exchange rate varied by five percent or more from the quarterly rate.)

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of brass sheet and strip from the FRG that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register** in accordance with section 733(d) of the Act. The United States Customs Service shall require a cash deposit or the posting of a bond on all such entries equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/seller/exporter	Weighted-average margins (percentage)
Wieland	5.31
Langenberg	15.94
All others	8.87

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information related to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on brass sheet and strip from the FRG entered, or withdrawn from warehouse, for consumption on or after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

January 5, 1987.

[FR Doc. 87-470 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-066]

Impression Fabric of Man-Made Fiber From Japan; Preliminary Results of Antidumping Duty Administrative Review and Tentative Determination To Revoke in Part

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review and tentative determination to revoke in part.

SUMMARY: In response to requests by three exporters, the Department of Commerce has conducted an administrative review of the antidumping finding on impression fabric of man-made fiber from Japan. The review covers three exporters of this merchandise and the periods May 1, 1982 through April 30, 1986. There were no known shipments of this merchandise to the United States. There were no exports by the three firms during the period.

As a result of the review, the Department has preliminarily determined to revoke the antidumping finding with respect to Mitsui & Co., Ltd. and Nissei Co., Ltd.

Interested parties are invited to comment on these preliminary results and tentative determination to revoke in part.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On May 8, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 19560) the final results of its last administrative review of the antidumping finding on impression fabric of man-made fiber from Japan (43 FR 22344, May 25, 1978). We began the current review of the finding under our old regulations. After the promulgation of our new regulations, three exporters requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published notices of initiation on June 23, 1986 (51 FR 22840) and on October 3, 1986 (51 FR 35385). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of impression fabric of man-made fiber, currently classifiable under items 338.5001, 338.5002 and 347.6030 of the Tariff Schedules of the United States Annotated.

The review covers three exporters of Japanese impression fabric of man-made fiber to the United States and the periods May 1, 1982 through April 30, 1986.

Preliminary Results of the Review and Tentative Determination To Revoke in Part

As a result of our review, we preliminarily determine that the following margins exist for the periods May 1, 1982 through April 30, 1986:

Exporter	Margin (percent)
Marubeni Corp	[1] 7.5
Mitsui & Co., Ltd	[1] 7.5
Nissei Co., Ltd	[1] 10.12

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results and tentative determination to revoke in part within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Mitsui & Co., Ltd. and Nissei Co., Ltd., requested revocation of the finding and, as provided for in § 353.54(e) of the Commerce Regulations, have agreed in writing to an immediate suspension of liquidation and reinstatement on the finding under circumstances specified in the written agreement. These firms have not shipped impression fabric to the United States for four years.

Therefore, we tentatively determine to revoke the antidumping finding on impression fabric of man-made fiber from Japan with respect to Mitsui & Co., Ltd. and Nissei Co., Ltd. If this partial revocation is made final, it will apply to all unliquidated entries of this merchandise exported by these firms and entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required for the reviewed firms. For any shipments from the remaining known manufacturers and/or exporters not covered by this review, the cash deposit will continue to be at rates published in the final results of the last administrative review for each of those firms (49 FR 19560, May 8, 1984).

For any future entries of this merchandise from a new exporter, not covered in this or prior administrative reviews, whose first shipments occurred after April 30, 1986 and who is unrelated to any reviewed firm or any previously reviewed firm, a cash deposit of 10.12 percent shall be required. These deposit requirements are effective for all shipments of Japanese impression fabric of man-made fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review, tentative determination to revoke in part, and notice are in accordance with sections 751(a)(1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1), (c)), and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.531a, 353.54).

Dated: January 2, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87–471 Filed 1–8–87; 8:45 am]

BILLING CODE 3510-DS-M

[A–588–068]

Steel Wire Strand for Prestressed Concrete From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioners, the Department of Commerce has conducted an administrative review of the antidumping finding on steel wire strand for prestressed concrete from Japan. The review covers eight manufacturers and/or exporters of this merchandise to the United States and the period December 1, 1982 through November 30, 1985. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Edward Haley or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department

of Commerce, Washington, DC 20230; telephone: (202) 377–5289/5255.

SUPPLEMENTARY INFORMATION:

Background

On August 29, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 30895) the final results of its last administrative review of the antidumping finding on steel wire strand for prestressed concrete from Japan (43 FR 57599, December 8, 1978). We began this review of the finding under our old regulations. On January 8, 1986, and January 21, 1986, after the promulgation of our new regulations, the petitioners requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published notices of initiation on January 21, 1986 (51 FR 2747) and February 12, 1986 (51 FR 5219). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of steel wire strand, other than alloy steel, stress-relieved and suitable for use in prestressed concrete. Steel wire strand for prestressed concrete is currently classifiable under item 642.1120 of the Tariff Schedules of the United States Annotated.

The review covers eight manufacturers and/or exporters of Japanese steel wire strand for prestressed concrete to the United States and the period December 1, 1982 through November 30, 1985. We are deferring review of Mitsui & Co., Ltd. We will cover that firm in a separate review. Mitsubishi Corp. did not provide a response to our antidumping questionnaire. For this firm we used the best information available for assessment and estimated antidumping duties cash deposit purposes. The best information available is the fair value rate for exports from that firm produced by Tokyo Rope Manufacturing Co., Ltd.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that the following margins exist for the period December 1, 1982 through November 30, 1985:

Manufacturer/exporter	Margin (percent)
Mitsubishi Corp./All Manufacturers	4.5
Shinko Wire Co., Ltd./All other exporters (except Mitsui & Co., Ltd.)	[1] 0
Suzuki Metal Industry Co., Ltd./All other exporters (except Mitsui & Co., Ltd.)	[1] 0
Tokyo Rope Mfg. Co., Ltd./All other exporters (except Mitsui & Co., Ltd.)	[1] 4.5

[1] No shipments during the period.

Interested parties may submit written comments on these preliminary results within 21 days of the date of publication of this notice and may request disclosure and/or a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 21 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required for these firms. For any future shipments from the remaining known manufacturers and/or exporters not covered in this review, a cash deposit shall be required at the rates published in final results of the last administrative review for each of those firms. For any entries of this merchandise from a new exporter whose first shipments occurred after November 30, 1985 and who is unrelated to any reviewed firm, the Department waives the cash deposit requirement. These deposit requirements and waiver are effective for all shipments of Japanese steel wire strand for prestressed concrete, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: January 2, 1987.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87–472 Filed 1–8–87; 8:45 am]

BILLING CODE 3510–DS–M

[A–407–071]

Viscose Rayon Staple Fiber From Finland; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by the petitioner, the Department of Commerce has conducted an administrative review of the antidumping finding on viscose rayon staple fiber from Finland. The review covers Kemira Oy Sateri and the periods March 1, 1983 through February 28, 1986. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Barbara Victor or J. Linnea Bucher, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–5222/5255.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 29439) the final results of its last administrative review of the antidumping finding on viscose rayon staple fiber from Finland (44 FR 17156, March 21, 1979). We began the current review of the funding under our old regulations. After the promulgation of our new regulations, the petitioner requested in accordance with § 353.53a(a) of the Commerce Regulations that we complete the administrative review. We published the notices of initiation on April 18 and July 9, 1986 (51 FR 13273 and 51 FR 24884). The Department has now conducted that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed and not

otherwise processed, wholly of filaments (except laminated filaments and plexiform filaments), currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated. The review covers Kemira Oy Sateri and the periods March 1, 1983 through February 28, 1986.

United States Price

In calculating United States price the Department used purchase price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Purchase price was based on the delivered, packed price to unrelated purchasers in the United States. We made adjustments for handling, inland freight, ocean freight and insurance. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since there were sufficient sales of such or similar merchandise in the home market. Home market price was based on the ex-factory price to unrelated purchasers in the home market. We made an adjustment for a cash discount. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that the following margins exist:

Manufacturer	Time period	Margin percent
Kemira Oy Sateri	3/1/83-2/28/85	13.32
	3/1/85-2/28/86	9.24

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 5 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by section 751(a)(1) of the Tariff Act, a cash deposit of estiamted antidumping duties of 9.24 percent shall be required. For any future entries of this merchandise from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after February 28, 1986 and who is unrelated to any reviewed firm or any other previously reviewed firm, a cash deposit of 9.24 percent shall be required.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: December 31, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 87-473 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-021]

Certain Carbon Steel Products From Brazil; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On October 31, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certain carbon steel products from Brazil. The review covers the period February 10, 1984 through September 30, 1984 and 22 programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, the Department has determined the net subsidy to be 9.14 percent *ad valorem* for COSIPA, 39.98 percent *ad valorem* for CSN, zero for USIMINAS, 38.45 percent for Maxitrade, and 21.13 percent *ad valorem* for all other firms.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On October 31, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 39774) the preliminary results of its administrative review of the countervailing duty order on certain carbon steel products from Brazil (49 FR 25655, June 22, 1984). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Brazilian certain carbon steel products. Such merchandise is currently classifiable under items 607.6610, 607.6710, 607.6720, 607.6730, 607.6740, 607.6742, 607.8320, 607.8342, 607.8350, 607.8355, and 607.8360, of the Tariff Schedules of the United States Annotated.

The review covers the period February 10, 1984 through September 30, 1984 and 22 programs: (1) CACEX export financing; (2) an income tax exemption for export earnings; (3) the export credit premium for the IPI; (4) CIC-CREGE 14-11 financing; (5) incentives for trading companies (Resolution 643); (6) duty-free treatment and tax exemption on equipment used in export production ("CDI"); (7) FINEX (Resolutions 68 and 509); (8) government provision of equity; (9) funding for expansion through IPI tax rebates; (10) FINEP; (11) accelerated depreciation for Brazilian-made capital goods; (12) BEFIEX; (13) CIEX; (14) financing for the storage of merchandise destined for export (Resolution 330); (15) FUNPAR; (16) PROSIM; (17) loan guarantees; (18) loan assumptions; (19) labor subsidies for employees of state enterprises; (20) subsidized electricity used in steel production; (21) subsidized port facilities; and (22) PROEX.

The review covers seven firms, comprising three producers and four trading companies. The three producers, Companhia Siderurgica Paulista ("COSIPA"), Companhia Siderurgica Nacional ("CSN"), and Usinas Siderurgicas de Minas Gerais, S.A. ("USIMINAS"), as well as one trading company, Maxitrade, received benefits that are significantly different, as provided for in section 706(a)(2) of the Tariff Act of 1930, from the weighted-average benefit for all firms. We have, therefore, set company-specific rates for those four firms.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments from an importer, Voest-

Alpine Trading USA Corporation, and the Brazilian government.

Comment 1: The Brazilian government argues that the Department should use for its short-term loan benchmark the annualized interest rate in effect on the date that each loan was obtained instead of the average annual rate in effect during the review period. In a high-inflation economy, such as exists in Brazil, and average rate calculated over the review period distorts the actual interest differentials. Further, since the number of loans in this case is small, this approach will not create an unworkable administrative burden.

Department's position: We disagree. An average benchmark over the review period may understate or overstate the benefit on individual loans, but it will accurately reflect the aggregate benefit from preferential loans over the review period because each company borrows at a more or less constant rate throughout the year.

Comment 2. The Brazilian government contends that the Department should use as its short-term loan benchmark the average commercial bank lending rates published by Morgan Guaranty Trust Company in its *World Financial Markets* instead of the average of weekly trade bill discount figures published in *Analise/Business Trends.* Commercial bank lending practices are most similar to Resolution 674/882 financing, the source of Morgan Guaranty's figures.

Department's position: We disagree. The commercial bank lending rates published by Morgan Guaranty Trust Company are lending rates to prime borrowers. As stated in the Subsidies Appendix to the notice of final affirmative countervailing duty determination and order on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984) ("the Subsidies Appendix"), we use a national average benchmark based on short-term financing available to all firms, not just to prime borrowers. We have found that trade bill discounting more accurately reflects the actual borrowing practice of most Brazilian firms.

Comment 3: The Brazilian government argues that the Department overstated the short-term loan benchmark by compounding monthly rates. If the Department continues to use the annual average for discounts of accounts receivable, it should calculate a daily rate, compound it for a 30-day period and then multiply this rate by 12 to annualize the benchmark. This calculation would take into account the monthly rollover of the principal.

Department's position: We disagree. We have found that commercial lending in Brazil generally does not exceed 30 days and that most loans are rolled over monthly. It is inappropriate to use compounded daily rates, even if such rates were available, because loans are rolled over monthly, not daily.

Comment 4: The Brazilian government believes that the Department should use the guideline interest rates established by the resolutions regarding the short-term preferential export financing programs instead of the actual interest rates on each loan contract. Although the actual lending experience of certain firms may result in interest rates that are lower than the guideline interest rates, the lower rates are the result of commercial practices, such as the large volume of business conducted between certain firms and banks, and not any government action. Furthermore, since a higher lending volume generates higher costs for the firm, the Department should include these costs in calculating the effective preferential interest rate.

Department's position: We disagree. Regardless of whether the costs of these loans are higher or lower than the guideline rates, the benefit received by the companies' borrowing under this program is the difference between what they are paying and what they otherwise would pay. Further, the Brazilian government has provided no evidence that an increased volume of loan causes higher effective costs.

Comment 5: The Brazilian government claims that, in calculating the short-term interest rate benchmark, the Department should not include the tax on financing transactions ("the IOF"). The IOF is an indirect tax on the financing of physically incorporated inputs. Considering the IOF tax to be an integral part of the commercially-available rate (*i.e.*, considering exemption from the tax to be a subsidy) is contrary to the General Agreement on Tariffs and Trade and U.S. law, both of which permit the non-excessive rebate of indirect taxes.

Department's position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See, e.g., Certain Castor Oil Products from Brazil* (48 FR 40534, September 8, 1983).

Comment 6: The Brazilian government claims that the Department incorrectly allocated the benefits from the income tax exemption for export earnings program over export sales instead of total sales. Since the program rebates direct taxes, it is a domestic subsidy, which requires the department to allocate the benefit over total sales.

Department's position: We disagree. When the amount of benefit received under a program is tied directly or indirectly to a company's level of exports, that program is an export subsidy. Under this program, exports are necessary to receive a benefit, and the level of exports determines the level of benefit. Therefore, we will continue to allocate benefits from this program over export sales instead of total sales.

Comment 7: The Brazilian government argues that CIC–CREGE 14–11 loans are not countervailable because they are non-government loans granted in accordance with commercial considerations. Although the nominal interest rates on these loans during the review period were somewhat below the commercial interest rates, commission costs, collateral and foreign exchange requirements effectively increased nominal rates to the range of commercial rates. Further, the Department should not calculate a cash deposit rate for this program because the nominal rates on these loans now approximate commercial rates.

Department's position: The Brazilian government has not provided adequate information to allow us to consider this loan program to be provided without government direction or to be provided on terms consistent with commerical loans.

Comment 8: The Brazilian government believes that the Industrial Development Council's ("CDI") Decree Law 1428, which allows import duty exemptions on Brazilian-made capital equipment, is not limited to an industry or group of industries, and is therefore not countervailable.

Department's position: We disagree. We have found that CDI benefits are provided by the government to specific industries. *See, Certain Carbon Steel Products from Brazil* (49 FR 17988, April 26, 1984).

Comment 9: The Brazilian government believes that FINEX financing under Resolution 68 and 509 is not countervailable because the program is consistent with the Arrangement on Guidelines for Officially Supported Export Credits ("the Arrangement"), which is not considered an illegal export subsidy under item (k) of the Illustrative List of Export Subsidies annexed to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code").

Department's Position: We disagee. Since the FINEX loans in this case are short-term loans, they are not covered by the Arrangement and, hence, do not

fall within the second paragraph of item (k).

Comment 10: The Brazilian government contends that U.S. importers would normally obtain import financing at LIBOR or the U.S. prime rate, not at the rates reported in the U.S. Federal Reserve Bulletin. Therefore, the Department should change the benchmark for FINEX importer financing. If the Department continues to use the Federal Reserve rate as a benchmark, the Brazilian government believes that the benchmark should not be based on the upper limit of the interquartile range, but rather on the average of the upper and lower limits.

Department's Position: We disagree. The Federal Reserve rates are an appropriate measure of the national average commercial rates available to U.S. importers. The Brazilian government has not provided any proof that an average importer in the United States would have access to either trade or working capital financing at LIBOR or U.S. prime rates.

In calculating the benchmark, we used the weighted-average interest rates on loans of less than one million dollars, not the upper limit of the interquartile range.

Comment 11: The Brazilian government contends that the Department should have used discounting operations under Communication 331, rather than Resolution 63 loans, as the basis for the FINEX export financing benchmark. The terms and commitments associated with Communication 331 discount operations more closely approximate the FINEX export financing discounting operations.

Department's Position: We disagree. Communication 331 discount operations generally have a duration of much less than 180 days. In contrast, Resolution 63 loans, with 180-day terms, more closely approximate the terms, commitments, and duration of FINEX export financing.

Comment 12: The Brazilian government argues that the Department, in its calculation of benefits from importer and exporter FINEX financing, should not have included the commission, which is paid to the lending bank by CACEX. The Brazilian government believes that, since the commission is negotiated between the lender and borrower at arm's length, it is governed by commercial considerations, and is, therefore, not countervailable.

Department's Position: We disagree. The benefit received by the companies' borrowing under this program is the difference between what they are paying and what they otherwise would pay. Therefore, we have included the portion of the commission that is passed on to borrowers.

Comment 13: The Brazilian government argues that the IPI rebate program under Decree Law 1547 is not countervailable. As originally enacted, the value-added tax applied to all domestic sales transactions, but it now applies to only fourteen industries, including steel. Because these industries are subject to the IPI while others are not, the reduction of the IPI for any of those industries cannot be considered a subsidy.

Department's Position: We disagree. The IPI rebates do not directly reduce taxes paid by steel producers. Instead, the same amount of IPI tax is applied to all steel products, but only companies that produce certain priority products and companies whose expansion projects are government-approved may receive the rebates. For example, manufacturers of steel products such as welded pipe and tube are not eligible for the rebates. Therefore, there is no one-to-one correspondence between taxes paid and the IPI rebate. Moreover, we do not have information on the amount of rebates in other industries or on the exceptions within those industries.

Comment 14: The Brazilian government believes that, having incorrectly found IPI rebates under Decree Law 1547 countervailable, the Department then incorrectly calculated the benefit for the companies found to be uncreditworthy by adding a risk premium to the maximum discount rate. The maximum discount rate already includes a risk premium and is based on compensating balances, which the Department has determined are not required in Brazil.

Department's Position: We disagree. In accordance with the Subsidies Appendix, we have calculated a discount rate for uncreditworthy companies by adding a risk premium to the highest commercial interest rate that a creditworthy borrower would have to pay. The maximum rate for discounting accounts receivable, which includes compensating balances, is the highest commercial interest rate applicable to creditworthy borrowers. The addition of a risk premium to this rate reflects the additional risk in lending to an uncreditworthy firm.

Comment 15: The Brazilian government contends that the Department has sufficient evidence to find the FINEP long-term loan program generally available and, therefore, not countervailable. If the Department continues to find these loans countervailable, the benchmark should be the company-specific long-term interest rate in effect when the loans were taken out. In addition, the Department should not calculate a subsidy for any funds received under this program from the International Bank for Reconstruction and Development ("IBRD").

Department's position: We disagree with the first point. During verification, we requested industry-specific FINEP loan information, including data on the relative economic size of, and amounts received by, each industry for the past six years. Although we obtained information on various industries that received FINEP loans, the Brazilian government did not break down the amounts provided for those industries. Therefore, we do not have sufficient information to find the FINEP long-term loans are not specifically provided to more than a specific enterprise or industry or group of enterprises or industries.

We agree that a company-specific loan benchmark is appropriate. We have recalculated the benefit and find no change in the subsidy rate. Finally, we did not include any IBRD funds received in calculating the benefit for this program.

Comment 16: The Brazilian government believes that, since sales from producers to trading companies are made at arm's length, the Department inappropriately assumed that the subsidies given to producers also confer subsidies on trading companies and service centers. If the Department believes that subsidies on this merchandise were passed through from the producers to the trading companies and service centers, it should have used an upstream subsidy test to determine the benefit. If the Department continues to assume that subsidies given to producers also confer subsidies on trading companies and service centers, it should weight the benefits received by each trading company and service center by the amount purchased from each producer.

Department's position: The upstream subsidy provision of the Act, 19 U.S.C. section 1677–1, only applies to situations involving an input product. (*See,* final affirmative countervailing duty determination on live swine and fresh chilled and frozen pork products from Canada (50 FR 25097, June 17, 1985)). The products which are sold to the trading companies or the service center in this case are not inputs, rather they are products which are at or near the final stage of processing. All the trading companies or the service centers do is prepare these products for the next customer. The amount of value added by the trading company or the service

center is minimal. Thus, since we determine that this situation is not one involving inputs, we determine that the upstream subsidy provision of the Act is not applicable. Nor does the fact that the sale from the producer to the trading company is an arm's length transaction alter this conclusion.

Comment 17: The Brazilian government argues that the Department incorrectly determined that COSIPA and CSN were not equityworthy from 1977–1984 and that USIMINAS was not equityworthy from 1980–1984 because the Department evaluated government investments by SIDERBRAS from the point of view of a private outside investor instead of a private owner-investor. The Brazilian government argues that its motive, as an owner-investor, is to maximize average returns on its past and future investments in each company, not to maximize marginal returns on investments as an outside investor would. Therefore, it is unreasonable to expect SIDERBRAS to treat past equity infusions as sunk costs.

The Brazilian government contends that the equity infusions in these years are directly tied to the massive long-term Stage III expansion projects undertaken by each firm. The government's decision to invest in Stage III was made in 1975. The decision relied on favorable long-term domestic and international market projections and World Bank appraisals which showed favorable financial returns for the projects. The Brazilian government contends that if it no longer provided equity, consequently forcing the stage III projects to a halt, it would forego the future benefits from the expansion project, and therefore, realize no return on its past investments.

Department's position: We disagree. Both a rational outside investor and a rational owner-investor make investment decisions at the margin. The relevant question for both investors is: What is the marginal rate of return on each cruzeiro invested? An investor in the Brazilian steel companies does not ignore the potential return from the assets that the companies have already acquired. The potential for a favorable return from those assets is an integral part of the investment calculus. However, a rational investor does not let the value of past investments affect present or future investment decisions. The decision to invest is only dependent on the marginal return expected from each additional equity infusion. Therefore, new equity infusions contemplated by investors such as the Brazilian government should not be affected by past investments or sunk costs.

We do not dispute the findings of the long-term market projections or World Bank project reports made in 1975. The Brazilian government designed the Stage III expansion projects as a keystone in its Second National Development Plan (1971–1979). The plan explicitly called for steel investments with the objective of national self-sufficiency by 1979. With an anticipated completion date of 1979, Stage III was designed to supply steel for the Development Plan's large public sector investment program. The decision to sign the contracts for Stage III was based on the national goal of public welfare maximization and not necessarily on commercial considerations.

Although the decision to invest was made in 1975, actual construction began in the late 1970s. By that time, the investment climate had deteriorated, international markets for steel began to decline, and public sector investment dried up. Stage III may still have yielded positive financial returns despite the financial and economic conditions at the time. However, because a sufficient rate of return on equity depends on the performance of the firm as a whole, an investor will invest based on the rate of return for the entire firm, not the rate of return for an individual project such as Stage III.

Current and anticipated future economic conditions and the effects of massive expansion projects on the steel companies are just as important as projected long-term markets in an investor's prediction of each company's long-term viability, and therefore, the decision to invest in the companies. Consistent with the desire to maximize overall profits, a rational owner-investor must constantly reevaluate projects such as Stage III in light of other investment opportunities before determining whether those projects should be continued, delayed or abandoned.

Comment 18: The Bazilian government argues that the Department's evaluation of the performance of COSIPA, CSN and USIMINAS during the Stage III expansion program was short-sighted in that it incorrectly focused on financial performance instead of current operating performance. The Department's reliance on both short-term static financial ratios and overall operating performance is an insufficient measure of long-run investment potential and future company performance.

If the Department continues to depend on short-term indicators, it should adjust each company's overall operating performance by eliminating non-productive assets (*i.e.*, assets under construction) and related liabilities from the calculation of the financial ratios. When made, these adjustments reveal a healthy current operating performance for the three companies during the periods the Department found the companies not equityworthy. More importantly, such adjustments show strong profit margins and asset turnover, current operating performance measures which are fundamental determinants in the rate of return on equity.

The Brazilian government contends that the economic constraints existing in the late 1970s and early 1980s, such as government price controls on steel, supplier price increases, high real domestic and international interest rates, a temporary cyclical downturn in the steel market, and lower-than-expected government equity infusions were unanticipated transient problems that were insufficient to cause SIDERBRAS to abandon its long-term investment plans. These transient problems and their effects on the companies are relatively unimportant because they do not have a direct bearing on the companies long-term prospects.

The Brazilian government believes that the logical conclusion from the equityworthiness evaluation is that the only problem faced by the firms was undercapitalization, or a lack of equity infusions. Therefore, the Brazilian government believes that SIDERBRAS should have infused more, not less, equity into the companies.

Department's position: We disagree. the most significant factor in determining the required rate of return on an investment is the degree of risk. The greater the risk of the investment, the higher the expected rate of return must be. The decision to invest balances risk against the expected rate of return. From the point of view of an investor, the purchase of equity is highly risky compared to other types of investments.

In contemplating an equity purchase, an investor will evaluate past and present company performance, anticipated future economic conditions, and overall investment climate. Important determinants in the evaluation include the financial stability of the company (*e.g.*, asset structure, funding sources, and risk of insolvency), past earnings, and the amount of financial leverage in the company's capital structure. Therefore, we disagree with the Brazilian government that present and past performance indicators

are relatively unimportant in an investment decision.

Investors will also assess the potential future performance of the company. In this case, the Brazilian government undertook a massive expansion program designed to exploit the projected increase in the demand for steel. In evaluating the equityworthiness of the three companies, we do not rely exclusively on the future prospects of the expansion projects. We also cannot ignore, just as an investor would not have ignored, the effects of such an expansion on each company's present operations and future viability. An investor purchases equity based on the rate of return of the firm as a whole, not on the financial returns from a specific project.

From an investor's point of view, there is no relevant distinction between financial and operating results. To see clearly the relationship between operating and financial results, we look to the rate of return on equity, which is primarily a function of three variables: profit margin (income/sales), asset turnover (sales/assets), and financial leverage (assets/equity).

Evaluation on the basis of current operating results (profit margin and asset turnover), without considering non-operational assets and accompanying liabilities, may be an appropriate approach for managing or analyzing profit centers within a company. An investor, however, is concerned with the company's overall performance. To do otherwise, an investor would be ignoring the effects of the Stage III expansion program on the company. Non-performing assets not only drag down overall operating performance, but the chance that they might never come on-stream creates additional uncertainty for future earnings and therefore increases the risk of the investment.

The rate of return on equity equation shows the fundamental interrelationship between financial performance (financial leverage) and operating performance (profit margin and asset turnover). The decision to continue Stage III in the face of inadequate equity infusions from the Brazilian government leads to substantial increases in each company's financial leverage. There is a direct relationship between financial leverage and earnings variability. Therefore, both are also directly related to investment risk.

In the late 1970s and early 1980s, the Brazilian steel industry was characterized by Stage III construction delays, marginal or negative earnings, and a mounting economic and financial crisis. The lack of funding in the industry became critical. (The Brazilian government had a history of underfunding steel expansion projects.) By 1982, the three companies would have required 3 billion dollars in equity to correct their financial positions. Although it is now clear that the companies were severely undercapitalized, we cannot base our equityworthiness decision on what the financial standing of the companies might have been if this were not the case.

The three companies had a uniform response to the conditions in the late 1970s: they contracted variable-rate debt at a time of high real interest rates, and they used increasing amounts of short-term debt. Not only were the companies undercapitalized, but they mismatched long-term assets with expensive short-term debt.

During this time, an investor would have found that the steel companies were incapable of covering the additional debt expense with internally generated funds. The steel companies had a low probability of increasing earnings over the short- and medium-term from domestic sales because of the squeeze between supplier price increases and the government's policy of steel price suppression. Further, it became increasingly evident that there was a long-term decline in the world-wide demand for steel, continuing the depression of steel prices in the international market.

A project such as Stage III can have future positive returns only if the company does not become insolvent. In this case, the continuation of Stage III severely jeopardized the companies' financial standing. Even if we disregard profit margins and asset turnover, we cannot disregard the adverse effects of increased financial leverage on the companies' equity standing. The additional risk in the three highly leveraged companies would have dissuaded any private investor from purchasing equity in these Brazilian steel firms during the periods we consider them not to be equityworthy.

Final Results of Review

After reviewing all of the comments received, we determine the net subsidy to be 9.14 percent *ad valorem* for COSIPA, 39.98 percent *ad valorem* for CSN, zero for USIMINAS, 38.45 percent for Maxitrade, and 21.13 percent *ad valorem* for all other firms for the period of review, the same as in the preliminary results.

The Department will, therefore, instruct the Customs Service to assess countervailing duties of 9.14 percent *ad valorem* for COSIPA, 39.98 percent *ad valorem* for CSN, zero for UNIMINAS, 38.45 percent for Maxitrade, and 21.13 percent *ad valorem* for all other firms of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after February 10, 1984 and on or before September 30, 1984.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 31, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87–474 Filed 1–8–87; 8:45 am]

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[C-427-016]

Industrial Nitrocellulose From France; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On February 13, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on industrial nitrocellulose from France. The review covers the period March 22, 1983 through December 31, 1983 and 12 programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we have determined the net subsidy for the period of review to be 0.37 percent *ad valorem*.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or David Layton, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 13, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 5386) the preliminary results of its administrative review of the countervailing duty order on industrial nitrocellulose from France (48 FR 28521, June 22, 1983). The Department has now

completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of French industrial nitrocellulose containing between 10.8 and 12.2 percent nitrogen, not explosive grade nitrocellulose which contains over 12.2 percent nitrogen. Such merchandise is currently classifiable as cellulosic plastic materials, other than cellulose acetate, under item 445.2500 of the Tariff Schedules of the United States Annotated ("TSUSA").

The review covers the period March 22, 1983 through December 31, 1983 and 12 programs: (1) Cross-subsidization through military sales; (2) a grant from the Ministry of Defense; (3) a grant from DATAR; (4) the assumption of labor costs for civil servants; (5) increased government equity; (6) raw material purchases from government-owned firms; (7) the assumption of labor costs by the FNE; (8) research and development assistance; (9) financing from the Fonds de Developpement Economique et Social; (10) loans from Credit National; (11) financing from the Caisse des Depots et Consignations; and (12) loans from the Ministry of Research and Industry.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the petitioner, Hercules, Inc., and from the respondents, the Government of France and the Societe Nationale des Poudres et Explosifs ("SNPE").

Comment 1: Hercules disputes the Department's statement that it would be inconsistent with the legislative history of the countervailing duty law to allocate to industrial nitrocellulose benefits clearly tied to military nitrocellulose. Hercules contends that the Department ignored both the legislative intent of the Tariff Act and administrative precedent in its analysis of possible indirect subsidies to SNPE's industrial nitrocellulose production from the excess profits purportedly made on military nitrocellulose. The Department cites no legislative justification for its treatment of the issue.

The legislative history of the Tariff Act indicates that Congress intended that the Department interpret the countervailing duty law in a broad, flexible, and creative manner. Section 701(a) of the Tariff Act requires Commerce to impose countervailing duties on products benefiting from both direct and indirect subsidies. Congress emphasized that the term "subsidy" defined in section 771(5) of the Tariff Act must not be treated as a static concept. Its definition must evolve in order to counteract new types of government action that distort market forces and place U.S. companies at a competitive disadvantage.

Contrary to the intent of the Tariff Act, the Department applied a narow and restrictive interpretation of the concept of countervailing subsidy to the cross-subsidization issue. Furthermore, the courts have held that the Department must be concerned with the effects of a particular government program, not its nominal form. The Tariff Act is concerned exclusively with the unfair competitive *effect* of a benefit, not the government's supposed *intent* in providing the benefit.

SNPE states that the Department was correct in determining that, even if there were a benefit from excessive prices for military nitrocellulose, it would not affect nitrocellulose. Hercules' novel theory of cross-subsidization is contrary to Congressional intent. In the case of SNPE, there is no clear connection between the alleged subsidy provided and the product exported. Upstream subsidization marks the outer limit of what constitutes a subsidy under the Tariff Act. The alleged cross-subsidization does not fit in this category.

Department's position: We agree that the countervailing duty law requires the Department to countervail indirect subsidies, to construe the term "subsidy" broadly, and to measure the actual amount of countervailable benefits. However, these requirements must be interpreted along with other provisions and purposes of the law.

While Congress did not intend that the countervailing duty law be applied in a narrow and restrictive fashion, it also did not intend that the law be applied without regard to statutory guidelines, international obligations, and administrative precedents. We believe that we have applied the countervailing duty law in as broad and flexible a manner as the circumstances of this case permit. Having considered cross-subsidization from various viewpoints, we conclude that it does not occur with respect to industrial nitrocellulose (*see*, Department's Position on Comment 3). We will in general consider cross-subsidization as a potential subsidy, but we are not doing so here based on the facts of this case.

The legislative history is not silent with regard to the appropriate allocation of benefits. In their remarks on the calculation of the "net subsidy," the House Ways and Means Committee and the Senate Finance Committee stated that subsidies in the form of the provision of capital equipment or plants, and nonrecurring grants and loans, are to be related to, and allocated over, the production or exportation of products which benefit from those subsidies.

Production subsidies such as these are even more distantly linked to a particular product than the payment of excessive prices would be. The House Ways and Means Committee stated:

Definition of "Net Subsidy."

. . . There is, however, a special problem with regard to subsidies which provide an enterprise with capital equipment or a plant. In such cases, the net amount of the subsidy should be amortized over a reasonable period, following the beginning of full scale commercial operation of the equipment or plant, and assessed *in relation to the products produced with such equipment or plant* during such a period. Furthermore, in calculating the *ad valorem* effect of non-recurring subsidy grants or loans, reasonable methods of allocating the value of such subsidies over the production or exportation of *products benefiting from them* will be used.

H. Rep. No. 317, 96th Cong. 1st Sess. 74-75 (1979) (emphasis added). The Senate Finance Committee Report contains nearly identical language:

Net Subsidy (Section 771 (6))

. . . There is a special problem in determining the gross subsidy with respect to a product in the case of nonrecurring subsidy grants or loans, such as those which aid an enterprise in acquiring capital equipment or a plant. Reasonable methods of allocating the value of such subsidies over the production or exportation of *the products benefiting from the subsidy* must be used.

S. Rep. No. 249, 96th Cong., 1st Sess. 85 (1979) (emphasis added).

The single most important principle that both committees stressed here was that the Department should reasonably allocate subsidies to the products that they benefit. It is reasonable to allocate fully to products under review benefits directly tied to those products (rather than diluting the benefit by allocating it over total sales). It is also reasonable not to allocate to products under review benefits tied directly to products outside the scope of review. We believe that it is eminently reasonable not to allocate the potential benefit from allegedly excessive prices for military nitrocellulose to industrial nitrocellulose.

Allegedly excessive prices on military nitrocellulose would provide an incentive to produce and sell only that product. It is unreasonable and counter-intuitive to conclude that SNPE would want to produce and sell more indutrial

nitrocellulose if military nitrocellulose commanded a higher price.

Finally, we did not concentrate exclusively on the intent of the alleged payment of excessive prices for military nitrocellulose in determining that cross-subsidization does not occur. Rather, we considered the effect of such a practice and concluded that it would encourage the production and sale of military nitrocellulose, a product not under investigation. We made clear in the preliminary results that only in those limited circumstances where the effect of a program is not demonstrable might we consider the intent to subsidize to be a surrogate for the effect of a subsidy.

The main issue, however, is not whether we have considered the intent or the effect, but whether we have appropriately and reasonably allocated the benefits. To the extent that our conclusions regarding tied benefits rely in some measure on intent, our position in this case is consistent with administrative precedent. Whenever we allocate a benefit tied to a product under investigation only to that product, there is an implicit assumption that the benefit is intended to affect only that product. Yet, some would argue that since money is fungible, any funds obtained under a particular program effectively enter into a pool of cash that can be drawn upon for use in any other product line. Even if there is very strict government control over the use of the funds, one could still argue that the effect of the government funds is to free up private money for use in other areas of the company, so that there would still be an indirect benefit to the company's total production. As noted in our preliminary results, the extreme extension of this line of reasoning is to allocate all benefits, regardless of their intent or effect, over a company's total sales. This practice raises the specter of having to dilute benefits (perhaps to *de minimis* levels) that we know are tied to products under investigation.

So, while the tying of benefits may seem inequitable at times, the alternative "fungibility of money" approach is even more troublesome. Moreover, to waver between the two policies only encourages interested parties to insist that we tie benefits to particular products in some cases but not in others, an approach that defies reason, logic, and fairness.

Given the inherent complexities concerning the effects of government funds on a particular product, we believe that our policy stated in the preliminary results is the most reasonable one. We will not allocate benefits tied to a product not under investigation over a product under investigation unless we have a clear reason to believe that such a benefit encourages the production or export to the United States of the product under investigation. We have no such indication in this case. Therefore, we believe that our conclusion regarding cross-subsidization is reasonable and that it is consistent with Congressional intent.

Comment 2: Hercules contends that the Department contradicted its own precedents in its preliminary results by concluding that potential benefits from excessive profits on sales of military nitrocellulose to the French government would not benefit the product under investigation, industrial nitrocellulose. Hercules cites four cases to demonstrate that the Department usually takes a different approach to this issue.

In the final affirmative countervailing duty determination on certain carbon steel products from Brazil (49 FR 17988, April 26, 1984), the Department found that value-added tax rebates on domestic steel sales conferred a countervailable subsidy on steel exports. In the final affirmative countervailing duty determination and order on cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984), the Department countervailed import duty exemptions that were tied only to domestic production. In the preliminary results of administrative review on viscose rayon staple fiber from Sweden (48 FR 24183, May 31, 1983), the Department determined that certain grants and interest-free loans that the Swedish government provided to establish production capacity for military production also conferred a countervailable subsidy on the production of civilian rayon. Finally, in the final affirmative countervailing duty determinations on stainless steel sheet, strip, and plate from the United Kingdom (48 FR 19048, April 27, 1983), the Department found that funds provided by the British government to British Steel Corp. to close redundant production facilities and purchase certain assets unrelated to the production or export of stainless steel indirectly conferred a countervailable subsidy on the merchandise under investigation.

SNPE maintains that the Department has consistently avoided imputing benefits given on a product not under investigation to the product under investigation. The cases cited by Hercules are inapposite because they deal with the allocation of domestic subsidies linked to the products actually under investigation. In the final affirmative countervailing duty determination on fuel ethanol from Brazil (51 FR 3361, January 27, 1986), the Department rejected the contention that it should compare the profitability of the product under investigation with that of other product lines in order to determine whether an equity investment was consistent with commercial considerations. Under this rationale, the Department stated that "any product line which achieved less than the average rate of return for the company as a whole would be considered as benefiting from the more profitable product lines. This leads to the absurd result that half of the company's activities are potentially subsidized."

Department's position: Far from contradicting our position in the preliminary results, the Department's precedents support the principle that benefits tied to a product not under investigation should be allocated only over that product unless there is a clear reason to believe that such a benefit encourages the production or export to the United States of the merchandise under investigation. The four cases that Hercules cites do not demonstrate that we have contradicted our own precedents. On the contrary, the four cases are either irrelevant to, or consistent with, our determination.

In certain carbon steel products from Brazil, we countervailed IPI tax rebates because we considered them to be passed on from the parent company to its subsidiaries in the form of equity infusions. We allocate the benefit from equity infusions over a company's total sales. In other Brazilian cases, we have found that IPI rebates are not directly tied to domestic sales. The taxes go into a fund that the Brazilian government disburses at it discretion. A firm does not necessarily receive more rebates if it sells more domestically.

In carbon steel products from Argentina, we countervailed import duty exemptions on raw materials used in carbon steel, the product under review. We treated the exemptions as a domestic subsidy and allocated the benefit over the companies' total sales. Hercules has misunderstood the operation and purpose of the import duty exemption scheme. Argentine law allows import duty exemptions on raw materials when there is no domestic production or insufficient domestic production to meet domestic demand. The issue is not, as Hercules suggests, whether this program is intended as an incentive to develop Argentina's domestic steel production, but whether the benefit accrues only to domestic sales. The program in no way provides an incentive to sell exclusively in the

domestic market. Export sales may just as well contain raw materials that were exempt from import duties.

In viscose rayon staple fiber from Sweden, we allocated the benefit from interest-free loans used to produce a modal fiber plant over both modal fiber (a product under investigation but not exported to the United States) and regular fiber (a product under investigation that was actually exported to the United States) only after we obtained evidence that the modal fiber plant had been modified to produce regular fiber as well as modal fiber. In our two prior reviews, we had allocated the benefit only over modal fiber because the benefit was tied to that product and we had no reason to believe that the benefit encouraged the production or export to the United States of regular fiber.

In stainless steel sheet, strip, and plate from the United Kingdom, the government funds purportedly used to close redundant production facilities or purchase assets unrelated to stainless steel were in the form of equity infusions. We have repeatedly held that equity infusions benefit all aspects of a firm's activities. We therefore allocated the benefit over the company's total sales.

We have recently taken the position that benefits tied solely to domestic sales of a product under investigation are not countervailable. In the final affirmative countervailing duty determination on porcelain-on-steel cooking ware from Mexico (51 FR 36447, October 10, 1986), we found that FOMEX Frontier loans were not countervailable because they were tied to domestic sales. Therefore, they do not benefit the production or export of the subject merchandise to the United States. Since SNPE does not sell military nitrocellulose to the United States, any potentially excessive prices on military nitrocellulose are not countervailable. Therefore, the benefit from alleged excessive prices for military nitrocellulose would not affect industrial nitrocellulose on two accounts: it would be tied to non-U.S. sales and to a product not under investigation.

In numerous cases, Commerce and the Treasury Department have tied benefits to certain products or markets. *See, e.g.*, certain fish from Canada (44 FR 1372, January 5, 1979); paper-making machinery from Finland (44 FR 10451, February 20, 1979); certain steel products from Belgium (47 FR 39304, September 7, 1982); certain steel products from South Africa (47 FR 39379, September 7, 1982); certain steel wire rod from Belgium (47 FR 42403, September 27, 1982); float grass from Italy (47 FR 56160, December 15, 1982); galvanized steel wire strand from South Africa (48 FR 19451, April 29, 1983); certain table wine from France (49 FR 6779, February 23, 1984); certain table wine from Italy (49 FR 6778, February 23, 1984); unprocessed float glass from Mexico (49 FR 7264, February 28, 1984); castor oil products from Brazil (49 FR 9921, March 16, 1984); amoxicillin trihydrate from Spain (49 FR 12730, March 30, 1984); ampicillin trihydrate from Spain (49 FR 12731, March 30, 1984; bicycle tires and tubes from Taiwan (49 FR 14777, April 13, 1984); and cotton yarn from Brazil (49 FR 15250, April 18, 1984).

Comment 3: Hercules contends that the Department neglected its legal obligations by failing to investigate the facts surrounding cross-subsidization. Instead, the Department employed a sort of circular logic: it neglected to request pertinent data on the cost of production and sales of military nitrocellulose and then concluded it was unable to determine that cross-subsidization occurred because there was no evidence to support allegations that SNPE made excess profits on military sales or that those excess profits were then transferred to industrial nitrocellulose.

In the course of an administrative review, the Tariff Act and Commerce Regulations mandate a review of each practice found to be a subsidy in the original investigation. The Department failed to request data on military nitrocellulose apparently because the French government previously thwarted the Department's efforts to obtain such data during the original investigation. Therefore, the Department's decision in this review is not based on complete information.

Hercules contends that nothing has occurred since the time of the original final determination that should alter the Department's position in that determination that "in the face of the allegation that industrial nitrocellulose production receives indirect subsidies through military sales, and in view of the fact that industrial nitrocellulose is a co-product of military grade nitrocellulose, the Department must carry out its charge to investigate petitioner's claim" (48 FR 11976, March 22, 1983).

The assumption that profits from SNPE's military sales benefit only military production is not supported by the actual situation of the company. SNPE is an established producer of military nitrocellulose in France. Its customer for military nitrocellulose, the French military, is essentially a peacetime force and, as such, probably has a finite demand for the product. Given this fixed demand for military nitrocellulose and the pre-established production facilities of SNPE, the possible excess profits from military sales cannot be incentives to expand military nitrocellulose production (unless there are customers outside of France).

Further, due to French government ownership of a large portion of SNPE, the company is a *de facto* subsidiary of the government despite its formal independence. Military sales are in effect an internal transfer between parent and subsidiary. The Department's assumption that SNPE's high profits for military nitrocellulose accrue only to military production might be valid only if SNPE were not owned by the government. Under the actual circumstances however, the French government essentially pays itself for military nitrocellulose. It seems questionable that the government would pay itself excessive prices through its subsidiary for a product that has a finite demand and sufficient production capacity if the subsidy can benefit only that product. It is more likely that the excess profits confer benefits on other sectors of SNPE where there is potential for expansion.

In this context, the Deparment should request more detailed information on military nitrocellulose production and sales prior to making its final decision on the cross-subsidization issue. Even if the Department's conclusion on cross-subsidization in the preliminary results was correct, it was based on facts in the record.

SNPE argues first that, contrary to Hercules' statements, industrial nitrocellulose and military nitrocellulose are not co-products. They have different production lines and processes. Thus, a benefit to the production of military nitrocellulose would not directly affect the production of industrial nitrocellulose.

SNPE states that the Department checked the allegation of cross-subsidization with a complete cost of production analysis of industrial nitrocellulose. The investigation established that there was no economic or business reason for supporting industrial nitrocellulose production through military sales. It is therefore impossible to conclude that industrial nitrocellulose is cross-subsidized.

The Government of France states that military nitrocellulose production and sales data involve military secrets and national security. SNPE would be subject to criminal penalties for revealing such information. The government has a legitimate claim of

national security, which is sanctioned by Article XXI of the General Agreement on Tariffs and Trade ("the GATT"). The Department should not draw an adverse inference from SNPE's refusal to provide this information.

Department's position: We disagree with Hercules' position. Consistent with our legal obligations, we have reviewed each practice, including cross-subsidization, found to be a subsidy in the original investigation. We acknowledge that cross-subsidization is potentially countervailable, and we will in general consider this issue in other cases, but we find that cross-subsidization does not confer a benefit here based on the facts of this case. Our conclusions regarding cross-subsidization are based on the facts that are in the record, which includes all of the information that we requested from the French government and SNPE during this review.

We did not request information on sales of military nitrocellulose because we recognize the right of the French government to withhold, under certain circumstances, information that is vital to its national security.

As stated in our final determination (48 FR 11972):

> In our view, while national security considerations cannot serve as a blanket excuse for non-cooperation, nor for non-compliance with or countervailing duty and antidumping laws, the legitimate national security interests of a respondent government must be taken into account in any decision regarding what constitutes best information available.

Our position on this issue has been clear and unequivocal throughout this proceeding. In our final determination, we made adverse assumptions based not on the French government's refusal to provide information on military nitrocellulose, but on its refusal to provide information on the cost of production of industrial nitrocellulose. We believed at the time that the cost of production information would provide a reasonable basis for determining whether industrial nitrocellulose was being subsidized from earnings on military sales.

In this review, both the French government and SNPE fully cooperated with the Department. We requested, received, and verified complete date on the cost of production of industrial nitrocellulose. Although we found that SNPE's industrial nitrocellulose operations were profitable during the period of review, which is favorable indication that cross-subsidization does not occur, we have determined that this information by itself is not conclusive. This conclusion is based on new information in the record, which necessitated careful reconsideration of the issue. Thus, there is sound reason for the difference in results on this issue.

The independent profitability of industrial nitrocellulose in and of itself is not a reliable indication of the potential benefits arising from government purchases of military products and the potential funneling of those benefits into the company's industrial nitrocellulose operations. We have no information on the profitability of other industrial product lines or other military product lines at SNPE, and there are many other variables that could affect the short-term profitability of industrial nitrocellulose, such as market demand, changes in exchange rates, and fluctuations in input costs.

We disagree with Hercules' assertion that our reliance on tied benefits might be valid only if SNPE were not owned by the govenment. There is no connection between government ownership of SNPE and the effect of potentially excessive prices paid for one of the company's products. In fact, carrying Hercules' erroneous characterization of the French government and SNPE as parent and subsidiary to its logical extreme, it would be difficult to explain why any company would pay itself excessive prices for anything or, if it did, how such a practice could be intended to affect anything but the particular product receiving the excessive prices. Concerning the benefits that Hercules implies by the relationship of the French government and SNPE, we have consistently held that government ownership *per se* does not confer a subsidy. We have found that the 1972 creation of SNPE was in response to the international obligations of the French government and that the 1983 government equity infusions in SNPE were made in accordance with commercial considerations. The company has earned a profit in every year since 1972 except 1975. All this has led us to conclude that SNPE has been operated as an independent commercial enterprise. *See* also, Department's Positions on Comments 9, 10, and 11.

Furthermore, we have no basis for concluding the SNPE owes its profitability entirely to its military sales. During the period of review, military sales (including military nitrocellulose) represented approximately 45 percent of SNPE's total sales. As we stated in our final determination (48 FR 11974):

> The fact [that] SNPE, by virtue of its status as the sole supplier of certain military products, retains close business ties with the government does not necessarily lead to the conclusion that it cannot operate as a truly commercial entity. In the United States, there are a number of companies which function as independent, commercial entities even though they serve primarily or exclusively as defense contractors. Petitioner Hercules also performs defense work for the U.S. government. For example, it manages and operates the U.S. government-owed military nitrocellulose plant at Radford, Virginia.

We acknowledge that military and industrial nitrocellulose are co-products. Under certain circumstances, we might find that cross-subsidization between similar products does occur. Without diminishing the importance of the close relation between the two products, we believe that this information would be more significant if we were dealing with production subsidies. However, Hercules alleges that the benefit occurs not during the production process, but at the point of sale. We also note that the markets for military and industrial nitrocellulose are entirely different, and the uses of the two products are entirely different.

Finally, we disagree with SNPE that, purely on the basis of our cost of production analysis, we have proved conclusively that industrial nitrocellulose does not benefit from cross-subsidization. Although such an analysis may help to show, under certain circumstances, whether or not cross-subsidization occurs, it does not by itself prove that cross-subsidization does not occur in this case.

Comment 4: Hercules contends that the Department has shifted the burden of proof to the petitioner. The data necessary to refute the Department's assumption on cross-subsidization are beyond the petitioner's grasp. Instead of granting SNPE the benefit of a favorable assumption on this question, the Department should draw an adverse inference, as it did in the investigation. It is standard Department practice to draw adverse inferences against recalcitrant parties. Furthermore, section 776 of the Tariff Act in effect provides that respondents have the burden to prove the lack of receipt of alleged subsidies once the investigation is begun.

Department's position: Although we have repeatedly noted Hercules' failure to furnish any evidence that the French government pays excessive prices for military nitrocellulose, we have not shifted the burden of proof to the petitioner. Rather, we have concluded that any such proof would be irrelevant without a clear indication that those excessive prices encourage the production or export of the product subject to this investigation, industrial

nitrocellulose. We have found no such indication.

Section 776(b) of the Tariff Act does not provide that respondents have the burden to prove the lack of receipt of alleged subsidies once the investigation is begun. Rather, it provides that the Department shall use "the best information otherwise available . . . whenever a party. . . refuses or is unable to produce information requested in a timely manner and in the form required. . . ." Since SNPE and the French government did not refuse to provide any information that we requested in this review, we are not using the best information otherwise available.

Comment 5: Hercules contends that the Department's position on cross-subsidization creates an enormous loophole in the countervailing duty law. Following the Department's logic, foreign governments will now be able to subsidize their industries covertly by purchasing at exorbitant prices merchandise that is only slightly different from the merchandise that is exported to the United States. Unless the Department further investigates the potential indirect benefits to industrial nitrocellulose from military nitrocellulose sales, there will be unlimited potential for similar subsidy schemes in other cases.

SNPE argues that the Department's position does not create a loophole in the law. On the contrary, if the Department reversed itself, it would create a loophole that would allow petitioners to make unsubstantiated allegations concerning issues requiring disclosure of national security information. The petitioner could count on a subsidy finding since the respondents would never be able to disclose the information needed to disprove the allegation.

Department's position: We disagree that our position on cross-subsidization creates a loophole in the countervailing duty law. As shown in our response to Comment 2, we have used the concept of tied benefits on numerous occasions. Since our position is not a deviation from past practice, we are neither creating nor destroying an opportunity for circumvention of the countervailing duty law. Furthermore, where there is a clear indication that a benefit tied to products not under review directly or indirectly affects merchandise subject to the review, we will find that benefit countervailable.

Comment 6: Hercules contends that the Department should not allow SNPE or the French government to avoid providing data on military nitrocellulose because of self-serving national security claims. Neither the Tariff Act nor the Agreement on Interpretation of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade ("the Subsidies Code") recognizes national security interests of the country under investigation as an exception to another country's right to use the "best information available" in calculating countervailing duties. In addition, Congress has never approved the GATT. 19 U.S.C. 2504 (1982) specifically states that in a conflict between a trade agreement and a U.S. statute, the U.S. law shall prevail.

To create a national security exception to the best information available requirement of section 776 would require the Department to accept without qualification a foreign government's determinations on which data are to be withheld for national security reasons. The Department lacks the legal authority to accept this option. Furthermore, the precedent of a national security exception to the best information rule creates another dangerous loophole through which subsidizing countries might evade the countervailing duty law.

SNPE on the other hand insists that the Department should respect the legitimate national security claims of the French govrenment and SNPE. The French Ministry of Defense has certified to the Department that it could not authorize the release of information concerning its national security interests. In the final determination in this case, the Department stated that such claims must be considered in decisions regarding what constitutes the "best information available."

Department's position: Article XXI of the GATT provides that any contracting party has the right to refuse disclosure of information when it considers such disclosure contrary to its security interests. There is no direct conflict between article XXI of the GATT and U.S. law. The Tariff Act does not expressly prohibit the Department from considering the national security concerns of responding governments. In such cases where there is no direct confiict between U.S. and international law, U.S. law should be construed so as not to bring it into conflict with international law or with an international agreement of the United States. *See,* Restatement of the Foreign Relations Law of the United States (Revised), section 134 (Tent. Draft No. 6—Vol. 1, 1985).

We therefore believe that, under certain circumstances, we are justified in considering the national security concerns of responding governments. Our standard is to determine whether national security claims are being used legitimately or merely as a blanket for non-cooperation. In this case, we find the French claims to be legitimate.

Comment 7: Hercules argues that any precedent established by the finding of cross-subsidization would not create an unworkable administrative burden because this type of subsidy would apply only in those situations where the products involved were closely related (*i.e.,* co-products) and the government was purchasing one of the products to inject funds into the company. Contrary to the Department's position, the Department need not embrace a strict "fungibility of money" approach in analyzing the potential benefit to industrial nitrocellulose from excessive profits on military nitrocellulose. The Department requires only specific cost of production and sales data on military nitrocellulose to ascertain the existence of a cross-subsidy and subsequently to quantify it. If the Department finds that military nitrocellulose sales were meerly a conduit for government assistance to the production of industrial nitrocellulose, it could impose contervailing duties without adopting a strict "fungibility of money" approach across the board.

In contrast, SNPE contends that the Department's acceptance of the petitioner's novel theory of cross-subsidization would create an unworkable administrative burden. In order to verify the existence of such subsidization and to quantify it, the Department would be required to make a complete analysis of the profitability of every product that the company under investigation produces and also of the sources and uses of funds for the company as a whole. The petitioner's theory involves the issue of the fungibility of money and extends the concept of subsidy beyond anything the Department has been willing to accept in the past.

Department's position: A finding of cross-subsidization in this case would not create an unworkable administrative burden. If we had a clear indication that benefits on military nitrocellulose directly or indirectly affected the production of industrial nitrocellulose, we could find a countervailable benefit. Without the indication, we consider any potential benefits on military nitrocellulose to be tied to that product. Difficulties in administration of the law would arise not in the potential finding of cross-subsidization, but in the assumption of cross-subsidization in the absence of evidence that benefits tied to a product outside the scope of review affect a product under review. If we made such an assumption, we might set

a precedent for such undesirable practices as diluting benefits tied to a product under investigation by allocating the benefits over sales of all products, diluting benefits on export subsidies by allocating them over both export and domestic sales, and including benefits on sales to countries other than the United States.

Comment 8: Hercules contends that the creation of SNPE as an independent entity was a transparent legal fiction that the French government undertook in accordance with its obligation under the Treaty of Rome to "spin-off" certain government monopolies. SNPE remains under the government's *de facto* control. The Department should treat all transfers to SNPE from the government as countervailable grants, given the vast array of opportunities that a government has to subsidize an enterprise under its direct control. Since the French government controls all data that would substantiate the subsidization of SNPE through transfers of assets and funds since 1971, it is the French government that has the burden to prove that these transfers are not countervailable grants.

On the other hand, SNPE maintains that there is no evidence in this case to support Hercules' claim that the creation of SNPE as a separate legal and commercial entity was a legal fiction. SNPE's predecessor, Service des Poudres (SP), was an agency of the French Ministry of Defense and, as such, was not subject to the financial reporting and accounting requirements imposed on private companies. As part of a government ministry, SP was not run as a profit-making enterprise. In contrast, SNPE is an independent, commercially motivated enterprise. It must comply with the French Code of Commerce, which regulates the business conduct and financial reporting requirements of private firms in France.

Department's postion: We disagree with Hercules' contentions. We examined this allegation in the investigation, and Hercules has presented no new information that warrants a reversal of our decision in the final determination.

SNPE was organized in response to a binding directive under the Treaty of Rome that provided that certain state monopolies be adjusted to operate on a competitive basis. Since our final determination, we have found no evidence indicating that the creation of SNPE was a "legal fiction" or that the transfer of funds to SNPE was equivalent to a grant. SNPE has functioned as an independently operated, profit-oriented enterprise since its creation. We disagree with Hercules' contention that the government's almost total ownership of SNPE belies any claims of independence because we do not consider government ownership of a business *per se* to be a subsidy and we have found that SNPE operates as an independent commercial enterprise.

We agree with Hercules that SNPE's *de jure* creation as a commercial entity in and of itself is insufficient proof of SNPE's independent status. Rather than considering the company's legal status in isolation, we have focused on the company's actual commercial behavior and have concluded that SNPE operates as a *de facto* independent commercial entity.

Comment 9: Hercules argues that, if the Department maintains that SNPE's creation was not a legal fiction, it should still conclude that the company's creation was not consistent with commercial considerations. The Department must reconsider the question of SNPE's intial commercial viability in light of the Department's refined methodology that requires an evaluation of the commercial consistency of equity infusions at the time the investment decisions are made.

In the final determination, the Department found that the creation of SNPE was not inconsistent with commercial considerations because: government assets transferred to SNPE were properly valued; since its inception, SNPE operated in a commercial fashion, and industrial nitrocellulose operations and plant improvements were financed from operating revenues; except for one year, SNPE achieved company-wide profits since its inception; and finally, the relatively small share of SNPE's overall sales that industrial nitrocellulose represents indicates that there is no reason to believe SNPE was created solely or primarily to subsidize the production of industrial nitrocellulose.

Current Department methodology stresses the commercial soundness of government equity purchases at the time those purchases are made if the enterprise has no market price for its shares. The Department has refined its standard of equityworthiness to take into account the company's prospects as reflected in market studies, country and industry forecasts, and project and loan appraisals, all of which might predict the company's ability to generate a reasonable rate of return in a reasonable time. The Department has stated that, where the past history of a company is of little use in assessing its future performance, it will place greater emphasis on feasibility and market studies.

In the case of SNPE, the Department has noted that the company had no financial "track record" prior to its creation. In light of its revised equity methodology, the Department should reevaluate the creation of SNPE and subsequent government equity infusions in that company. In its original analysis, the Department did not take into account the history of SNPE's predecessor, SP, and the commercial prospects of SNPE at the time of its formation. SNPE's subsequent performance record is not relevant to the determination of whether a subsidy was conferred at the time of the equity purchases. Current Department policy focuses on whether the commercial investor would have invested in SNPE as a whole at the time the government made the equity purchase. The Department should therefore reexamine the valuation of SNPE at the time of its creation and compare this valuation of assets to that of its predecessor organization, SP.

SNPE argues that the initial government equity infusion related to the creation of SNPE cannot be considered countervailable for the period of review even if that infusion were determined to be inconsistent with commercial considerations. The Department's policy dictates that it cannot countervail in any given year an amount greater than that which it would have countervailed by treating the government's equity infusion as an outright grant. For the purpose of calculating this maximum amount, grants are allocated over the average useful life of a company's renewable physical assets, as determined by the Internal Revenue Service. In the chemical and allied products industry, the average useful life of such assets is 9.5 years. As the creation of SNPE occurred in 1971, 12 years prior to the current period of review, no countervailable subsidy could be found even if the original infusion were treated as a grant. Thus, Hercules' concern over SNPE's lack of a proven financial "track record" at the time of its creation is irrelevant.

Department's position: Because Hercules has presented no new information that affects our decision in the final determination regarding the creation of SNPE, we find no reason to reconsider this issue. Hercules merely relies on what it perceives to be our revised equity methodology. However, we have not revised our equity methodology to that extent the Hercules believes.

At the time of our final determination, it had already been our policy to use the

"reasonable private investor" standard in determining whether government equity infusions were consistent with commercial considerations. It had also been our policy then, as it is now, to consider the soundness of an investment at the time the government made the equity purchase, not in subsequent years. These policies, as well as our policy of examining the past performance and current financial status of a company that has received an equity infusion, were described in Appendix II to the notice of final affirmative countervailing duty determination on certain steel products from Belgium (47 FR 39304, September 7, 1982). However, because of the unique circumstances surrounding SNPE's creation, we determined that our normal equity methodology was inappropriate. Instead, we used the criteria described by Hercules in this Comment.

We continue to consider the criteria employed in the final determination appropriate for determining whether the creation of a company such as SNPE confers any countervailable benefits.

Comment 10: Hercules argues that the Department erred in determining that the French government's subsequent equity infusions in SNPE, in particular the 1983 infusion, are not subsidies. When the Department judged the commercial soundness of the government equity purchases, it mistakenly based its analysis in part on the company's financial experience after the purchases were made.

Also, the country and industry forecasts cited in the preliminary results are irrelevant to an evaluation of SNPE's equityworthiness because they pertain to private, profit-oriented companies.

Favorable forecasts for private chemical companies do not necessarily apply to companies managed by the government. The Department should use contemporaneous market analyses for government-owned chemical producers and, if possible, the government's own analysis of the merits of its 1983 investment in SNPE.

Finally, and most importantly, in its financial analysis of SNPE, the Department overlooked the possibility that SNPE's favorable position may be the result of excess profits from military nitrocellulose sales to the French government during the period considered in the Department's equityworthiness analysis. As the public record in the antidumping proceeding on this same product shows, the Department has concluded that, at least during the first half of 1982, each grade of industrial nitrocellulose that SNPE sold in the home market was sold below cost. In the same period, SNPE was also selling industrial nitrocellulose in the United States at less than fair value (*See*, final affirmative antidumpting duty determination on nitrocellulose from France (48 FR 21615, May 13, 1983). Therefore, SNPE probably incurred losses for its industrial nitrocellulose sales in that period. At the same time, the Department found in its preliminary results of antidumping duty administrative review (51 FR 18819, May 22, 1986) that SNPE "reported a high return on sales for all products." The Department should not allow SNPE to be considered equityworthy based on financial information that may be inflated by indirect government subsidies. To do so creates a huge loophole for governments to subsidize industries covertly through high-priced purchases and, in so doing, ensure that appearance of "equityworthiness," or commercial soundness.

SNPE disputes Hercules' contention that new criteria compel us to reevaluate the French government's equity infusions in SNPE from any period. SNPE argues that equity infusions provided by the French government subsequent to its creation are not countervailable because they were made on terms consistent with commercial considerations. By 1973, the earliest time that an equity infusion treated as a grant might have figured as a countervailable benefit in the review period, SNPE had an established record of financial performance, demonstrating that any goverment investment in the company was consistent with commercial considerations. No government equity infusions occurred before 1973.

Department's position: Before we consider government equity infusions as countervailable subsidies, we must find the company under investigation not to be equityworthy. Our equityworthy analysis involves assessing the company's current and past financial health and gives great weight to a company's recent rate of return on equity. In the original investigation, we verified the SNPE made a profit in every year between 1972 and 1981, except one year due to a plant accident. In our preliminary results, we examined SNPE's financial ratios for 1981 and 1982—specifically, its interest to income ratio, quick ratio, current ratio, cash flow from operations, return on sales, and return on equity. We also examined trade journals and periodicals published in France and abroad in 1982 and 1983.

We disagree with Hercules' contention that, since SNPE is government-owned and managed, literature dealing with the prospects of the private chemical industry is not pertinent. SNPE competes in the same marketplace as other private firms when it sells its products.

Contrary to Hercules' contention, we did not rely on SNPE's financial history after the fact to establish its equityworthiness. Based on SNPE's favorable financial history up to the period of review and the optimistic trends reported in trade journals, we determine that SNPE was equityworthy during the period of review and that, therefore, the government's 1983 purchase of shares in SNPE was consistent with commercial considerations. We consider the question of earlier equity infusions to have been settled in the final determination.

We also disagree with Hercules' assertion that, in making our equityworthy determination, we should consider the possibility that SNPE's favorable financial position results from excessive profits on military sales. In making an equityworthy determination, we consider the company as a whole, not specific areas of the company. This is the approach a reasonable private investor would take. A reasonable investor would not invest in a company that has earned a profit in one comparatively small product line (industrial nitrocellulose made up approximately 10 percent of SNPE's total sales in 1983) if all other product lines lost money. Furthermore, we have no evidence that any other division of the company depends on profits from military sales for its good financial standing. (See, Department's Position on Comment 3.)

Comment 11: SNPE argues that funds from the French Ministry of Defense (MOD) to upgrade the company's pyrotechnical safety equipment at the Bergerac plant in 1975 do not constitute a countervailable subsidy. The French government's provision of funds was linked to its original equity infusions undertaken at the time of SNPE's transformation to independent status. Since the Department has found that the French government's prior acquisition of SNPE stock, to which the MOD grant is linked, was not countervailable, it should also find the MOD grant not countervailable.

Hercules disputes SNPE's contention. The fact that the Department determined that the original infusion was not countervailable does not exempt subsequent and related transfers. There is no evidence on the record showing that the French government received stock in return for the 1975 grant. On the contrary, the evidence shows that the funds received

in 1975 from the MOD were treated by SNPE as a taxable grant. If these funds had been part of the original equity infusion, they would have been tax exempt under French law.

Department's position: SNPE does not dispute the fact that the MOD assistance was in the form of a grant. In our final determination, we found that this grant was limited to a particular enterprise or industry and that it specifically benefited the production of industrial nitrocellulose. Therefore, regardless of whether the grant was contractually linked to the original equity infusion obligations, it is countervailable.

Comment 12: SNPE argues that the application of French law No. 575, Art. V, which permits certain SNPE employees to retain their government status, confers no countervailable benefit. Under the law, the government pays certain social security benefits for the status employees. The government's assumption of some of the status employees' benefit costs does not provide a subsidy because, under the same law, SNPE is obliged to retain those employees and pay them higher salaries than it pays equivalent non-government workers. SNPE does not gain any net financial advantage from the government's coverage of some of the status workers' social security costs. The government's assumption of these costs merely serves to relieve the company of some of the extra burden of the status employees' higher salaries. In certain steel products from Belgium, the Department did not countervail "extraordinary" severance benefits paid by the government to workers for early retirement because it found that the assistance merely relieved the companies of the special burden imposed by the steel restructuring plan. This precedent should be followed.

Hercules disputes SNPE's assertion. A foreign government's intention in conferring a subsidy is irrelevant since it is the effect and not the intention of the program which determines whether it bestows an unfair competitive advantage on the company. Without govrenment intervention, SNPE would have to bear the social security costs of the status employees regardless of what the law required the company to pay in salary. The circumstances in the Belgian steel case are clearly distinguishable from those of SNPE. Unlike the severance benefits that the government of Belgium paid to steel workers for early retirement, the social security benefits paid by the French government for status employees are ordinary benefits. Also, in contrast to Belgian steel, the French government payments are not related to a major restructuring plan for the industry.

Department's position: We agree with Hercules that the French government assumes social security costs that would otherwise be the responsibility of SNPE. This constitutes a subsidy within the meaning of the Tariff Act. We have not taken into account the higher wages paid to government employees because they do not qualify as an offset under section 771(6) of the Tariff Act. The higher wages also do not represent a deduction we would normally make to obtain the net amount of subsidization because thay are not directly related to the assumption of social security benefits.

Comment 13: Hercules asserts that the Department understated the subsidy that SNPE received from the Freench government's assumption of labor costs for the company's government-status workers. The Department erroneously accepted a set number of status workers assigned to industrial nitrocellulose production without a factual basis for doing so. In addition, the Department mistakenly assumed that status workers' salaries are the same as those of private workers. Since the labor benefits are calculated as a percentage of the workers' salaries, the Department should base its calculation on the actual salaries of the status workers.

The Department should calculate the labor benefit as follows: (1) It should determine the percentage of salary that private workers' fringe benefits represent at the Bergerac plant during the period of review; (2) it should then multiply this percentage by the total salary of all of the status workers at the Bergerac Plant; (3) it should find the cost that SNPE actually incurred for the fringe benefits of its status workers (*i.e.*, the part that the government did not pay) and subtract that amount from the total fringe benefit cost; and (4) it should divide the result by the total value of production at the Bergerac plant. This calculation yields a subsidy almost twice as great as the figure the Department calculated in the preliminary results.

Although SNPE maintains that there is no net benefit from the assumption of labor costs, it also contends that, if the Department continues to consider this program countervailable, it has miscalculated the benefit. The appropriate method is to determine the average annual difference between the fringe benefits for status employees and those for private employees, multiply that amount by the number of workers involved in the production of industrial nitrocellulose, and allocate the result over total sales of industrial nitrocellulose during the period of review.

Department's position: We disagree with Hercules' suggested method because we verified the number of workers involved in the production of industrial nitrocellulose. Furthermore, to apply the percentage of fringe benefits for private workers to the higher salaries for status workers would overstate the benefit. If we assume that, under normal commercial circumstances, SNPE would have been responsible for paying the fringe benefits of its status employees, we must also assume that the company would have paid those status employees the same salary as it pays its private employees. We agree with SNPE's method and have recalculated the benefit. We determine the benefit from this program to be 0.10 percent *ad valorem* during the period of review.

Comment 14: SNPE argues that assistance from the Delegation a l'Amenagement du Territoire et a l'Action Regionale ("DATAR") is not industry-specific and cannot be considered a countervailable subsidy under the Tariff Act. Although the Tariff Act considers benefits to a "group of enterprises or industries" as potentially countervailable, SNPE disputes the Department's interpretation of this phrase as including "industries in a particular region."

Since the phrase "group of enterprises or industries" is subject to different interpretations, it should be considered in a manner consistent with the international agreements that gave rise to the current countervailing duty law. In signing the Subsidies Code, the United States agreed not to restrict the rights of other signatories to grant aid to eliminate industrial, economic and social disadvantages of specific regions (Article 11). The objectives of the DATAR program are consistent with this Code provision.

The Department is thus wrong to conclude that, because DATAR programs are granted according to regional criteria, they constitute subsidies within the meaning of the countervailing duty law. SNPE contends that the countervailing duty law applies only to those subsidies which are provided to a specific enterprise or industry, or a group of enterprises or industries. Because DATAR assistance is not industry-specific, it is not countervailable. Finally, SNPE contends that regional subsidies are exempt from the Tariff Act by Article 11 of the Subsidies Code.

Hercules asserts that the DATAR grants fall within the general definition

of a subsidy in section 771(5)(B) of the Tariff Act because they are specifically used by enterprises or industries in certain regions. Hercules criticizes the assertion that regional subsidies are exempted from the Tariff Act by Article 11, contending that SNPE has misinterpreted the relationship between the Tariff Act and the Subsidies Code. Under the Tariff Act, domestic subsidies provided for in section 771(5)(B) must be countervailed. Furthermore, Article 11 is only concerned with the obligations of the signatories of the Subsidies Code, not with the implementation by the signatories of their own countervailing duty laws.

Department's position: We have consistently held that grants which confer incentives on the basis of regional preferences constitute subsidies within the meaning of the Tariff Act. Such grants constitute benefits provided to a group of enterprises or industries. The Department's position has been frequently upheld by the courts. (See, e.g., *Carlisle Rubber Co.* v. *United States*, 5 CIT 229 (1983) and *United States Steel Corp.* v. *United States*, 5 CIT 245 (1983).

Moreover, the Subsidies Code does not prohibit any country from imposing countervailing duties on products that benefit from regional subsidies. Article 11(1) of the Subsidies Code provides that ". . . signatories *recognize* that subsidies other than export subsidies are widely used as important instruments for the promotion of social and economic policy objections . . ." (emphasis added). Article 11(2) provides that ". . . signatories recognize, however, that subsidies other than export subsidies. . . may cause or threaten to cause injury to a domestic industry of another signatory . . ." Finally, Article 11(3) provides that "[s]ignatories note that the above forms of subsidies are normally granted either *regionally* or by sector" (emphasis added).

For these reasons, we uphold our determination that the DATAR program is countervailable under the Tariff Act.

Comment 15: Hercules asserts that the Department erred in finding that SNPE received no countervailable subsidies from its input purchases from government-owned firms. The Department examined only one supplier of nitric acid and found that the supply contract, which was executed prior to the supplier's nationalization, was still in effect. The Department should go further and investigate whether any government-owned supplier provided any inputs at preferential prices. This should include purchases from other government-owned nitric acid suppliers as well as purchases of other inputs, such as electricity and gas.

Department's position: We did examine inputs other than nitric acid. We found that SNPE purchased oleum and woodpulp at arm's length prices. Since SNPE continued to purchase nitric acid under a contract negotiated at arm's length before the supplier was nationalized, we find purchases subsequent to nationalization also to be at arm's length and, therefore, not countervailable. We have not reexamined purchases of electricity or natural gas because Hercules has provided no new information or rationale that would cause us to reverse our finding in the final determination that these inputs are not preferentially priced.

Comment 16: Hercules asserts that the response of the companion antidumping administrative review on industrial nitrocellulose must be incorporated in the record of this countervailing duty review. Both the legislative intent of the Tariff Act and established Department practice support the use of any available relevant material in the conduct of a countervailing duty proceeding. There is no statutory or regulatory provision barring the inclusion of portions of the antidumping review in the record of the countervailing duty proceeding. SNPE should have no legitimate expectation that the information contained in its antidumping response would be used only for the antidumping review. Although, in general, antidumping and countervailing duty investigations involve different facts and result in different factual determinations, there is a significant overlap between the issues involved in the concurrent cases concerning industrial nitrocellulose from France. The fact that SNPE is a state-owned enterprise that has been found to sell industrial nitrocellulose below cost may have bearing on the company's level of subsidization.

SNPE argues that the countervailing and antidumping duty laws define separate legal actions that depend on different factual conclusions. Since the two laws deal with fundamentally different trade issues, the Department must administer these two cases independently of each other and not commingle the records.

Department's position: Business proprietary data submitted in the course of one proceeding may not be used in another proceeding unless the party who submitted the data agrees to its use in the second proceeding. This is necessary to ensure the free flow of information to the Department in its antidumping and countervailing duty proceedings, and to protect the confidentiality of such information. Without the guarantee of protection of such information, the Department would be seriously hindered in its attempts to acquire business proprietary information and therefore seriously hindered in its ability to administer effectively the trade laws.

Furthermore, section 777(b) of the Tariff Act limits disclosure of confidential information submitted in a proceeding (except under administrative protective order) to an officer or employee of the Department or International Trade Commission"...who is directly concerned with carrying out the investigation in connection with which the information is submitted..." Section 777(c) of the Tariff Act limits administrative protective orders to parties to the proceeding in which the information is submitted. (See also, § 355.18, 355.20, 353.28, and 353.30 of the Commerce Regulations.)

Because SNPE has denied permission to place its confidential antidumping response in the records of this review, we have not done so.

Comment 17: Hercules argues that the Department should reexamine those subsidy programs it found to be generally available in the original investigation. These programs include assistance in research and development, energy inputs, antipollution compliance, and assumption of labor costs. Three court rulings since the Department issued its final determination have rejected the Department's general availability doctrine (including *Cabot Corp.* v. *United States*, 620 F. Supp. 722 (CIT 1985); *Agrexco Agricultural Export Co.* v. *United States*, 604 F. Supp. 1238 (1985); and *Bethlehem Steel Corp.* v. *United States* 590 F. Supp. 1237 (1984)). The court in *Cabot* stressed that the Department must focus on whether the program in question has the effect of conferring a competitive advantage on a product regardless of the program's nominal intent. For example, SNPE receives antipollution subsidies generally available in France. Hercules does not receive a similar benefit in the United States. The Department should consider the differential in the two companies' antipollution costs to be a competitive advantage for SNPE and, therefore, countervailable. Similar situations may exist for other programs originally found to be generally available.

Department's position: Hercules ignores the CIT's decision in *Carlisle Tire and Rubber Co.* v. *United States*, 5 CIT 229 (1983), which upheld the Department's specificity (general availability) test. This decision has not

been overturned, and we continue to follow it.

The relevant portion of the decision in *Cabot* has been vacated, and in neither *Agrexco* nor *Bethlehem* did the CIT overturn our specificity test. Therefore, we have not reexamined these programs.

Final Results of Review

After reviewing all of the comments received and correcting a calculation error, we determine the net subsidy to be 0.37 percent *ad valorem* for the period of review. The Department considers any rate less than 0.50 percent to be *de minimis*.

The Department will instruct the Customs Service not to assess countervailing duties on shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 22, 1983 and exported on or before December 31, 1983. Further, the Department will instruct the Customs Service to waive deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are inaccordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 31, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-475 Filed 1-8-87; 8:45 am]

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[C-351-020]

Non-Rubber Footwear From Brazil; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On June 26, 1985, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Brazil. The review covers the period January 1, 1981 through October 28, 1981 and ten programs.

We gave interested parties an opportunity to comment on the preliminary results. After review of all of the comments received, we determine the net subsidy during the period of review to be 6.04 percent *ad volorem*.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Richard Henderson, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On September 12, 1974, the Treasury Department published in the **Federal Register** (39 FR 32903) a countervailing duty order on non-rubber footwear from Brazil. The Department of Commerce ("the Department") began this review of the order under its old regulations, and published the preliminary results of its review on June 26, 1985 (50 FR 26397). On October 15, 1985, after the promulgation of our new regulations, the petitioner, Footwear Industries of America, Inc., requested in accordance with § 335.10 of the Commerce Regulations that we complete the administrative review of the order. The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

On June 2, 1983, the International Trade Commission ("the ITC") published its determination (48 FR 24796), under section 104(b) of the Trade Agreements Act of 1979 ("the TAA"), that an industry in the United States would not be materially injured, or threatened with material injury, by reasons of imports of Brazilian non-rubber footwear if the order were revoked. Consequently, the Department published in the **Federal Register** (48 FR 28310, June 21, 1983) a revocation of the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after October 29, 1981, the date of the ITC's notification to the Department of the request by the Brazilian government for such an injury determination.

Scope of Review

Imports covered by the review are shipments of Brazilian non-rubber footwear. Such merchandise is currently classifiable under Part 1A of Schedule 7 of the Tariff Schedules of the United States Annotated, excluding items 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000.

The review covers the period January 1, 1981, through October 28, 1981, and ten programs: (1) CACEX export financing; (2) an income tax exemption for export earnings; (3) the export credit premium for the IPI; (4) BEFIEX; (5) CIC-CREGE 14-11 financing; (6) CIEX; (7) incentives for trading companies (Resolution 643); (8) financing for the storage of merchandise destined for export (Resolution 330); (9) FINEX; and (10) Gold Draft of Exportation.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the petitioner, Footwear Industries of America, Inc. ("FIA"), the Government of Brazil, the Footwear Retailers of America ("FRA"), and the American Association of Exporters and Importers ("the Group").

Comment 1: The Group argues that the Department has no authority to require or authorize suspension of liquidation pending the completion of administrative reviews under section 751 of the Tariff Act. In accordance with section 504 of the Tariff Act, the Customs Service must liquidate all entries subject to this review within one year of entry. Liquidation should be at the rate of duty required at the time of entry.

Department's position: In *Ambassador Division of Florsheim Shoe* v. *United States*, 748 F. 2d 1560 (CAFC 1984), the Court of Appeals for the Federal Circuit ("the CAFC") ruled that the Department has the authority under section 504 to direct the Customs Service to suspend liquidation of entries and to retroactively assess duties on those entries based on a section 751 administrative review.

Comment 2: The Group and FRA argue that, even if the law permits suspension of liquidation pending completion of administrative reviews, it does not authorize continued suspension of liquidation if the Department fails to complete a review by the time limits set forth in section 751 of the Tariff Act. Since the Department did not complete its administrative review by the anniversary date of the order, entries made during the review period should automatically be liquidated in accordance with section 504(a) of the Tariff Act, *i.e.*, at the rate of cash deposit required at the time of entry.

Department's position: The Court of International Trade ("the CIT"), in *Philipp Brothers, Inc.*, v. *United States*, Slip Op. 86-16 CIT (Feb. 14, 1986), found that no provision of the Tariff Act provides for a consequence for failure to complete administrative reviews within the 12 months specified in section 751.

Instead, the statutory period for conducting a section 751 administrative review is directory, not mandatory. Therefore, the CIT concluded that the Department does not lose jurisdiction to complete a review if the review is not completed within one year and that entries are not deemed to be liquidated by operation of law. *See* also, *Miller Co.*, v. *United States*, Slip Op. 86–110, CIT (Oct. 24, 1986).

Comment 3: The Government of Brazil and FRA claim that section 104(b)(4)(B) of the Trade Agreements Act of 1979 ("TAA") refers to *any* countervailing duties collected since the TAA became effective. They argue that revocation of the order should apply to entries made since the first day of suspension of liquidation, which was December 7, 1979, not just to those made since the date of the ITC's notification to the Department of the commencement of the injury test, October 29, 1981. All estimated countervailing duties collected since the earlier date should be refunded. The Group also claims that section 104(b) provides that revocations resulting from a negative injury determination apply retroactively at least to January 2, 1980, the effective date of the TAA.

Department's position: Section 104(b) of the TAA directs that revocations resulting from negative injury determinations apply retroactively to the date of the ITC's notification to the Department of the request for inqury review. We have uniformly applied this procedure in all section 104(b) revocations. *See* also, *Final Results of Administrative Review of the Countervailing Duty Order on Non-Rubber Footwear from Brazil* (50 FR 15597, April 19, 1985).

Comment 4: The group and FRA argue that it is contrary to law for the Department to change the methodology used to measure subsidization after delaying the administative review beyond the statutory limits. Similarly, the Government of Brazil asserts that even if the law permits retroactive assessment of countervailing duties, it does not permit the Department to apply a changed methodology retroactively absent changed conditions in the exporting country.

Department's position: Deplays in publishing the results of an administrative review do not preclude the Department from applying its most current methodology. It would be absurd for the Department to maintain that one methodology most accurately measures the benefit while applying another which less accurately measures it.

Comment 5: FRA claims that there is no provision under section 751 of the Tariff Act for retroactive application of the results of an administrative review of a countervailing duty order covering imports from a "country under the agreement." FRA also argues that the Department may not assess countervailing duties higher than the cash deposit rate as a result of such a review. FRA cites *Ambassador Division of Floresheim Shoe* v. *United States*, 748 F.2d 1560 (CAFC 1984) as support for its position.

Department's position: While the CAFC in *Florsheim* addressed only countries not "under the agreement," the reasoning in *Florsheim* also applies to "countries under the Agreement." It would be illogical for Congress to have provided for an administrative review of entires from a "country under the Agreement" without allowing for an assessment of the duties established by the review. FRA cites no authority to support its assertion that countervailing duties may not be assessed retroactively on imports from "countries under the Agreement." Section 707 of the Tariff Act provides that the Department may not assess duties higher than the cash deposit rate only between the date of the preliminary determination and the date of the countervailing duty order. After that period, the Department must assess the actual amount determined in a 751 review.

Comment 6: The Group and FRA claim that section 303 of the Tariff Act does not provide for payment of interest on countervailing duty deposits. If the Department maintains its position that interest is assessable, the interest should apply only from the date of publication of the final results of the administrative review to the date of liquidation. Further, the interest provision of the Trade and Tariff Act of 1984 ("the 1984 Act") should not be applied to entries made prior to the effective date of that act, October 30, 1984.

Department's position: We disagree. The Court of International Trade in *Hide-Away Creations, Ltd.* v. *United States*, 598 F. Supp. 395 (1983) held that, although section 778 was silent with respect to when interest payments should be made in section 303 cases, section 778 should be construed as requiring interest payments in section 303 cases after the date of publication of the countervailing duty order. Section 621 of the Trade and Tariff Act of 1984 merely codified the Court's decision in *Hide-Away* and made explicit the timing of the interest requirements as they apply to orders published under section 303. Section 621 did not change this requirement. Thus, the effective date of interest payments applicable to section 303 orders is the effective date of section 778 of the Trade Agreements Act of 1979 (1980), rather than the effective date of section 621 of the Trade and Tariff Act of 1984. Accordingly, since the entries of the merchandise covered by this review were made after 1980, interest is payable on and after the publication date of the countervailing duty order.

Comment 7: The Government of Brazil argues that the Department should have used the companies' trade bill history as the most accurate source of information in establishing the short-term loan benchmark for export financing. Instead, the Department incorrectly based its benchmark on an average of weekly trade bill discount figures published in *Analise/Business Trends.*

Department's position: We disagree. Our practice in calculating a short-term loan benchmark is to use a national average interest rate rather than a company-specific interest rate. *See*, the Subsidies Appendix to the notice of *Final Affirmative Countervailing Duty Determination and Countervailing Duty Order on Certain Cold-rolled Carbon Steel Flat-rolled Products from Argentina* (49 FR 18006, April 26, 1984).

Comment 8: The Brazilian government argues that if the Department uses *Analise/Business Trends* to establish its short-term loan benchmark, it should follow the calculation method used in *Cast Iron Pipe Fittings from Brazil* (50 FR 8755, March 5, 1985) and annualize the discount rate in effect on the date that each loan was disbursed. Failing that, the Department should weight the annual commercial average rate by the borrowing volume of each firm.

Department's position: We did not annualize the discount rate in effect on the date that each loan was disbursed in the pipe fittings notice. Instead, we used the average annual rate for the review period. We disagree that we should weight the benchmark to reflect the borrowing volume of each firm. Weighting the benchmark, as the Brazilian government suggests, would result in a benchmark specifically for the firm covered by the review.

Comment 9: The Government of Brazil claims that, in calculating the interest benchmark for CACEX export financing, the Department should not include the exemption of such short-term working capital loans from the tax on financing transactions ("the IOF"). The IOF is an indirect tax on the financing of the purchase of physically incorporated inputs. Considering the IOF tax as an integral part of the commercially-available rate (*i.e.*, considering exemption from the tax to be a subsidy) is contrary to the General Agreement on

Tariffs and Trade and U.S. law, both of which permit the non-excessive rebate of indirect taxes.

Department's position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See, e.g., Certain Castor Oil Products from Brazil* (48 FR 40534, September 8, 1983).

Comment 10: The Government of Brazil argues that the Department has overstated the benefit from the income tax exemption for export earnings. Brazilian federal tax laws permit corporations to invest 26 percent of their tax liability in certain specified corporations and funds. The Brazilian government claims that these equity investments produce dividend income and increase saleable assets. Since these investments effectively reduce the nominal corporate income tax rate, the Government of Brazil argues that the Department should decrease the income tax exemption benefit to reflect the actual tax savings.

Department's position: We would consider using effective income tax rates if the firms demonstrated that they had invested in the specified corporations or funds. No information was provided to support such a claim during this review.

Comment 11: The Government of Brazil cites the determinations made in *Bicycle Tires and Tubes from Korea* (45 FR 17068, March 17, 1981) and *Certain Textiles and Textile Products from Pakistan* (44 FR 40884, July 13, 1979) to support its claim that benefits derived from income tax exemptions for export earnings should be allocated over total sales rather than only export sales. Under the Brazilian program, an exporter receives an exemption from income tax liabilities at the end of the fiscal year based upon a ration of export to total revenue, provided that the firm has made an overall profit. The Brazilian government argues that, because the salient factor in determining a firm's eligibility for this program is the firm's overall profitability in a given year, the benefit accrues to the operations of the whole firm and not just to exports. Thus, by allocating the benefits only over export sales, the Department overstates the value of the subsidy.

Department's position: We have considered and rejected this argument in other Brazilian countervailing duty cases. *See e.g., Castor Oil Products from Brazil, supra.* The Department's current method of allocating export subsidies over exports supersedes the allocation method used in the cases cited by the Government of Brazil.

Comment 12: The Government of Brazil argues that CIC–CREGE 14–11 loans are not countervailable because they are non-government loans granted in accordance with commercial considerations.

Department's position: The Government of Brazil has not provided adequate quantifiable information to allow us to consider this loan program to be provided without government direction or on non-preferential terms.

Comment 13: The Government of Brazil argues that, if the Department calculates a benefit for CIC–CREGE financing, it should use the same benchmark as for Resolution 674 financing.

Department's position: We agree and did use the same benchmark in our preliminary results.

Comment 14: The Government of Brazil argues that the Department incorrectly found the lag in collection of the offset tax on the export credit premium for the Industrial Products Tax ("IPI") to be a benefit. The Brazilian government argues that it had no agreement with the United States regarding the timing of the collection of the offset tax. There was no delay in collection of the tax since the firms paid the tax on the date set by governmental decree.

Department's position: While there may have been no agreement specifying the time period for tax collection, we must still ensure that the tax (or alternatively a countervailing duty) offsets completely the benefit received from the IPI export credit premium on exports to the United States. The offset tax became effective on June 26, 1981. The first collection occurred on December 31, 1982. A tax collected this long after the export date, especially without monetary correction in a period of high inflation, does not offset completely the benefit. Further, our treatment of the lag in the collection of the offset tax to the IPI has been upheld by the CIT in *Philipp Brothers, Inc.* v. *United States*, Slip Op. 86–107 CIT (Oct. 22, 1986).

Comment 15: The Government of Brazil argues that, if the Department calculates a benefit due to the delay in collection of the offset tax, the Department should use the same benchmark as used for CACEX export financing.

Department's position: We agree and did use the same benchmark in our preliminary results.

Comment 16: FIA argues that while the use of the "cash flow" method for calculating the benefit from preferential export financing is generally appropriate, it should not be applied in periods immediately preceding a revocation. Its application allows some preferential loans with interest payments falling due after revocation to go uncountervailed.

Department's position: It would be arbitrary to change our methodology solely for the purpose of capturing benefits that occur after revocation. The loans with post-revocation interest payments conferred no benefits during the period of review, and we have no authority to countervail benefits received after revocation.

Comment 17: FIA argues that the interest rate benchmark used in the preliminary calculations was incorrect because the Department did not consider the effect of compensating balances on the rate for discounting of accounts receivable.

Department's Position: We have considered and rejected this argument in the previous administrative review of this countervailing duty order. *See, Non-Rubber Footwear from Brazil, supra.*

Comment 18: FIA argues that the cash flow methodology requires the Department to countervail the IPI credit premiums received during the period of review since the cash flow effect occurs at the time of receipt. Payment of the IPI offset tax in 1982, long after receipt of the credit premium, does not neutralize the cash flow effect in 1981.

Department's position: We disagree. During the period May 4, 1981 through October 31, 1981, we consider the benefit from the IPI credit premium itself to be the delay in payment of the offset tax.

The methodology we used to calculate the benefit in this case followed our position concerning the proper functioning of an offset tax on exports from Brazil, as described in the notice of suspension of investigation of *Tool Steel from Brazil* (48 FR 11731, March 21, 1983). Under the terms of the suspension agreement, the Government of Brazil requires that the export tax be paid within 45 days of the last day of the month in which the merchandise was exported. While we found that the benefit from the IPI was not fully offset, it was due to the untimely collection of the offset tax as opposed to failure ever to collect the tax. We determined that the payment date of the export tax was reasonable since it corresponded to the approximate date the credit was received (45 days after the end of the month of shipment). Therefore, we have made allowances for the collection period agreed to in the tool steel suspension agreement and consider the benefit to non-rubber footwear exporters from late payment of the tax

to begin 45 days after the end of the relevant month. We measured the benefit from the delayed payment in the same manner we would measure the benefit from an interest-free loan. We believe our methodology is both internally consistent and consistent with other Brazilian cases. This methodology was upheld by the CIT in *Philipp Brothers, Inc.* v. *United States*, Slip Op. 86–107, *supra*.

Comment 19: FIA contends that the Department incorrectly used total 1981 exports as the denominator in calculating the benefit from IPI credit premiums received before May 5, 1981. The Department should have used only the exports made during the review period.

Department's position: We agree and have recalculated the benefit. We determine the benefit from this program to be 1.62 percent *ad valorem* during the period of review.

Comment 20: FIA argues that, assuming the Department properly treated the lag in collection of the export tax as an "interest-free loan," the Department understated the benefit because it failed to include in its calculations the IPI credits earned between August 1 and October 28, 1981, the effective date of the revocation. Since no interest payments were made, there was no actual cash flow effect on the date the export tax was due. Therefore, the Department should consider all IPI credits earned up to the final day of the review to confer a subsidy.

Department's position: We disagree. Any export tax levied to offset the IPI credit premiums for shipments made in August should have been collected by October 15, 1981 to have been timely. If the export tax were not collected by October 15, 1981, we would consider payment of the tax to be late. Since we measured the benefit from the late payment as we would measure the benefit from an interest-free loan, the first interest payment would be due 30 days later, *i.e.*, November 15, 1981, which is outside the review period.

All IPI credits earned between August 1 and October 28, 1981 could confer potential benefits only after the date of revocation.

Comment 21: FIA argues that the Department should have regarded the terms of the "interest-free loan" to begin on the date of export rather than on the date the offset tax is due. The Department ignores the provision of section 771(6) of the Tariff Act of 1930 which, FIA claims, provides that the Department may allow an offset for a subsidy only where it is levied on the export of the merchandise. The offset tax must be collected at the time the merchandise is exported. FIA cites the notice of intention to terminate the suspension agreement on *Carbon Steel Plate from Brazil* (49 FR 11864, March 28, 1984) to support its claim that the imposition of an export tax means "timely collection of export taxes."

Department's position: Since we have determined that 45 days is the average lag between the date of shipment and the date of receipt of the IPI credit, any offset tax collected on or before the 45th day after the end of the month in which the export was made would completely offset the benefit.

Section 771(6)(C) of the Tariff Act allows as an offset to the gross subsidy export taxes "levied on the export of merchandise to the United States" if the export taxes are specifically intended to offset the subsidy. We do not interpret the phrase "on the export of merchandise" to mean that the tax must be collected on the date of export. It merely means that the tax must be tied to the exported merchandise. We consider the "timely collection of export taxes" to be within 45 days of the end of the month in which the export occurred. In *Carbon Steel Plate from Brazil*, timely collection unequivocally meant that the tax was due 45 days after the end of the month on which shipment was made.

Comment 22: FIA argues that the Department's analysis of the IPI export credits received between May 5 and October 28, 1981 fails to account for the effects of inflation and the time value of money. FIA also argues that the export taxes ultimately paid by exporters did not fully offset the real value of the IPI export credit premiums.

Department's position: We agree that in periods of high inflation, such as existed in Brazil during the period of review, the delay in payment of the offset tax decreases in the real value of the offset tax. By measuring this benefit as we would an interest-free loan and compounding the benchmark, we compensated for the reduced value of the nominal payment caused by the delay.

Final Results of Review

After reviewing all of the comments received and correcting a calculation error, we determine the net subsidy to be 6.04 percent *ad valorem* for the period of review. The Department will instruct the Customs Service to assess countervailing duties of 6.04 percent of the f.o.b. invoice price on all shipments of this merchandise exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption on or before October 28, 1981.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 31, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87–476 Filed 1–8–87; 8:45 am]

BILLING CODE 3510-DS-M

[C-357-403]

Oil Country Tubular Goods From Argentina; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On November 18, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods from Argentina. The review covers the period January 1, 1985 through December 31, 1985 and four programs.

We gave interested parties an opportunity to comment on the preliminary results. After reviewing all of the comments received, we have determined the net subsidy during the period of review to be 0.24 percent *ad valorem*, a rate we consider to be *de minimis*.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Richard C. Henderson or Lorenza Olivas, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 18, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 41649) the preliminary results of its administrative review of the countervailing duty order on oil country tubular goods ("OCTG") from Argentina (49 FR 46564, November 27, 1984). We have now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Argentine oil country tubular goods. Such merchandise is currently classifiable under items 610.3216, 610.3219, 610.3223, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.2722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4225, 610.3235, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244 of the Tariff Schedules of the United States Annotated.

These products include finished or unfinished oil country tubular goods, which are hollow steel products of circular cross-section intended for use in the drilling of oil or gas, as well as oil well casing, tubing, and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) specifications or proprietary specifications.

The review covers the period January 1, 1985 through December 31, 1985 and four programs: (1) The reembolso, a cash rebate of taxes; (2) post-export financing; (3) BANADE long-term loan guarantees; and (4) discounts of foreign currency accounts receivable under Circular RF–21. During the period of review, Siderca S.A.I.C., was the only known exporter of Argentine OCTG to the United States.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. At the request of the petitioners. Lone Star Steel Company and CF&I Steel Corporation, we held a public hearing on December 9, 1986.

Comment 1: Lone Star and CF&I argue that the reembolso program fails the linkage test because it functions as an export promotion program, not as a rebate of indirect taxes. The implementation of Decree Law 176, which increased the reembolso rebate in exchange for an increased export commitment, proves that the only purpose of the reembolso program is to promote exports. Further, the wide variation of reembolso rates since 1983 demonstrates that there is no relationship between the reembolso study and the reembolso rates set for oil country tubular goods ("OCTG") by the Argentine government. Lone Star and CF&I cite the final affirmative countervailing duty determination on certain fasteners from India (45 FR 48607, July 21, 1980) to support their claim that the reembolso rebate is countervailable in full because of the Argentine government's failure to justify the changes in the tax rebate rate.

Department's position: We disagree. Although the reembolso program may function as an export promotion program as well as a rebate of indirect taxes, there is nothing contradictory about rebating indirect taxes for the express purpose of strengthening export performance. (*See*, final affirmative countervailing duty determination on leather wearing apparel from Argentine (46 FR 23090, April 23, 1981.) To the extent that all indirect tax rebate programs are aimed at avoiding double taxation (*i.e.*, taxation in the country of origin as well as in the country of destination), they are encouraged exports indirectly. The question is not whether an indirect tax rebate program encourages exports, but whether it provides an excessive inducement to export in the form of an overrebate. We do not find an overrebate in this case.

In certain fasterers from India, we rejected linkage on the CCS tax rebate program because the Indian government did not calculate the precise amount of tax incidence on fasteners. Without knowing the actual amount of tax incidence, we were unable to determine if there was an overrebate. In this case, we were able to calculate the precise amount of the tax incidence on OCTG.

The reembolso program was designed primarily to refund indirect taxes on exported products. Although fiscal and economic problems in Argentina may have forced the Argentine government to set rebate rates which diverge from the actual rate of tax incidence, such problems do not alter the basic nature of the program, which is to rebate indirect taxes.

Comment 2: Lone Star and CF&I argue that the respondent, Siderca S.A.I.C., incorrectly raised the percentage of allowable indirect taxes by failing to include fixed costs, selling, general, and administrative expenses ("SGA"), and inland transportation in its calculation of the total indirect taxes paid on OCTG. The inclusion of SGA and inland transportation would reduce the percentage contribution of the other elements in the cost structure, thereby reducing the amount of allowable indirect taxes.

Further, in determining the percentage contribution of SGA and inland transportation to the 1985 cost structure, the Department should offset Siderca's income from SGA and fixed costs due to exchange gains on sales by increasing input costs between the invoice date and payment date.

Department's position: We disagree. The reembolso study is based on a percentage of the f.o.b. value of the merchandise, not a percentage of cost. Therefore, the inclusion of SGA and inland transportation will not affect the percentage contribution of each cost element to the f.o.b. price of OCTG. In addition, we verified that the cost structure in the OCTG reembolso study accurately represented Siderca's actual costs. Finally, since Siderca used actual costs rather than historic costs in its 1985 study, and taxes are paid on the basis of actual costs, we find no compelling reason to increase costs between invoice date and payment date for each sale.

Comment 3: Lone Star and CF&I argue that the amount of allowable indirect taxes was overstated because the reembolso study was based on a theoretical non-integrated producer of OCTG instead of an integrated producer such as Siderca. Since the theoretical cost structure in the reembolso study was based on the cost structures of two unrelated firms, the Department should eliminate the turnover taxes and stamp taxes associated with sales between the two firms.

Department's position: We disagree. Since Siderca is the only OCTG producer in Argentina, the reembolso study was based on Siderca's status as an intergrated producer. The study did not include turnover or stamp taxes for each stage of Siderca's production. We verified that Siderca paid the appropriate taxes for purchases of raw materials such as scrap, ferroalloys, and iron ore.

To calculate the prior stage tax incidence on national raw material such as scrap, Siderca constructed a hypothetical cost structure based on the experience of two non-integrated steel firms. This cost structure allows for the proper calculation of indirect taxes, such as the turnover tax, that are embedded in Siderca's purchase of national raw materials from suppliers. Therefore, we have allowed the prior stage turnover and stamp taxes embedded in the purchases of national raw materials such as scrap. In addition, we corrected the study for scrap by excluding the turnover and stamp taxes on recycled scrap, which Siderca does not purchase from outside suppliers.

Comment 4: Lone Star and CF&I argue that the Department incorrectly calculated the amount of indirect tax incidence by allowing direct taxes on

labor such as the Municipal Tax, Social Welfare Fund Tax, and CASFPI Tax, and by allowing prior stage taxes on electricity.

Department's position: We disagree. We eliminated all direct taxes on labor, such as the Social Welfare Fund and CASFPI, in both the final stage and all prior stages. The Municipal Tax is not a direct tax on labor. Instead, it is an indirect sanitary tax assessed on the basis of the number of employees in an office. The issue of prior stage taxes on electricity is moot because the total tax incidence paid by SIDERCA on OCTG, *i.e.*, final stage taxes and taxes on physically incorporated inputs, is higher than the reembolso on OCTG.

Comment 5: Lone Star and CF&I contend that the Department incorrectly calculated a national average benchmark for short-term loans under the OPRAC 1–9 program. The Department should have included loans taken out in the non-bank market because Siderca used the non-bank market. Further, the Department should have excluded regulated interest rates from the benchmark because those rates are controlled by the Argentine government.

Department's position: We disagree. The petitioners imply that we should calculate a company-specific benchmark. As stated in the Subsidies Appendix to the notice of final affirmative countervailing duty determination and order on certain cold-rolled carbon steel flat-rolled products from Argentina (49 FR 18006, April 26, 1984), we use a national average benchmark to measure the benefit from short-term loans. The benchmark rate should reflect the predominant alternative sources of short-term financing available to an average firm in Argentina.

Since regulated interest rate loans make up a substantial portion of the lending in Argentina, it is appropriate to include regulated rate loans in the weighted-average benchmark. We found no evidence that Siderca used the non-bank market. However, even if it had taken out loans in the non-bank market, we have insufficient information on the use of this market on a nation-wide basis to include such lending in our benchmark.

Comment 6: Siderca argues that the Department erred in compounding the benchmark annually to calculate the benefit for 180-day OPRAC 1–9 loans. The Department also inadvertently added 18 days to several loan terms. Further, Siderca believes that the Department should compound the benchmark rate quarterly to reflect the quarterly interest payments made on OPRAC 1–9 loans.

Department's position: We agree with the first point and have now compounded the benchmark semi-annually. We have also corrected all preferential loan terms to 180 days. On this basis, we determine the benefit from OPRAC 1–9 loans to be 0.24 percent *ad valorem* during the period of review.

We disagree with the last point. We accounted for quarterly interest payments on OPRAC 1–9 loans in calculating an effective preferential interest rate. To compound the benchmark rate quarterly infers that we consider quarterly payments of interest to be a normal commercial practice in Argentina. We do not. Instead, we have found that most short-term commercial loans in Argentina are granted for 30 days and rolled over. This means that, for a six-month loan, interest payments would be made monthly six times, which is equivalent to having a monthly interest rate compounded six times and making a single payment at maturity.

Final Results of Review

After reviewing all of the comments received, we determine the net subsidy to be 0.24 percent *ad valorem* for the period of review. The Department considers any rate less than 0.50 percent *ad valorem* to be *de minimis*.

The Department will instruct the Customs Service not to assess countervailing duties on any shipments of this merchandise exported on or after January 1, 1985 and on or before December 31, 1985.

Further, the Department will instruct the Customs Service to waive cash deposits of estimated countervailing duties, as provided by section 751(a)(1) of the Tariff Act, on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit waiver shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 31, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87–477 Filed 1–8–87; 8:45 am]

BILLING CODE 3510–DS–M

[C–559–001]

Certain Refrigeration Compressors From The Republic of Singapore, Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On October 17, 1986, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on certain refrigeration compressors from the Republic of Singapore. The review covers the period January 1, 1984 through December 31, 1984 and five programs.

We gave interested parties an opportunity to comment on the preliminary results. After considering all of the comments received, we have determined that Matsushita Refrigeration Industries, Matsushita Electric Trading, and the Government of the Republic of Singapore, the signatories to the suspension agreement, have complied with the terms of the suspension agreement during the period of review.

EFFECTIVE DATE: January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Paul McGarr, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 51167) an agreement suspending the countervailing duty investigation on certain refrigeration compressors from the Republic of Singapore. We published the preliminary results of administrative review on October 17, 1986 (51 FR 37055). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of Review

Imports covered by the review are shipments of Singapore hermetic refrigeration compressors rated not over one-quarter horsepower. Such merchandise is currently classifiable under item 661.0990 of the Tariff

Schedules of the United States Annotated.

The review covers the period January 1, 1984 through December 31, 1984 and five programs: (1) An income tax exemption on export earnings as provided for in Part IV of the Economic Expansion Incentives Act; (2) financing provided by the rediscount facility of the Monetary Authority of Singapore; (3) the payment of technical assistance fees; (4) the transfer of funds between related companies; and (5) accelerated depreciation.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received written comments from the petitioner, Tecumseh Products Company.

Comment 1: Tecumseh argues that, with respect to Part IV of the Economic Expansion Incentives Act, the data provided by the Government of Singapore in response to the Department's questionnaire must include documentary evidence, such as official tax returns or notices of assessment, in order to ensure accurate functioning of the suspension agreement and accurate calculation of the export charge.

Department's position: The Government of Singapore provided full documentation of payment of the export charge, as requested in our questionnaire. We received copies of the debit notes from the exporter of compressors, Matsushita Electric Trading ("METOS"), to the manufacturer, Matsushita Refrigeration Industries ("MARIS"), regarding payment of each month's total export charge. As proof of payment of these charges, we received copies of METOS' receipts of the requested amounts, copies of the official receipts of payment to the Trade Development Board, and copies of the export charge sheets from METOS to MARIS listing invoice number, model number and quantity, invoice amount, export charge rate, export charge, and date.

We cross-checked METOS' receipts with receipts from the Trade Development Board and found no discrepancies. The total export charge for the period of review also matched the figure listed in the questionnaire response. Therefore, we determine that the figures provided by the Government of Singapore are substantiated by documentary evidence and that the amount of export charge collected is in accordance with the terms of the suspension agreement.

Comment 2: Tecumseh contends that the Department's calculation of export value, which is based on an f.o.b. value, should be retroactively applied to the first administrative review. Because the Department based on export charge of 4.92 percent *ad valorem*, found in the first administrative review, on a value of exports that included f.o.b., c & f, c & i, and c.i.f. shipment values rather than only f.o.b. values, the value of exports was overstated and the benefit understated in the first administrative review.

Department's position: We disagree. We addressed this issue in the final results of our last administrative review (50 FR 30493, July 26, 1985).

Comment 3: Tecumseh contends that tax exemptions claimed under section 33 of Part IV of the Economic Expansion Incentives Act are countervailable. This program warrants review because the Department's preliminary determination (48 FR 39109, August 29, 1983) that this program is not countervailable was never finalized.

Department's position: We disagree. We preliminarily determined in the original investigation that tax exemptions claimed under section 33 of the Incentives Act do not confer bounties or grants. In lieu of a final determination, we published a suspension agreement that, based on the preliminary determination and verification, did not include a provision to eliminate benefits from this program. Tecumseh did not comment on our preliminary determination regarding this program and chose not to request that we complete the suspended investigation and publish a final determination. Furthermore, Tecumseh has provided no basis for a reconsideration of this program in this review.

Comment 4: Tecumseh contends that increased depreciation charges retroactively applied to 1983 resulted in an underreporting of MARIS' profitability. According to the auditor's statement in MARIS' 1984 financial statements, such a retroactive adjustment of depreciation is not in accordance with Singapore's Statement of Accounting Standard No. 4. The increased depreciation charge should be added to the profitability of the Company in 1983, which would result in a greater tax benefit in 1984 for MARIS.

Department's position: We disagree. MARIS implemented a change in its depreciation schedule from 8 years to 5 years following reevaluation of the useful life of the company's assets. The adjustment was made solely for financial, not fiscal, purposes. Despite the irregular method for dealing with accumulated depreciation noted by the auditors, this adjustment had no bearing on MARIS' tax position. Therefore, we determine that MARIS' reevaluation of company assets does not provide a countervailable benefit.

Comment 5: Tecumseh notes from METOS' financial statement that METOS received unsecured bank loans in 1984 and then apparently lent funds to an unreported recipient. Because these funds may have been provided on terms inconsistent with commercial considerations, the Department should investigate them.

Department's position: Tecumseh made this allegation too late in the review for our consideration. In addition, we have no evidence to indicate government involvement in the provision of these loans. The unsecured loans do not appear to be anything other than normal commercial transactions.

Comment 6: Tecumseh cites U.S. import statistics to suggest that a correlation exists between Japan's significant increase in exports of compressors to the United States and the concurrent decrease in exports to the United States from Singapore. Tecumseh asserts that this indicates the transshipment of Singapore-produced compressors through Japan, which is a violation of the suspension agreement. Furthermore, MARIS' close intra-corporate relationship with the Matsushita Group (*e.g.*, the practice of purchasing raw materials from, and selling finished products to, companies in the Matsushita Group) further suggests the likelihood of transshipment.

Department's position: We disagree. The quantity of compressors shipped from Singapore to the United States declined by approximately 5 percent from 1983 to 1984. Meanwhile, the quantity exported from Japan to the United States nearly tripled, increasing by an amount greater than total shipments from Singapore to the United States. It is unlikely that transshipment accounts for this increase. Furthermore, for transshipment to have been the cause of this increase, the Singapore compressors would have had to be remarked and stamped as being of Japanese origin because U.S. import statistics record imports by country of origin, not country of shipment. In short, transshipment as Tecumseh has characterized it would be Customs fraud. Absent serious evidence of fraud, we determine that Tecumseh's allegation of transshipment is without merit.

Final Results of Review

After considering all of the comments received, we determine that the two companies have complied with the

terms of the suspension agreement, including the payment of the provisional export charge, for the period January 1, 1984 through December 31, 1984. In addition, we determine the total bounty or grant during the period of review to be 8.35 percent *ad valorem*.

The suspension agreement states that the Government of Singapore will offset completely with an export charge the net bounty or grant calculated by the Department. Following the methodology outlined in section B.4. of the agreement, the Department determines that, in order to reach a final export charge of 8.35 percent *ad valorem*, a positive adjustment must be made to the provisional export charge of 5.86 percent established in the Department's notice of suspension of countervailing duty investigation to reflect the difference between the provisional export charge and the final export charge found in this review.

The Government of Singapore shall collect, in accordance with section B.4.c. of the Agreement, this difference plus interest, calculated in accordance with section 778(b) of the Tariff Act, within 30 days of notification by the Department for the period January 1, 1984 through December 31, 1984.

The Department will notify the Government of Singapore that the provisional export charge on all exports to the United States with Outward Declarations filed on or after the date of publication of this notice shall be 8.35 percent of the f.o.b. value of the merchandise.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.10 of the Commerce Regulations (19 CFR 355.10).

Dated: December 31, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 87-478 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DS-M

DEPARTMENT OF COMMERCE

[Case No. OEE-1-87]

Valley Machine and Tool and Anthony Speno, Respondents; Order Temporarily Denying Export Privileges

In the matter of: Valley Machine and Tool, 858 Civic Center Drive, Santa Clara, California 95050 and Anthony Speno, 650 Spring Street, Santa Cruz, California 95060, Respondents.

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368 through 399 (1986) (the Regulations), issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app 2401–2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 Stat. 120 (July 12, 1985) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement to issue an order temporarily denying all United States export privileges to Valley Machine and Tool, of Santa Clara, California, and its owner, Anthony Speno, of Santa Cruz, California (hereinafter collectively referred to as respondents).

The Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have obtained U.S.-origin disc manufacturing equipment and other U.S.-origin equipment to fulfill contracts under which respondents are to supply the U.S.-origin equipment to Bulgaria. The U.S.-origin disc manufacturing equipment requires a validated export license before it can be exported from the United States to any destination but Canada. Further, the Department states that there is a presumption of denial of any application seeking authorization to export the U.S.-origin disc manufacturing equipment to Bulgaria.

The Department's investigation has given it reason to believe that respondents already have made several shipments of U.S.-origin equipment, including U.S.-origin disc manufacturing equipment, from the United States to Bulgaria without obtaining from the Department the export licenses which respondents knew or had reason to know were required by the Regulations, in violation of the Act and Regulations. The Department also states that it has reasons to believe that the contracts call for respondents to ship additional U.S.-origin equipment to Bulgaria. Further, the Department states that respondents currently have in their possession and control U.S.-origin equipment which the Department has reason to believe is intended for export to Bulgaria.

The Department states that its investigation gives it reason to believe that the violations under investigation were significant, deliberate, covert and likely to occur again. Further support for the Department's belief that a violation may be imminent is provided by the fact that respondents currently have in their possession U.S.-origin goods which the Department has reason to believe are intended for export to Bulgaria. The Department submits that a temporary denial order naming respondents is necessary in order to give notice to companies in the United States and abroad to cease dealing with respondents in commodities and technical data subject to the Act and the Regulations in order the reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Based upon the showing made by the Department, I find that an order temporarily denying all United States export privileges to respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing based on the Department's showing that expedited action is required, including the need to prevent the unauthorized disposition of U.S.-origin equipment already in respondents' possession and control.

Accordingly, it is hereby ordered:

I

All outstanding individual validated exported licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be retuned forthwith to the Office of Export Licensing for cancellation. Further, all of respondents' privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

II

Respondents Valley Machine and Tool and Anthony Speno, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or to be exported from the United States, in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling,

delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III

After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which respondents are now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV

No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, oruse any license, Shipper's Export Declaration, bill of lading or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V

In accordance with the provisions of § 388.19(e) of the Regulations, any respondent may, at any time, appeal this temporary denial order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue, NW., Washington, DC 20230, a full written statement in support of the appeal.

VI

This order is effective immediately and shall remain in effect for 60 days.

VII

In accordance with the provisions of § 388.19(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order. A copy of respondents' written submission must also be served on the Office of the Deputy Chief Counsel for Export Administration, Room H-3329, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon respondents and this order shall be published in the **Federal Register.**

Dated: January 5, 1987.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 87-479 Filed 1-8-87 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 60117-6212]

Proposed Federal Information Processing Standard _____, C

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of proposed Federal Information Processing Standard _____, C.

SUMMARY: A Federal Information Processing Standard (FIPS) for the programming language C is being proposed for Federal use. This proposed FIPS adopts the American National Standard for C (ANSI X3.159-198x). This standard is a voluntary industry standard developed by the X3J11 Committee accredited by ANSI as a standards sponsor. This standard will be added to the current family of Federal Information Processing Standard (FIPS) languages, which includes Ada, Minimal BASIC, COBOL, FORTRAN, Pascal, and MUMPS.

Prior to the submission of this proposed FIPS to the Secretary of Commerce for review and approval, it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

This proposed FIPS contains two sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section, ANSI X3.159-198x, which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice. Interested parties may obtain a copy of the technical specifications from Global Engineering Documents, Inc. by calling (800) 854-7179.

DATES: Comments on this proposed FIPS must be received on or before April 9, 1987.

ADDRESS: Written comments concerning the adoption of C as a FIPS should be sent to: Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS C, Technology Building, Room B154, National Bureau of Standards, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Mr. Gary E. Fisher, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, Technology Building, Room A-266, National Bureau of Standards, Gaithersburg, MD 20899, (301) 975-3275.

Dated: December 29, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication _____

(date)

Announcing the Standard for C

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* C (FIPS PUB _____).

2. *Category of Standard.* Software Standard, Programming Language.

3. *Explanation.* This publication announces the adoption of American National Standard for C, ANSI X3.159–198x, as a Federal Information Processing Standard (FIPS). The American National Standard for C specifies the form and establishes the interpretation of programs written in the C programming language. The purpose of the standard is to promote portability of C programs for use on a variety of data processing systems. The standard is for use by implementors as the reference authority in developing compilers, interpreters, or other forms of high level language processors; and by other computer professionals who need to know the precise syntactic and semantic rules adopted by ANSI.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.* American National Standard X3.159–198x, Programming Language C.

7. *Related Documents.*[1]

a. Federal Information Resources Management Regulation 201–8.107, Federal Information Processing Standards (FIPS) Programming Languages Requirement Statements.

b. Federal Information Processing Standards (FIPS) Publication 29, Interpretation Procedures for Federal Information Processing Standard Programming Languages.

c. NBS Special Publication 500–117, Selection and Use of General-Purpose Programming Languages.

8. *Objectives.* Federal standards for high level programming languages permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal programming language standards are:

—To encourage more effective utilization and management of programmers by insuring that programming skills acquired on one job are transportable to other jobs, thereby reducing the cost of programmer re-training;

—To reduce the cost of program development by achieving the increased programmer productivity that is inherent in the use of high level programming languages;

—To reduce the overall software costs by making it easier and less expensive to maintain programs and to transfer programs among different computer systems, including replacement systems; and

—To protect the existing software assets of the Federal Government by insuring to the maximal feasible extent that Federal programming language standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard language specifications.

9. *Applicability.*

a. Federal standards for high level programming languages should be used for computer applications and programs that are either developed or acquired for government use. FIPS C is one of the high level programming language standards provided for use by all Federal departments and agencies. FIPS C is suitable for use in programming relating to operating system level software, and applications which require very low level programming constructs that are independent of the system or hardware architecture.

b. The use of FIPS high level programming languages is strongly recommended when one or more of the following situations exist:

—It is anticipated that the life of the program will be longer than the life of the presently utilized equipment.

—The application or program is under constant review for updating of the specifications, and changes may result frequently.

—The application is being designed and programmed centrally for a decentralized system that employs computers of different makes, models and configurations.

—The program will or might be run on equipment other than that for which the program is initially written.

—The program is to be understood and maintained by programmers other than the original ones.

—The advantages of improved program design, debugging, documentation and intelligibility can be obtained through the use of this high level language regardless of interchange potential.

—The program is or is likely to be used by organizations outside the Federal Government (i.e., State and local governments, and others).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the portable features alone. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement processor more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of statistical and numerical software packages. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is a C source program, then the resulting program should conform to the conditions and specifications of FIPS C.

10. *Specifications.* FIPS C specifications are the language specifications contained in American National Standard for C, ANSI X3.159–198x.

a. The ANSI X3.159–198x document specifies the representation, syntax, and semantics for C programs; the representation of input and output data processed by C programs; and the restrictions and limitations imposed by a conforming implementation of C.

b. The standard does not specify the mechanisms by which C programs are transformed or invoked for use by a data processing system, the mechanisms by which input data are transformed for use by a C program or output data are transformed after being produced by a C program, the limits on program size or complexity, nor all minimal requirements of a data processing system that is capable of supporting a conforming implementation.

c. A facility must be available in the processor for the user to optionally specify monitoring of the source program at compile time. The monitoring may be specified for all obsolete language elements included in the processor, or all C language elements that are not in conformance with this standard, or both. The monitoring is an analysis of the syntax used in the source program against the syntax included in the FIPS C. Any syntax used in the source program that does not conform to that included in this standard will be diagnosed and identified to the user through a message on the source program listing. Any syntax for an obsolete language element included in the processor and used in the source program will also be diagnosed and

[1] Refers to most recent revision of FIPS PUBS.

identified through a message on the source program listing. The determination of the need to flag any given source program syntax in accordance with these requirements cannot be logically resolved until the syntactic correctness of the source program has been established. The message provided will identify:

—The statement or declaration that directly contains the nonconforming or obsolete syntax.
—The source program line and an indication of the beginning of the location within the line of the statement or declaration which contains the nonconforming or obsolete code.
—The syntax as "obsolete" if monitoring is selected for the obsolete category.
—The syntax as "nonconforming nonstandard" if the nonconforming syntax is a nonstandard extension included in the processor and monitoring for all C language elements that are not in conformance with this standard is selected.

11. *Implementation.* The implementation of this standard involves three areas of consideration: acquisition of C processors, interpretation of FIPS C, and validation of C processors.

11.1 *Acquisition of C Processors.* This publication is effective July 9, 1987. C processors acquired for Federal use after this date should implement FIPS C. Conformance to FIPS C should be considered whether C processors are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce C processors conforming to the standard. The transition period begins on the effective date and continues for one year thereafter. The provisions of FIPS PUB _____ apply to orders placed after the effective date of this publication; however, a C language processor not conforming to this standard may be acquired for interim use during the transition period.

11.2 *Interpretation of FIPS C.* NBS provides for the resolution of questions regarding FIPS C specifications and requirements, and issues official interpretation as needed. All questions about the interpretation of FIPS C should be addressed to: Director, Institute for Computer Sciences and Technology, ATTN: FIPS C Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of C Processors.* The National Bureau of Standards is investigating methods for providing validation. services for FIPS C. For more information, contact: Director, Institute for Computer Sciences and Technology, ATTN: FIPS C Validation, National Bureau of Standards, Gaithersburg, MD 20899.

12. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication _____ (FIPS PUB _____), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 87-412 Filed 1-8-87; 8:45 am]
BILLING CODE 3510-CN-M

Announcing a Workshop for NBS/OSI Workshop for Implementors of OSI

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces five (5) workshop sessions to discuss the continued development of international computer network protocols. The following constitutes the schedule for the workshops through December 1987.

The dates are firm:

March 9–13, 1987
May 4–8, 1987
July 27–31, 1987
October 5–9, 1987
December 14–18, 1987

(The meetings will be hosted by NBS and will be held at a hotel in the Rockville-Gaithersburg area)

The workshops will cover protocols in six layers of the ISO Reference Model. Attendance at the workshops is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis with recommended limitation of two participants per company. A registration fee will be charged for attending the workshops. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshops.

To register for the workshops, companies may contact: OSI Workshop Series, Attn: Joan Wyrwa, National Bureau of Standards, Building 225, Room B-217, Gaithersburg, MD 20899, Telephone: (301) 975-3643.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact Dr. John Heafner (301) 975-3618.

Dated: December 22, 1986.

Ernest Ambler,

Director.

[FR Doc. 87-413 Filed 1-8-87; 8:45 am]
BILLING CODE 3510-CN-M

Announcement of Meeting of National Conference on Weights and Measures

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Interim Meetings of the National Conference on Weights and Measures will be held January 12 through January 16, 1987, at the National Bureau of Standards, Gaithersburg, Maryland. The meeting is open to the public.

The National Conference on Weights and Measures is an organization of weights and measures enforcement officials of the States, counties, and cities of the United States, and private sector representatives. The interim meeting of the Conference, as well as the annual meeting to be held next July (a notice will be published in the **Federal Register** prior to such meeting), brings together enforcement officials, other government officials, and representatives of business, industry, trade associations, and consumer organizations to discuss subjects that relate to the field of weights and measures technology and administration.

Pursuant to section 2(5) of its Organic Act (15 U.S.C. 272(5)), the National Bureau of Standards acts as a sponsor of the National Conference on Weights and Measures in order to promote uniformity among the States in the complex of laws, regulations, methods, and testing equipment that comprises regulatory control by the States of commercial weighing and measuring.

DATE: The meeting will be held January 12–16, 1987.

Location of meeting: The National Bureau of Standards, Gaithersburg, Maryland.

FOR FURTHER INFORMATION CONTACT: Albert D. Tholen, Executive Secretary, National Conference on Weights and Measures, P.O. Box 3137, Gaithersburg, Maryland 20878; telephone: (301–975–4009).

Dated: December 19, 1986.

Ernest Ambler,

Director.

[FR Doc. 87-414 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-13-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Polish People's Republic Effective on January 1, 1987

December 24, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on January 1, 1987. For further information contact Kathryn Cabral, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port. For information on embargoes and quota re-openings, please call (202) 377-3715.

Background

The Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984, between the Governments of the United States and the Polish People's Republic establishes an aggregate limit and within the aggregate, group limits for Categories 330-359, 630-642, 645-659, as a group, 431-442 and 444-459, as a group, and 443/643/644, as a group. Within those overall limits are individual limits for Categories 333, 334, 335, 338, 339, 410, 433, 435, 440, 444, 445, 446, 447, 459, 634, 635, 638, 639, 645/646, 647, 648, and 659, produced or manufactured in Poland and exported during the twelve-month period which begins on January 1, 1987 and extends through December 31, 1987. The agreement also establishes designated consultation levels for Categories 334 pt., 340, 347, 359, 363, 434, 612 and 614 and a minimum consultation level on Category 448.

In the lettter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit entry into the United States for consumption, or withdrawal from warehouse for consumption, of cotton, wool and man-made fiber textile products in the foregoing categories in excess of the designated twelve-month restraint limits.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984, (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Traiff Schedules of the United States Annotated (1986).

This letter and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 5 and 31, 1984 between the Governments of the United States and the Polish People's Republic; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1987, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Poland and exported during the twelve-month period beginning on January 1, 1987 and extending through December 31, 1987, in excess of the following restraint limits:

Category	Restraint limit
300-369, 400-469, 600-670, as a group	78,434,383 square yards equivalent.
330-359, 630-642 and 645-459	59,131,764 square yards equivalent.
431-442 and 444-459	2,351,423 square yards equivalent.
443/643/644	851,339 square yards equivalent.
333	104,970 dozen.
334	257,500 dozen.
334pt.[1]	16,949 dozen.
335	50,725 dozen.
338	788,066 dozen of which not more than 315,227 dozen shall be in T.S.U.S.A. number 381.4130.
339	323,817 dozen.
340	62,500 dozen.
347	66,000 dozen.
359	330,000 pounds.
363	3,000,000 numbers.
410	2,335,344 square yards.
433	7,595 dozen.
434	3,704 dozen.
435	6,076 dozen.
440	7,740 dozen.
443pt/643pt/644 [2].	13,800 dozen.
444	5,063 dozen.
445	14,700 dozen.
446	12,862 dozen.
447	12,152 dozen.
448	5,556 dozen.
459	12,152 dozen.
612	2,000,000 square yards.
614	1,200,000 square yards.
634	171,811 dozen of which not more than 127,426 shall be in T.S.U.S.A. numbers 381.2315, .2325, .2835, .2857, .3551, .3554, .6671, .6673, .8523, .8706, .8808, .8811, .9222, .9223, .9232 and 791.7460 and not more than 54,611 dozen shall be in T.S.U.S.A. numbers 376.5609, .5635 and 381.3120, .3323, .9838, .3331, .3341, .6968, .8664, .9505, .9520, .9525, .9530, .9836, .9842, .9962 and 791.7471.
635	89,996 dozen of which not more than 40,907 dozen shall be in T.S.U.S.A. numbers 376.5612, 384.2316, .2318, .2321, .2323, .2554, .2556, .2565, .2604, .2605, .2770, .2771, .5565, .5566, .7859, .7860, .8805, .9132, .9135, .9136, .9138, .9140, .9141, .9144, .9145, .9146, .9152, .9153, .9154, .9401, .9402, .9464, .9465, .9475, .9664, .9666 and 791.7473.
638	231,960 dozen.
639	173,970 dozen.
645/646	128,825 dozen.
647	170,846 dozen of which not more than 66,440 dozen shall be in T.S.U.S.A. numbers 376.5618, 381.3180, .3190, .3335, .3549, .6984, .9310, .9575, .9580, .9585, .9846, .8672, .9974 and 791.7480.

Category	Restraint limit
648	94,915 dozen of which not more than 37,966 dozen shall be in T.S.U.S.A. numbers 376.5623, 384.2341, 384.2342, 384.2344, 384.2345, 384.2348, 384.2351, 384.2355, 384.2667, 384.2783, 384.8820, 384.5684, 384.7858, 384.9168, 384.9170, 384.9171, 384.9172, 384.9174, 384.9176, 384.9481, 384.9678 and 791.7481.
659	216,600 pounds.

[1] In Category 334, all T.S.U.S.A. numbers except 381.0211 and 381.3905.
[2] In Category 443/643/644, all T.S.U.S.A. numbers except 381.8351, .8352, .8820 and .9560.

In carrying out this directive, entries of cotton, wool and man-made fiber textile products in the foregoing categories, with the exception of Categories 363, 612 and 614, produced or manufactured in Poland, which have been exported to the United States on and after January 1, 1986 and extending through December 31, 1986, shall, to the extent of any unfilled balances, be charged against the levels of restraint limits established for such goods during the twelve-month period beginning on January 1, 1986 and extending through December 31, 1986. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

The restraint limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement of December 5 and 31, 1984, between the Governments of the United States and the Polish People's Republic, which provide, in part, that: (1) Within the aggregate and applicable group limits of the agreement, specific limits may be exceeded by designated percentages; (2) these same specific limits may be increased for carryover and carryforward; and (3) administrative arrangements of adjustments may be made to resolve minor problems arising in the implementation of the agreement. Any appropriate adjustments under the provisions of the bilateral agreement will be made to you by letter.

A description of the cotton, wool and man-made fiber textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption of include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-466 Filed 1-8-87; 8:45 am]

BILLING CODE 3510-DR-M

COMMISSION ON EDUCATION OF THE DEAF

Meeting

AGENCY: Commission on Education of the Deaf.

ACTION: Notice of meeting.

SUMMARY: This summary sets forth the schedule and proposed agenda of a forthcoming meeting of the Commission on Education of the Deaf and its Executive Committee. This notice also describes the functions of the Commission. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: January 27, 1987, 8:30 a.m. until 5:30 and January 28, 1987, 8:30 a.m. until 10:30 a.m. (Full Commission Meeting) and 11:00 a.m. to close of business (Executive Committee Meeting).

ADDRESS: All meetings will be held in the Capitol Ballroom of Marriott Hotel, 1331 Pennsylvania Ave., NW., Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Ms. Pat Johanson, Acting Staff Director, Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets, SW., Washington, DC 20407, 202/453-4241 (TDD) or 202/267-3234 (voice).

SUPPLEMENTARY INFORMATION: The Commission on Education of the Deaf is established under section 301 of the Education of the Deaf Act of 1986, Pub. L. 99-371, 100 Stat. 781, 786-789 (20 U.S.C. 4341-4344). The Commission is directed to study the following issues:

(1) The degree to which appropriate postsecondary, adult, and continuing educational opportunities are available to deaf individuals;

(2) The advisability of expanding the number of federally supported postsecondary regional eduational programs which serve the deaf;

(3) The training and technical assistance needs of infant and early childhood education programs and elementary, secondary, postsecondary, adult, and continuing education programs which serve the deaf;

(4) The degree to which appropriate elementary and secondary educational opportunities are available to deaf students including—

(a) The effects of part B of the Education of the Handicapped Act on infant and early childhood education programs and elementary and secondary educational programs for the deaf and

(b) The role played by the Model Secondary School for the Deaf and the Kendall Demonstration Elementary School;

(5) The role and impact of research, development, dissemination, and outreach activities conducted by Gallaudet University and the National Technical Institute for the Deaf in education of the deaf;

(6) The degree to which the purposes of part F of the Education of the Handicapped Act (relating to instructional media for the handicapped) are being carried out;

(7) The problems associated with illiteracy among deaf individuals;

(8) Any other issues which the Commission determines will improve the quality of infant and early childhood education programs and elementary, secondary, postsecondary, adult, and continuing education provided to the deaf; and

(9) Any other recommendations to improve quality or increase cost effectiveness or providing the education of the deaf.

The study of each issue shall include a description of the findings concerning each such issue together with recommendations for actions designed to address identified needs.

The Commission must submit to the President and to the Congress such interim reports as it deems advisable, and not later than February 4, 1988, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Commission deems advisable.

The full Commission will meet for the first time on Tuesday, January 27, 1987 from 8:30 a.m. to 5:30 p.m. and the meeting will continue on Wednesday, January 28, 1987 from 8:30 a.m. to 10:30 a.m. This meeting is open to the public.

The proposed agenda includes the following:

I. Swearing-in
II. Welcoming Remarks
III. Chairperson's Report

IV. Adoption of Statement of Procedures and Organization
V. Adoption of Authorities and Delegations
VI. Election of Vice-Chairperson
VII. Election of Executive Committee Member
VIII. Nomination and Approval of Staff Director
IX. Nomination and Approval of Legal Counsel
X. Opening Remarks
XI. Budget Issues
1. Procurement Policy
2. Compensation Policy
3. Other
XII. Commisssion Goals and Objectives

The Commission may meet in closed session to discusss personal matters related to staff. These discussions, if any, will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of section 552b(c) of Title 5 U.S.C. of the Government in the Sunshine Act. The remaining sessions will be open to the public. Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the next Commission meeting.

The Executive Committee, if established by the Commission, will meet on Wednesday, January 28, 1987 from approximately 11:00 a.m. until close of business. The agenda will include general discussion as well as Commission goals and objectives. This meeting will be open to the public.

Interpreters (PSE) will be provided along with real-time captioning. If you need other interpreters, audio-loop systems or other special accommodations, please contact the Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets, SW., Washington, DC 20407, 202/453–4241 (TDD) or 202/267–3234 (voice), no later than January 16, 1987.

Records will be kept of the proceedings and will be available for public inspection at the office of the Commission on Education of the Deaf, GSA Regional Office Building, Room 6646, 7th and D Streets, SW., Washington, DC.

Frank G. Bowe,

Chairperson, Commission on Education of the Deaf.

January 5, 1987.

[FR Doc. 87–492 Filed 1–8–87; 8:45 am]

BILLING CODE 6820-SD-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 3–4 February 1987.

Times of Meeting: 0800–1500 hours each day.

Place: February 3, 1987, ANSER, 1215 Jefferson Davis Hwy, Arlington, VA (Open Meeting); February 4, 1987, ARI Field Unit at Fort Knox, Kentucky (Closed Meeting).

Agenda: The Army Science Board Laboratory Effectiveness Review for the U.S. Army Research Institute for Behavioral and Social Science will meet for briefings and discussions with ARSTAFF members. The meeting on 3 February 1987 will be interviews with sponsors/proponents of the Institute's projects and will be an open meeting. On 4 February 1987 the panel will receive classified briefings from the ARI field unit at Fort Knox and will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87–408 Filed 1–8–87; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 27–28 January 1987.

Times of Meeting: 1300–1700 hours, 27 January; 0800–1100 hours, 28 January.

Place: Lockheed Corporation, 4500 Park Granada Blvd, Calabasas, CA.

Agenda: The Army Science Board's Ad Hoc Subgroup for the Army Combat Models will meet in Executive Session to draft a final report. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

S. Gearhart,

Assistant, Army Science Board.

[FR Doc. 87–409 Filed 1–8–87; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Advisory and Coordinating Council on Bilingual Education Meeting

AGENCY: National Advisory and Coordinating Council on Bilingual Eduation.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory and Coordinating Council on Bilingual Education. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: January 26, 1987 and January 27, 1987, 9:15 a.m. until 5:00 p.m. The meeting will be conducted at the Omini Shoreham, 2500 Calvert Street, Washington, DC 20008.

FOR FURTHER INFORMATION CONTACT: Anna Maria Farias, Designated Federal Official, Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue, SW., Washington, DC 20202, (202) 245–2600.

SUPPLEMENTARY INFORMATION: The National Advisory and Coordinating Council on Bilingual Education is established under section 752(a) of the Bilingual Education Act (20 U.S.C. 3262). NACCBE is established to advise the Secretary of the Department of Education concerning matters arising in the administration of the Bilingual Education Act and other laws affecting the education of limited English proficient populations. The meeting of the Council is open to the public.

The proposed agenda includes the following:

January 26, 1987

I. Roll Call
II. Minutes of Last Meeting
III. Welcoming Remarks, Carol Pendas Whitten, Director
IV. Update on OBEMLA Activities, Anna Maria Farias, Deputy Director
V. Discussion of the Annual Report for 1987

January 27, 1987

VI. Reconvene
VII. New Business

Records are kept of all Council proceedings and are available for public inspection at the Office of Bilingual Education and Minority Languages Affairs, Reporter's Building, Room 421, 400 Maryland Avenue, SW., Washington, D.C. 20202, Monday through Friday from 9:00 a.m.–5:30 p.m.

Dated: January 6, 1987.

Carol Pendas Whitten,

Director, Office of Bilingual Education and Minority Languages Affairs.

[FR Doc. 87–481 Filed 1–8–87; 8:45 am]

BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–59237; FRL–3139–6]

Alkyd Resin; Test Market Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of an application for exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: January 26, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-59237]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street SW., Washington, DC 20460, (202) 382–3532.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street, SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a non-substantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the TME application. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the TME application received by EPA. The complete non-confidential application is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 87–6

Close of Review Period. January 31, 1987.

Manufacturer. Confidential.

Chemical. (G) Alkyd resin.

Use/Production. (S) Architectural coating. Prod. range: Confidential.

Dated: December 30, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 87–243 Filed 1–8–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59800; FRL–3139–7]

Certain Chemicals Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of two such PMN's and provides a summary of each.

DATES: Close of Review Period:

Y 87–80—Janaury 8, 1987.

Y 87–81—January 11, 1987.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–611, 401 M Street SW., Washington, DC 20460, (202) 382–3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the polymer exemption submission. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the submission by the manfuacturer on the exemption received by EPA. The complete non-confidential document is available in the Pubic Reading Room NE–G004 at the above address between 8:00 a.m. dn 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86–80

Manufacturer. Confidential.

Chemical. (G) Aqueous acrylic latex polymer.

Use/Production. (G) Chemical intermediate in a destructive use. Prod. range: Confidential.

Y 86–81

Manufacturer. Confidential.

Chemical. (G) Not available at this time.

Use/Production. (S) Industrial formulation of inks. Prod. range: Confidential.

Dated: December 31, 1986.

Denise Devoe,

Acting Divison Director, Information Management Division.

[FR Doc. 87–244 Filed 1–8–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59186C; FRL–3140–6]

Certain Chemical; Extension of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's extension of the test marketing period of a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME–85–28. The

new test marketing conditions are described below.

EFFECTIVE DATE: December 19, 1986.

FOR FURTHER INFORMATION CONTACT: Eileen Gibson, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Room E-609, 401 M Street SW., Washington, DC 20460 (202-382-3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby extends the test marketing period for TME-85-28. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the original TME application and extension request, and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and number of customers must not exceed those specified in the original application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-85-28. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until 5 years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA.

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The Applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-85-28

Date of Receipt: February 27, 1985.

Notice of Receipt: March 8, 1985 (50 FR 9509).

Applicant: CP Chemicals, Inc.

Chemical: (S) Stannous (Tin 2+) methanesulfonate.

Use: (S) Component in electroplating bath.

Production Volume: 4,545 kilograms.

Number of Customers: Six.

Worker Exposure: Manufacture: A total of 3 workers at 1 site for 1 to 2 hours per day, 20 days per year. Use: A total of 6 workers at up to 6 sites for 2 to 8 hours per day, 7 to 28 days per year.

Notice of Approval of Test Marketing Exemption: April 26, 1985 (50 FR 16539).

Original Test Marketing Period: One year.

First Modified Test Marketing Period: Six months.

Commencing On: May 7, 1986.

Second Modified Test Marketing Period: Three months.

Commencing on: December 19, 1986.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: December 19, 1986.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-454 Filed 1-8-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51656; FRL-3140-4]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty such PMNs and provides a summary of each.

DATES: Close of Review Period:

P 87-370, 87-371, 87-372, 87-373, 87-374 and 87-375—March 18, 1987.

P 87-376, 87-377, 87-378, and 87-379—March 19, 1987.

P87-380, 87-381, 87-382, 87-383, 87-384, 87-385, and 87-386—March 22, 1987.

P 87-387, 87-388, 87-389, 87-390, 87-391, 87-392, 87-393, 87-394, 87-395, and 87-396—March 23, 1987.

P 87-397-87-398 and 87-399—March 28, 1987.

Written comments by:

P 87-370, 87-317, 87-372, 87-373, 87-374, and 87-375—February 16, 1987.

P 87-376, 87-377, 87-378, and 87-379—February 17, 1987.

P 87-380, 87-381, 87-382, 87-383, 87-384, 87-385, and 87-386—February 20, 1987.

P 87-387, 87-388, 87-389, 87-390, 87-391, 87-392, 87-393, 87-394, 87-395, and 87-396—February 21, 1987.

P 87-397, 87-398, and 87-399—February 26, 1987.

ADDRESS: Written comments, identified by the document control number "[OPTS-51656]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Room E-201, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Stephanie Roan, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: Effective with this notice, a nonsubstantive change in format is being initiated for information published under sections 5(d)(2) and 5(h)(6) of the Toxic Substances Control Act. Toxicity data will only appear in the notice when submitted with the PMN. Exposure and environmental release/disposal information will no longer be published in the notice. The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 87-370

Manufacturer. Ethyl Corporation.
Chemical. (G) Partially fluorinated polyamic acid.
Use/Production. (S) Surface coating of metals and plastic composites. Prod. range. Confidential.

P 87-371

Manufacturer. Ethyl Corporation.
Chemical. (G) Partially fluorinated polyamic acid.
Use/Production. (S) Surface coating of metals and plastic composites. Prod. range: Confidential.

P 87-372

Manufacturer: Ethyl Corporation.
Chemical. (G) Partially fluorinated polyamic acid.
Use/Production. (S) Surface coating of metals and plastic composites. Prod. range: Confidential.

P 87-373

Importer. Confidential.
Chemical. (G) Siloxanes and silicones, di-ME, with allyl-groups.
Use/Import. (G) Part of coatings and is handled on coating machines; open, non-dispersive use. Import range: Confidential.

P 87-374

Importer. Confidential.
Chemical. (G) Alkoxy modified grafts copolymer of a hydrocarbon resin and polysiloxane.
Use/Import. (G) Used as paint additive; open non-dispersive use. Import range: Confidential.

P 87-375

Importer. Confidential.
Chemical. (G) Alkoxyether terminated silicones.
Use/Import. (S) Paint additive; open, non-dispersive use. Import range: Confidential.

P 87-376

Manufacturer. Confidential.
Chemical. (S) 2-Chloro-4,6-bis[isopropylamino)-*s*-triazine.
Use/Production. (S) Site-limited chemical intermediate, limited to manufacturer's sites. Prod. range: Confidential.
Toxicity Data. Acute oral: 7,700 mg/kg; Acute dermal: 3,100 mg/kg; Skin-Mild.

P 87-377

Manufacturer. American Cyanamid Company.
Chemical. (G) Modified melamine acrylic polymer.
Use/Production. (G) Additive for improved properties of paper. Prod. range: Confidential.
Toxicity Data. Acute oral: > 5000 mg/kg; Acute dermal: > 2000 mg/kg; Irritation: Skin-Minimal, Eye—Minimal; Ames test: Non-Mutagenic, LC_{50}: 96 hr. rainbow trout > 500 parts per million (ppm); 48 hr. daphnia magna 4,700 ppm; COD Assay: 22,200 mg/1.

P 87-378

Manufacturer. Confidential.
Chemical. (G) Thio-organotin complex.
Use/Production. (G) Polymer additive for open, non-dispersive use. Prod. range: Confidential.

P 87-379

Manufacturer. Confidential.
Chemical. (G) Methacrylated polybutadiene.
Use/Production. (S) Commercial printing plate. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: 2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

P 87-380

Manufacturer. Confidential.
Chemical. (G) Saturated polyester polymer.
Use/Production. (G) Not available at present time. Prod. range: Confidential.

P 87-381

Manufacturer. Confidential.
Chemical. (G) Urethane ester polymer.
Use/Production. (G) Not available at present time. Prod. range: Confidential.

P 87-382

Manufacturer. Texaco, Incorporated.
Chemical. (G) Zinc-o-branched octyl-o-isopropyl phosphorodithioate or phosphoro dithioic acid, mixed o,o-bis-(isopropyl and branched octyl)esters, zinc salts.
Use/Production. (S) Site-limited, industrial and commercial lube oil additive for crankcase engine oil packages. Prod. range: Confidential.

P 87-383

Manufacturer. Xerox Corporation.
Chemical. (S) Bis(1,2-ethylenediamine-N,N')copper(2+)sulfate.
Use/Production. (G) Thermal stabilizer for elastomers. Prod. range: Confidential.

P 87-384

Importer. Confidential.
Chemical. (S) Acrylic acid 3,3,4,4,5,5,6,6,7,7,8,8,9,9,10,10-hexadecafluoro-9-[trifluoromethyl[decyl ester polymers.
Use/Import. (S) Industrial coating material for use in electronic industry. Import range: Confidential.

P 87-385

Manufacturer. The Upjohn Company.
Chemical. (G) 3,4-Hydroxyamino substituted benzenesulfonamide.
Use/Production. (G) Contained use. Prod. range: Confidential.

P 87-386

Manufacturer. Confidential.
Chemical. (G) Grafted epoxy resin.
Use/Production. (G) Beverage can coating. Prod. range: Confidential.

P 87-387

Manufacturer. Confidential.
Chemical. (G) Substituted phthalic anhydride.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.

P 87-388

Manufacturer. Confidential.
Chemical. (G) Substituted triphenodioxazine.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 87-389

Manufacturer. Confidential.
Chemical. (G) Water reducible methacryl—styrene copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

P 87-390

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resins.
Use/Production. (G) Resins converted to paint. Prod. range: Confidential.

P 87-391

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resins.
Use/Production. (G) Resins converted to paint. Prod. range: Confidential.

P 87-392

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resins.
Use/Production. (G) Resins converted to paint. Prod. range: Confidential.

P 87-393

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resins.
Use/Production. (G) Resins converted to paint. Prod. range: Confidential.

P 87-394

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resins.

Use/Production. (G) Resins converted to paint. Prod. range: Confidential.

P 87–395

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resins.
Use/Production. (G) Resins converted to paint. Prod. range: Confidential.

P 87–396

Manufacturer. Confidential.
Chemical. (G) Modified alkyd resins.
Use/Production. (G) Resins converted to paint. Prod. range: Confidential.

P 87–397

Manufacturer. Confidential.
Chemical. (G) Modified acrylic polymer.
Use/Production. (G) Resins additive in an open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: > 5.0 g/kg; Irritation: Skin—Non-irritating.

P 87–398

Manufacturer. Confidential.
Chemical. (G) Derivative of amines polyethylene poly-compounds with (polybutenyl) succinic anhydrides.
Use/Production. (G) Lubricating oil additive. Prod. range: Confidential.
Toxicity Data. Acute oral: 5.0 g/kg; Acute dermal: < 5.0 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Skin Sensitization: Non-sentizer.

P 87–399

Manufacturer. Confidential.
Chemical. (G) Borates.
Use/Production. (G) Lubricating oil additive. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Acute dermal: > 5 g/kg; Skin—Slight, Eye—Non-irritant; Ames test: Non-mutagenic.

Dated: December 31, 1986.

Denise Devoe,

Acting Division Director, Information Management Division.

[FR Doc. 87–452 Filed 1–8–87; 8:45 am]

BILLING CODE 6560–50–M

[SW-FRL-3138-6]

Hazardous Waste Management System; Technical Resource Document for the Storage and Treatment of Hazardous Waste in Tank Systems

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of document.

SUMMARY: The Environmental Protection Agency (EPA) today notifies the public of the availability of a technical resource document. This document contains information useful to hazardous waste tank systems owners and operators for complying with the standards that were promulgated on July 14, 1986 (51 FR 25422). The document is entitled "Technical Resource Document for the Storage and Treatment of Hazardous Waste in Tank Systems." Owners and operators of hazardous waste storage or treatment tank systems may use this document to aid them in developing a management plan for tank systems in preparation for submittal of Part B information to obtain a RCRA permit for the tank systems.

DATE: The document will be made available to the public through the National Technical Information Service (NTIS) by January 9, 1987.

ADDRESSES: The document can be ordered from the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, (703) 487–4600, at a cost of $36.95. Refer to the NTIS reference number PB–87–134391 when ordering.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or (202) 382–3000 in Washington, DC or William Kline, Office of Solid Waste (WH–565A), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382–7917.

SUPPLEMENTARY INFORMATION: This document is provided to help owners and operators comply with the EPA's technical regulations (40 CFR, Part 264, Subpart J) for hazardous waste storage and treatment tank systems. The 13 sections in the document cover the following topic areas: (1) Introduction; (2) Background; (3) The Permitting Process; (4) Written Assessment of Tank Systems Integrity; (5) New Tank Design; (6) New Tank System Installation; (7) Secondary Containment and Detection of Releases; (8) Variances from Secondary Containment; (9) Appropriate Controls and Practices to Prevent Spills and Overflows; (10) Inspection; (11) Response to Leaks or Spills and Disposition of Leaking or Unfit-For-Use Tank Systems; (12) Closure and Post-Closure Care; and (13) Special Requirements for Ignitable or Reactive and Incompatible Wastes.

The first three sections provide an overview of (1) the content of the regulations; (2) the historical development of the regulations; and (3) a summary of the mechanics of the permitting process.

Section 4.0 delineates written assessment requirements for existing as well as new tank systems and includes technical information on the following areas: Design standards; waste characteristics; tank descriptions; leak tests and other tank system integrity examinations; internal inspection details; protection from vehicular traffic; foundations, loads and anchoring; and protection against frost heave.

Section 5.0 identifies the regulatory requirements for new tank system design and includes guidance on what information the general written description in the Part B application should include in the following areas: (1) Dimensions and capacity of the tank; (2) descriptions of feed systems, safety cutoff systems and pressure controls; (3) diagram of piping instrumentation and process flow; and (4) external corrosion protection, including corrosion potential assessment and corrosion protection assessment.

Section 6.0 offers technical information on proper installation handling procedures, backfilling, pre-service tank testing, piping system installation, corrosion protection system installation, reinstallation of existing tanks, and certification.

Section 7.0 provides information on properties of secondary containment systems, design parameters, various structural options for secondary containment, liner requirements, vault requirements, double-walled tank requirements, secondary containment for ancillary equipment, and implementation schedule for existing tank systems.

Section 8.0 discusses procedures for seeking either risk-based or technology-based variances from secondary containment. (A separate and detailed discussion of demonstrations to seek a variance from secondary containment is currently under development and will be available in early 1987.)

Section 9.0 outlines generally accepted devices and procedures for preventing transfer spills and overfills in underground/aboveground/inground/onground tank systems.

Section 10.0 delineates the inspection requirements for tank systems under the new rule and recommends appropriate procedures, tools and electro-mechanical equipment to be employed in conducting inspections.

Section 11.0, outlines the regulatory requirements and provides information on response actions for leaks or spills or such tasks as waste flow stoppage, waste removal, visible release containment, and repair, replacement, or closure.

Section 12.0, in addition to identifying the regulatory requirements, provides information on (1) developing closure/post-closure plans, (2) carrying out

closure and post-closure care activities, including decontamination and removal procedures during closure, and (3) developing closure and post-closure cost estimates.

Section 13.0 describes the information that must be provided in the Part B permit application for the storage or treatment of ignitable, reactive or incompatible waste. For example, this section recommends the general precautions that should be taken in the handling, storage or treatment of these wastes, such as establishment of protective distances between the storage/treatment tank and public ways, streets and alleys.

J.W. McGraw,

Acting Assistant Administrator.

[FR Doc. 87-459 Filed 1-8-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59198C; FRL-3140-7]

Certain Chemical; Extension of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's extension of the test marketing period of a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-53. The new test marketing conditions are described below.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Eileen gibson, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Room E-609, 401 M St. SW., Washington, DC 20460, (202-382-3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may improve restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby extends TME-85-53. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the original TME application and extension request, and for the time periods and restrictions (if any) specified below, will not present any unreasonable risk of injury to health or the environment. Production volume, use, and number of customers must not exceed those specified in the original application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME-85-53. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until 5 years after the dates they are created, and shall make them available for inspectin or copying in accordance with section 11 of TSCA.

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T-85-53

Date of Receipt: June 20, 1985.

Notice of Receipt: June 28, 1985 (50 FR 26840).

Applicant: CP Chemicals, Inc.

Chemical: (S) Copper (2+) methanesulfonate.

Use: (S) Copper salt in electroplating operations.

Production Volume: 4,545 kilograms.

Number of Customers: Six.

Worker Exposure: Manufacture: A total of 4 workers at 1 site for up to 3 hours per day, 20 days per year. Use: A total of 6 workers per site, at 6 sites for up to 8 hours per day, 28 days per year.

Notice of Approval of Test Marketing Exemption: August 6, 1985 (50 FR 31770).

Original Test Marketing Period: Twelve months.

First Modified Test Marketing Period: Six months.

Commencing On: May 8, 1986.

Second Modified Test Marketing Period: Three months.

Commencing On: December 22, 1986.

Risk Assignment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the nevironment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: December 22, 1986.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87-455 Filed 1-8-87; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59188D; FRL-3140-5]

Certain Chemical; Extension of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's extension of the test marketing period of a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA), TME-85-32. The new test marketing conditions are described below.

EFFECTIVE DATE: December 22, 1986.

FOR FURTHER INFORMATION CONTACT: Eileen Gibson, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Environmental Protection Agency, Room E-609, 401 M St., SW., Washington, DC 20460, (202-382-3394).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemcial substances for test marketing purposes if the Agency finds that the manfacture, processing, distribution in commerce, use, and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby extends TME-85-32. EPA has determined that test marketing of the new chemical substance described below, under the conditions set out in the original TME application and extension request, and for the time periods and restrictions (if any) specified below, will not present any

unreasonable risk of injury to health or the environment. Production volume, use, and number of customers must not exceed those specified in the original application. All other conditions and restrictions described in the application and n this notice must be met.

The following additional restriction apply to TME–85–32. A bill of lading accompanying each shipment must state that the use of the subsance is restricted to that approved in the TME. In addition, the Company shall maintain the following records until 5 years after the dates they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA.

1. The applicant must maintain records of the quantity of the TME substance produced.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substance.

T–85–32

Date of receipt: March 19, 1985.

Notice of receipt: March 29, 1985 (50 FR 12626).

Applicant: CP Chemicals, Inc.

Chemical: (S) Lead methanesulfonate.

Use: (S) Lead salt in electroplating operations.

Production volume: 10,000 pounds

Number of customers: Six.

Worker exposure: Manufacture: Dermal and inhalation, a total of up to 3 workers, up to 2 hrs per day for up to 20 days per year each. Use: Dermal and inhalation, a total of up to 6 workers, up to 8 hours per day for up to 28 days per year each.

Notice of Approval of Test Marketing Exemption: May 7, 1985 (50 FR 19228).

Original Test Marketing Period: Twelve months.

First Modified Test Marketing Period: Six months.

Commencing On: May 8, 1986.

Second Modified Test Marketing Period: Three months.

Commencing On: December 22, 1986.

Risk Assessment: EPA identified no significant health or environmental concerns. Therefore, the test market substance will not present any unreasonable risk of injury to health or the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test mrketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: December 22, 1986.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 87–453 Filed 1–8–87; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–211020; FRL 3132–1]

Polychlorinated Biphenyls (PCBs); Response to Citizen's Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of response to citizen's petition.

SUMMARY: This notice responds to a citizen's petition submitted by Valley Watch, Incorporated (hereafter, Valley Watch) under section 21 of the Toxic Substances Control Act (TSCA) (15 U.S.C. 2620). Valley Watch is petitioning the Administrator to issue an order under section 5(e) of TSCA prohibiting the manufacture, processing, distribution in commerce, use, or disposal of two chemical substances, (hereafter TF–1 and TF–2) which are to be processed by Unison at a proposed PCB disposal facility in Henderson, Kentucky. The petitioner requests that the order be implemented through the denial of an operating permit for the disposal facility until health effects testing of 1,2,4-trichlorobenzene and 1,2,4,5-tetrachlorobenzene is completed. The petitioner states that it has reason to believe that TF–1 and TF–2 contain these substances and that the test results on 1,2,4,-trichlorobenzene and 1,2,4,5-tetrachlorobenzene must be available before EPA can make a determination with regard to the permitting of the Unison process at Henderson, Kentucky.

EPA is denying the petition because EPA does not have the authority under section 5(e) of TSCA to issue an order prohibiting the manufacture, processing, distribution in commerce, use, or disposal of these chemical substances. Section 5(e) applies only when EPA is reviewing a notice submitted under section 5(a) for a new chemical substance or for a significant new use of a chemical substance. TF–1 and TF–2 are not "new chemical substances" under TSCA section 3(9), nor does the processing or use of TF–1 and TF–2 in the proposed PCB disposal process represent a "significant new use" of these substances.

ADDRESSES: Copies of the petition and all related information are located in: TSCA Public Information Office (TS–793), Office of Toxic Substances, Environmental Protection Agency, Rm. NE–G004, 401 M St. SW., Washington, DC 20460.

They are available for review and copying from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

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

SUPPLEMENTARY INFORMATION:

I. Background

A. Summary of Petition

On October 2, 1986, Valley Watch petitioned EPA under section 21 of TSCA to issue an order under section 5(e) of TSCA to prohibit the manufacture, processing, distribution in commerce, use, and disposal of two chemical substances which Valley Watch claims are to be processed at a planned PCB disposal facility in Henderson, Kentucky. An application for approval of a permit under TSCA section 6(e) for this planned facility was submitted by Unison and is pending before EPA Region IV. The petitioner believes that existing information about the two chemical substances, TF–1 and TF–2, is insufficient to allow EPA to evaluate adequately the chemicals' potential impact. Valley Watch states that it has reason to believe that TF–1 contains 1,2,4-trichlorobenzene and 1,2,4,5-tetrachlorobenzene and that TF–2 contains 1,2,4,5-tetrachlorobenzene. Further, Valley Watch requests that EPA deny an operating permit for this facility until the results of additional health effects testing of these chemicals is available (health effects testing of 1,2,4-trichlorobenzene and 1,2,4,5-tetrachlorobenzene was required by EPA in a TSCA section 4 test rule published in the **Federal Register** of July 8, 1986 (51 FR 24657)). Valley Watch requests that the section 5(e) order be implemented through the denial of an operating permit for the planned PCB disposal facility in Henderson Kentucky.

Valley Watch petitioned the Administrator previously under section 21 of TSCA to take action to halt the construction of this same proposed PCB disposal facility. EPA denied this petition in a response published in the **Federal Register** of February 24, 1986 (51 FR 6423). EPA also denied a petition by Valley Watch to control the Henderson facility under the Resource Conservation and Recovery Act (RCRA) in a response published in the **Federal**

Register of December 3, 1986 (51 FR 43712).

B. TSCA Section 21

Section 21 of TSCA provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance of rules under section 4 (rules requiring chemical testing), section 6 (rules imposing substantive controls on chemicals), or section 8 (information gathering rules). Also, section 21 authorizes a petitioner to request the issuance, amendment, or repeal of orders under section 5(e) of TSCA (orders affecting chemical substances covered under section 5(a) notifications) or section 6(b)(2) (orders affecting quality control procedures). Section 21(b)(3) requires that EPA grant or deny citizens petitions within 90 days of the filing of the petition (15 U.S.C. 2620(b)(3)).

If the Administrator grants a section 21 petition, the Agency must promptly commence an appropriate proceeding. If the Administrator denies the petition, the reasons for denial must be published in the **Federal Register.**

If EPA denies the petition within 90 days of the filing date, or fails to grant or deny within the 90-day period, the petitioners may commence a civil action in a Federal district court to compel the Agency to initiate the requested action. This suit must be filed within 60 days of the denial, or within 60 days of the expiration of the 90-day period if the Agency fails to grant or deny the petition within that period (15 U.S.C. 2620(b)(4)).

In the case of a section 21 petition which requests an order under section 5(e), EPA may grant the petition only if EPA determines that the chemical substance is subject to section 5(e) jurisdiction, that available information is insufficient to evaluate the health or environmental effects of the substance, and that either the substance may present an unreasonable risk of injury to health or the environment or the substance is or will be produced in substantial quantities and there is or may be substantial or significant human exposure or substantial environmental release (15 U.S.C. 2604(e)(1)(A).

II. Response to Petition

A. Summary of Response

The Valley Watch petition requests that EPA issue a TSCA section 5(e) order prohibiting the manufacture, processing, distribution in commerce, use, or disposal of TF–1 and TF–2. Valley Watch requests that the order be implemented throught the denial of an operating permit for the Unison plant in Henderson Kentucky (until health effects testing of 1,2,4–trichlorobenzene and 1,2,4,5-tetrachlorobenzene is completed and considered by EPA).

EPA denies this petition because the petitioner has not in this instance requested relief which EPA can properly grant under TSCA section 5(e). EPA has jurisdiction to issue a section 5(e) order only with respect to a substance subject to the section 5(a) notification requirements, and in this instance, these notification requirements are not applicable. Nor does the requested relief involve issuance, amendment, or repeal of a rule under section 4, 6, or 8 or an order under section 6(b)(2).

However, EPA recognizes the concerns of the petitioners for the public health of the surrounding community and is committed to a thorough assessment of the risks (and benefits) of the facility in the context of its review of Unison's application for a PCB disposal permit.

B. Basis for Denial: Limitations on Section 5(e) Authority

The Valley Watch petition expresses a concern that two chemical substances, TF–1 and TF–2, which are to be processed at the Henderson, Kentucky facility will present an unreasonable risk. The petitioner relies exclusively upon TSCA section 5(e) as grounds for relief under section 21. The petitioner requests the issuance of a section 5(e) order which would prohibit the manufacture, processing, distribution in commerce, use, or disposal of TF–1 and TF–2. Since TF–1 and TF–2 are proposed to be processed at the Henderson, Kentucky facility, such an order would result in EPA denying an operating permit for the facility. EPA denies the petition because the petitioner has not alleged circumstances under which section 5(e) can be used.

First, section 5(e) does not apply to all chemical substances; rather, the provision applies only to those chemical substances with respect to which a notice is required by section 5(a). Section 5(a) requires persons who intend to manufacture or import a "new chemical substance," (or, who intend to manufacture, import, or process a chemical substance for a use which has been designated by EPA by rule as a "significant new use") to notify EPA at least 90 days before any such activity begins (15 U.S.C. 2604(a)(1)). TSCA defines a "new chemical substance" in section 3(9) as a substance not included on the inventory complied under section 8(b). Under TSCA section 5(a)(2), EPA has authority to designate potential new uses of chemical substances as "significant new uses." Such a designation is made through rulemaking after EPA has considered the statutory factors enumerated in section 5(a)(2). In this instance, however, the components of TF–1 and TF–2 are not "new chemical substances." Nor are these components subject to any "significant new use" rules.

EPA understands that the petitioner is speculating as to the precise chemical components in the materials identified as TF–1 and TF–2. This circumstance arises from the claim to business confidentiality asserted by Unison under TSCA section 14 and EPA's regulations in 40 CFR Part 2 with regard to the composition of TF–1 and TF–2. Nevertheless, EPA has in its files the identities of the TF–1 and TF–2 components.

EPA has determined that all the chemical substances comprising TF–1 and TF–2 are contained in the section 8(b) inventory of existing chemical substances compiled by EPA. Thus, TF–1 and TF–2 do not contain any "new chemical substances" subject to section 5(a)(1)(A) premanufacture notification. Likewise, the use of the chemical substances in TF–1 and TF–2 as organic solvents or dielectric fluids is not subject to a rule designating such uses as "significant new uses," and thus, would not give rise to section 5(a)(1)(B) significant new use notification requirements. Because TF–1 and TF–2 and their components are not subject to any section 5(a) notification requirements, TF–1 and TF–2 cannot be the subject of a proposed order under section 5(e)(1).

C. Other Considerations

EPA has also considered whether this petition could be read as seeking some action by EPA, properly within the bounds of section 21, other than issuing an order under section 5(e). The ultimate action requested in the petition is the denial of an operating permit for the Unison plant in Henderson, Kentucky. EPA is considering Unison's request for such a permit in accordance with its PCB disposal regulations in 40 CFR 761.60(e). Under those regulations, EPA's consideration, and approval or denial, of alternate methods for PCB disposal is accomplished through an administrative proceeding, not rulemaking. Section 21 is limited to petitions for issuance, amendment, or repeal of rules under sections 4, 6, and 8 and orders under sections 5(e) and 6(b)(2). Denial of the Unison permit request does not fall under any of these categories.

However, during its consideration of the Unison request, EPA has accepted public comments and has held public

hearings to obtain the views of interested persons and groups. EPA is considering all matters raised in public comments and other related petitions, before granting or denying the requested permit.

III. Official Record for the Petition

The following documents constitute the record for this action:

1. Record to Citizen's for Healthy Progress and Valley Watch Initial Petitions.

2. Valley Watch Petition, dated October 2, 1986.

The record is available for review in Rm. NE–G004 at the Headquarters' address given above.

Dated: December 31, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 87–456 Filed 1–8–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3140–8]

Environmental Impact Statements; Availability

Responsible Agnecy: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements Filed December 29, 1986 Through January 02, 1987 Pursuant to 40 CFR 1506.9.

EIS No. 860525, DSuppl, FHW, IA, Des Moines CBD Loop Arterial Construction, Harding Road and 19th Street to Fleur Drive And Fleur Drive to SE 14th Street/US 65/US 69, Polk County, Due: February 23, 1987, Contact: H.A. Willard (515) 233–1664.

EIS No. 860533, DSuppl, IBR, ND, Garrison Diversion Unit, Pick-Sloan Missouri Basin Program, Multipurpose Water Project, Construction and Operation, Plan Modifications, Due: February 28, 1987, Contact: Timothy Keller (701) 255–4011 ext. 541.

EIS No. 860534, FSuppl, FHW, WA, Pasco and Kennewick Cities, Intercity Steel Truss Bridge Demolition, Columbia River, Franklin County, Due: February 9, 1987, Contact: Paul Gregson (206) 753–2120.

EIS No. 860536, Draft, FHW, CA, I–5/ Santa Ana Freeway Widening and Interchanges Reconstruction, CA–22/ 57 Interchange to CA–55, Orange County, Due: March 15, 1987, Contact: C. Gleen Clinton (916) 551–1310.

EIS No. 860537, DSuppl, NRC, PA, Three Mile Island Nuclear Power Station, Unit 2, Decontamination and Disposal of Radioactive Wastes, Disposal of Accident Generated Water, Dauphin County, Due: February 28, 1987, Contact: Michael Masnik (301) 492–7743.

EIS No. 860538, Draft, CDB, NY, Metrotech Site Development Project, Construction and/or Rehabilitation UDAG, Kings County, Due: February 23, 1987, Contact: Ann Weisbrod (212) 619–5000.

EIS No. 870000, DSuppl, COE, MI, Clinton River Federal Navigation Channel, Confined Disposal Facility Construction for Maintenance Dredging, Updated Information, Macomb County, Due: February 23, 1987, Contact: Judy Limburg (312) 226–6752.

Amended Notice.

EIS No. 860524, DSuppl, CDB CA, Santa Maria Town Center expansion, Development, CDBG, Santa Barbara County, Due: February 17, 1987, Published FR 1–2–87—Incorrect status.

Dated: Janaury 6, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87–496 Filed 1–8–87; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3140–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared December 22, 1986 thorugh December 26, 1986 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act (CAA) and Section 102(2)(c) of the National Environmental Policy Act (NEPA) as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5076/73. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Final EISs

ERP No. FS–COE–K36010–GU, Agana River Flood Control Improvements, Guam, SUMMARY: The final supplemental EIS adequately addressed the concerns EPA had raised on prior NEPA documents. EPA has no objections to the proposed improvements.

ERP No. F–FHW–F59001–MI, Detroit Travel Information Center Construction and Associated Roadway Improvements, Near I–75 and the Ambassador Bridge, Right-of-Way Acquisition, MI. SUMMARY: EPA has no objection to the proposed travel information center.

ERP No. RF–NOA–G91001–00, Red Drum Fishery of the Gulf of Mexico Fishery Mgmt. Plan, Off the Coasts of TX, LA, MS, FL, and AL. SUMMARY: EPA has no objection to the proposed action as described.

ERP No. FS–USN–C10002–NJ, Naval Weapons Station Earle Logistic Support Systems, Modernization and Expansion, Issuance of COE 404, 103, and 10 Permits, Project Modification, NJ. SUMMARY: EPA believes the final supplemental EIS adequately responds to concerns; accordingly, EPA has no objection to the project as proposed.

Amended Notice

The following review was completed during the week of December 15, 1986 through December 19, 1986 and should have appeared in the FR Notice published on January 2, 1987.

ERP No. FS–COE–L35012–WA, Puget Sound Area, Carrier Battle Group Homeporting, Everett Site, Construction and Operation, Section 10 and 404 Permits, WA. SUMMARY: EPA recommends that Phase I dredging and disposal be monitored to demonstrate confined aquatic disposal (CAD) in deep water is an effective disposal technology. Monitoring necessary to demonstrate CAD effectiveness should focus on the adjacent high value dungeness crab and bottom fish resource area. If monitoring demonstates CAD effectiveness, Phase II dredging and disposal should be permitted as proposed. However, if CAD is shown to be ineffective, EPA recommends the Navy be prepared to modify its site and/or disposal processes.

Dated: January 6, 1987.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 87–497 Filed 1–8–87 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MEDIATION AND CONCILIATION SERVICE

Proposed Information Collection Submitted to OMB for Clearance

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) notice is hereby given of a proposed information collection from the public that was submitted to the Office of Management and Budget (OMB) for clearance. The collection will be in the form of a telephone survey.

Questions will be asked of 25 union and 25 management representatives who have participated in this agency's RBO (Relationship By Objectives) program. The RBO program is designed to improve labor-management relationships, which have deteriorated, by means of intensive meetings and jointly agreed upon goals. Information concerning the telephone survey may be obtained at the address shown below.

DATES: Comments should be submitted not later than 10 working days from the date of publication of this notice.

ADDRESS: Ted M. Chaskelson, Attorney-Advisor, Legal Services Office, Federal Mediation and Conciliation Service, 2100 K Street NW., Washington, DC 20427.

FOR FURTHER INFORMATION CONTACT: Ted M. Chaskelson, (202) 653–5305.

Dated: January 6, 1987.

Dan W. Funkhouser,

Director of Administrative Services.

[FR Doc. 87–483 Filed 1–8–87; 8:45 am]

BILLING CODE 6732-01-M

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy directive of November 5, 1986

In accordance with § 217.5 of its rules regarding availability of information, there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on November 5, 1986.[1] The directive was issued to the Federal Reserve Bank of New York as follows:

The information reviewed at this meeting indicates that economic activity grew at a moderate pace in the third quarter. In September total nonfarm payroll employment grew somewhat further, although employment in manufacturing fell after changing little in August. The civilian unemployment rate moved back up to 7.0 percent in September, close to its average level earlier in the year. Industrial production rose slightly further in September and posted a moderate gain over the third quarter. Consumer spending has remained strong in recent months, with gains in retail sales in August and especially in September paced by a sharp rise in auto sales. Housing starts fell in September, but residential investment increased further in the third quarter as a whole. Business capital spending appears to have remained sluggish; equipment spending picked up in the third quarter and new orders were strong in September, but outlays for nonresidential construction continued to decline. Real net exports of goods and services dropped further in the third quarter, reflecting in large part a surge in the volume of oil imports. Increases in labor compensation have slowed over the course of the year, while broad measures of prices have firmed somewhat recently due to developments in food and energy markets.

Growth of M2 moderated further in September, but appears to have picked up in October, while growth of M3 has tended to slow. Expansion of these two aggregates for the year through September has been at the upper end of their respective ranges established by the Committee for 1986. Growth of M1 slowed in the September-October period from the very rapid pace experienced since early spring. Expansion in total domestic nonfinancial debt remains appreciably above the Committee's monitoring range for 1986. Most interest rates have declined somewhat since the September 23 meeting of the Committee. Although the trade-weighted value of the dollar against major foreign currencies continued to decline for several weeks after the September meeting, it subsequently recovered and has risen somewhat on balance.

The Federal Open Market Committee seeks monetary and financial conditions that will foster reasonable price stability over time, promote growth in output on a sustainable basis, and contribute to an improved pattern of international transactions. In furtherance of these objectives the Committee agreed at the July meeting to reaffirm the ranges established in February for growth of 6 to 9 percent for both M2 and M3, measured from the fourth quarter of 1985 to the fourth quarter of 1986. With respect to M1, the Committee recognized that based on the experience of recent years, the behavior of that aggregate is subject to substantial uncertainties in relation to economic activity and prices, depending among other things on the responsiveness of M1 growth to changes in interest rates. In light of these uncertainties and of the substantial decline in velocity in the first half of the year, the committee decided that growth of M1 in excess of the previously established 3 to 8 percent range for 1986 would be acceptable. Acceptable growth of M1 over the remainder of the year will depend on the behavior of velocity, growth in the other monetary aggregates, developments in the economy and financial markets, and price pressures. Given its rapid growth in the early part of the year, the Committee recognized that the increase in total domestic nonfinancial debt in 1986 may exceed its monitoring range of 8 to 11 percent, but felt an increase in that range would provide an inappropriate benchmark for evaluating longer-term trends in that aggregate.

For 1987 the Committee agreed on tentative ranges of monetary growth, measured from the fourth quarter of 1986 to the fourth quarter of 1987, of 5–½ to 8–½ percent for M2 and M3. While a range of 3 to 8 percent for M1 in 1987 would appear appropriate in the light of most historical experience, the Committee recognized that the exceptional uncertainties surrounding the behavior of M1 velocity over the more recent period would require careful appraisal of the target range at the beginning of 1987. The associated range for growth in total domestic nonfinancial debt was provisionally set at 8 to 11 percent for 1987.

In the implementation of policy for the immediate future, the Committee seeks to maintain the existing degree of pressure on reserve positions. This action is expected to be consistent with growth in M2 and M3 over the period from September to December at annual rates of 7 to 9 percent. While growth in M1 over the same period is expected to moderate from its exceptional pace during the previous several months, growth in this aggregate will continue to be judged in the light of the behavior of M2 and M3 and other factors. Slightly greater reserve restraint or slightly lesser reserve restraint might be acceptable depending on the behavior of the aggregates, taking into account the strength of the business expansion, developments in foreign exchange markets, progress against inflation, and conditions in domestic and international credit markets. The Chairman may call for Committee consultation if it appears to the Manager for Domestic Operations that reserve conditions during the period before the next meeting are likely to be associated with a federal funds rate persistently outside a range of 4 to 8 percent.

By order of the Federal Open Market Committee, December 30, 1986.

Normand Bernard,

Assistant Secretary, Federal Open Market Committee.

[FR Doc. 87–484 Filed 1–8–87; 8:45 am]

BILLING CODE 6210-01-M

[1] Copies of the Record of policy actions of the Committee for the meeting of November 5, 1986, are available upon request to The Board of Governors of the Federal Reserve System, Washington, DC 20551.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Statement of Organization, Functions and Delegations of Authority

Part A (Office of the Secretary) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services is amended to reflect a transfer of responsibilities within the Office of the Assistant Secretary for Management and Budget. Specifically, Chapter AMM (Office of Management Analysis and Systems) (as last published at 50 FR 45940 of November 5, 1985, and Chapter AMH (Office of Procurement, Assistance and Logistics) (as last amended at 49 FR 48614 of December 13, 1984) are amended to reflect the transfer of the Office of State Systems Standards and Review from the Office of Management Analysis and Systems to the Office of Procurement, Logistics and Assistance. This change is made to better align oversight responsibilities. State system functions related to the entitlement programs administered by States will now be located within the organizations responsible for developing grants policy for the entitlement programs.

The changes are as follows:

1. Amend Chapter AMM, Office of Management Analysis and Systems as follows:

(a) Delete from *AMM.10 Organization*, the following:

Office of the State Systems Standards and Review Division of State Data Systems
Payment Integrity Staff
Integrated Quality Control Assurance Staff

(b) Delete from *AMM.20 Functions*, subparagraph D.

Office of State Systems Standards and Review in its entirety, and reletter subparagraph E as D.

(c) Add to *AMM.20 Functions*, subparagraph C, *Office of Managment Analysis*, (b) *The Division of Management Systems* a new item 5 to read as follows:

(5) Managing the Department's printing and copying activities by:
(a) Providing policy guidance to and oversight over the printing and copying management programs carried out by the Department's Operating Divisions.
(b) Providing departmental liaison with the Congressional Joint Committee on Printing, the Government Printing Office and other governmental entities concerned with printing and copying management matters.

2. Amend Chapter AMH, Office of Procurement, Assistance and Logistics as follows:

(a) Add the following sentence to *AMH.00 Mission* as follows: In addition, the Office guides and oversees the development of State information systems.

(b) Delete in AMH.10 Organization the title: Office of Assistance and Cost Policy.

(c) Insert in AMH.10 Organization, after the title Division of Operations, the following:

Office of Assistance Policy and Systems Review
Division of State Data Systems
Division of Assistance and Cost Policy
Payment Integrity Staff
Integrated Quality Control Assurance Staff

(d) Insert in *AMH.20 Functions* a new item 15 as follows:

15. Provides liaison, counsel and support to State governments in their development of information systems responsive to human service programs.

(e) Change *AMH.20 Functions* subsection C, the following: reletter the current subsection as (b), change the word Office to Division in the relettered subsection (b), and include the relettered subsection (b) at the appropriate point in the following statement:

c. *Office of Assistance Policy and Systems Review*. The Office of Assistance Policy and Systems Review is responsible for:
1. Providing leadership for and coordinating the development and establishment of policies, standards, and procedural guidance to improve and stablize State information systems funded by the Department.
2. Providing leadership for, and coordinating and developing policies and procedures governing the award and administation of grants and other forms of Federal assistance.
3. Providing leadership for, and coordinating and developing policies and procedures governing audit resolution and the administration of procurement and assistance activities.
4. Initiating and conducting special projects directed toward improving the payment integrity and the quality assurance of HHS funded programs.
5. Identifying management problems the Department and the States face in the administration of HHS funded programs and conveying these problems with alternatives for their solutions to appropriate senior HHS officials.
6. Working closely with HHS and other Federal program officials and their State counterparts to improve the administration of HHS funded programs.
7. Providing leadership and guidance in the development and implementation of policies and standards applicable to systems development, payment integrity, and quality assurance activities.

(a) *The Division of State Data Systems* is responsible for:
(1) Developing departmental policies and procedures under which States obtain Federal financial participation in the cost of Automatic Data Processing (ADP) systems to support programs funded under the Social Security Act.
(2) Acting as a central receiving point for, and coordinating the departmental review and approval of, State requests for Federal funding in the cost of ADP system acquisition.
(3) Coordinating the provision of technical assistance to States on information systems projects that will advance the use of computer technology in the administration of welfare and social services programs in the States.

(c) *The Payment Integrity Staff* is responsible for:
(1) Planning, designing, coordinating, and implementing major departmental and governmentwide management improvement initiatives involved in the administration and operation of federally funded programs.
(2) Serving as the departmental focal point for the development and implementation of strategies and policies related to payment integrity and the associated areas of improved quality control, error reduction, and welfare system integration.
(3) Convening and providing leadership to work groups and task forces to assess current grantee or contractor systems with the goal of examining the extent of wasteful redundancy and inefficient systems

design and promoting creating solutions to these problems.

(4) Establishing minimum uniform standards for the approval of integrated and appropriately interacted welfare management systems.

(5) Identifying and assessing grantee management and operational approaches and policies in the areas of payment integrity and systems management and promoting the rapid adoption of successful and effective approaches by States and their integration into existing and evolving State systems.

(6) Integrating the dissemination and transfer or recognized and acceptable cost effective best approaches with current agency and departmental meetings, forums, and expositions for review and consideration by State welfare agencies.

(7) Providing leadership and guidance to interagency work groups in the area of payment integrity initiatives when senior officials of the Executive Branch request it of the Department.

(d) *The Integrated Quality Control Assurance Staff* is responsible for:

(1) Providing management oversight to the implementation of major Management Improvement initiatives directed toward improving quality control in the administration of federally funded programs.

(2) Administering the day-to-day aspects of major quality control initiatives which involve several departmental components or, in the case of interagency initiatives, several departments and/or independent agencies, when senior officials of the Executive Branch request the Department to provide this management direction.

(3) Developing and implementing standards and policies for regulating integrated quality control activities of the Deparment and the Operating Divisions.

(4) Monitoring quality assurance communication between officials and staffs to affected Federal and State agencies to assure open lines of communications.

Dated: January 5, 1987.

Anthony McCann,

Assistant Secretary for Management and Budget.

[FR Doc. 87-427 Filed 1-8-87; 8:45 am]

BILLING CODE 4150-04-M

Health Resources and Services Administration

National Advisory Council on the National Health Service Corps; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of January 1987:

Name: National Advisory Council on the National Health Service Corps.

Date and Time: January 26-28, 1987, 8:30 a.m.—5:00 p.m.

Place: Hyatt Regency Hotel, 400 SE Second Avenue, Miami, Florida 33131-2197.

Site visit will be made to migrant, freestanding and community health sites. On January 27, no transportation will be provided for visitors and observers. The entire meeting is open to the public.

Purpose: The Council will advise and make appropriate recommendations on the National Health Service Corps (NHSC) program as mandated by legislation. It will also review and comment on proposed regulations promulgated by the Secretary under provisions of the legislation.

Agenda: The agenda will include a discussion of Region VI activities, overall National Health Service Corps policies, budget and other topics at the pleasure of the Council.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mrs. Anna Mae Voigt, National Health Service Corps, Bureau of Health Care Delivery and Assistance, Health Resources and Services Administration, Room 6-40, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: 301 443-4814.

Agenda items are subject to change as priorities dictate.

Dated: January 6, 1987.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 87-503 Filed 1-8-87; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Heart, Lung, and Blood Institute; Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clinical Trials Review Committee, National Heart, Lung, and Blood Institute, February 22-24, 1987, at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

The meeting will be open to the public on February 22, from 7:30 p.m. to approximately 8:00 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on February 22 from approximately 8:00 p.m. to recess, and from 8:00 a.m. on February 23 to adjournment on February 24, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code.

Terry Bellicha, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Norman S. Braveman, Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung and Blood Institute, Westwood Building, Room 550B, Bethesda, Maryland 20892, phone (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: December 29, 1986.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 87-426 Filed 1-8-87; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N-87-1666]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below

has 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 proposal.

ACTION: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive 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 proposal 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 agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) 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 Office 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 requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Improvement Assistance Program (CIAP): Evidence of Consultation
Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 4,800
Status: Extension
Contact: Pris P. Buckler, HUD, (202) 755–6640; Robert Fishman, 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: December 5, 1986.

John T. Murphy,
Director, Information Policy and Management Division.

[FR Doc. 87–486 Filed 1–8–87; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. D–86–829]

New York Regional Office; Designation of Order of Succession

AGENCY: Office of the Regional Administrator, 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 vacacny in the position of Regional Administrator/Regional Housing Commissioner.

EFFECTIVE DATE: This designation is effective December 17, 1986.

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 Public Housing
4. Director, Office of Operational Support
5. Director, Office of Community Planning and Development
6. Regional Counsel
7. Director, Office of Fair Housing and Equal Opportunity
8. Director, Office of Administration
9. Executive Assistant to the Regional Administrator

This designation supersedes the designation effective April 22, 1986.

Authority: Delegation of Authority, 27 FR 4319 (1962); sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); and Interim Order II, 31 FR 815 (1966).

Dated: December 17, 1987

Joseph D. Monticciolo,
Regional Administrator/Regional Housing Commissioner, Region II.

[FR Doc. 87–488 Filed 1–8–87; 8:45 am]
BILLING CODE 4210–01–M

Office of the Secretary

[Docket No. D–87–830; FR–2303]

Delegation of Authority Regarding Liquidated Damages Under the Contract Work Hours and Safety Standards Act

AGENCY: Office of the Secretary, HUD.

ACTION: Notice of delegation of authority.

SUMMARY: This delegation of authority delegates from the Secretary to the Assistant to the Secretary for Labor Relations (HUD) the authority to: (1) Issue final orders affirming determinations of liquidated damages; (2) waive or reduce liquidated damages of $500 or less against contractors and subcontractors for violations of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327 *et seq.*); and (3) recommend such a waiver or reduction to the Secretary of Labor (Department of Labor) where appropriate under 29 CFR 5.8(d).

EFFECTIVE DATE: December 31, 1986.

FOR FURTHER INFORMATION CONTACT: Justin L. Logsdon, Assistant to the Secretary for Labor Relations, Office of the Secretary, Room 4110, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 755–5370. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This delegation of authority is being published under 29 CFR 5.8(d), which delegates from the Secretary of the Department of Labor to the Secretary of

the Department of Housing and Urban Development the authority to: (1) Issue a final order affirming a determination of liquidated damages; (2) waive or reduce liquidated damages of $500 or less against contractors and subcontractors for violations of the Contract Work Hours and Safety Standards Act; and (3) recommend such a waiver or reduction to the Secretary of Labor where appropriate under 29 CFR 5.8(d).

The Secretary of HUD, under section 7(d) of the Department of Housing and Urban Development Act, has determined that the Assistant to the Secretary for Labor Relations is the appropriate HUD official to be redelegated the above stated authority contained in 29 CFR 5.8(d). The Assistant to the Secretary for Labor Relations administers the Department's Labor Standards Program.

Accordingly, the delegation of authority shall read as follows:

Section A—Authority Delegated

The Assistant to the Secretary for Labor Relations is hereby delegated the authority to: (1) Issue a final order affirming a determination of liquidated damages; (2) waive or reduce liquidated damages of $500 or less against contractors and subcontractors for violations of the Contract Work Hours and Safety Standards Act; and (3) recommend such a waiver or reduction to the Secretary of Labor where appropriate under 29 CFR 5.8(d).

Section B—Authority to Redelegate

This authority may be redelegated to subordinates responsible to the Assistant to the Secretary for Labor Relations.

Authority: 29 CFR 5.8(d); sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: December 31, 1986.

Samuel R. Pierce, Jr.,

Secretary.

[FR Doc. 87-487 Filed 1-8-87; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-040-06-4212-11; WY-89377]

Realty Action; Lease of Public Lands in Sweetwater County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action W-89377, recreation and public purposes classification and application for lease of public lands in Sweetwater County, Wyoming.

SUMMARY: The following described public lands near the community of Granger, Wyoming, have been examined and identified as suitable for lease for sanitary landfill purposes. The lands will be classified for lease under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.)

Sixth Principal Meridian

T. 19 N., R. 111 W.,
Sec. 34, SE¼SW¼SW¼, S½SE¼SW¼, SW¼SW¼SE¼.

The area described contains 40.00 acres.

The Community of Granger, Wyoming, intends to use the land for a sanitary landfill. The lands are physically suited to the proposed use. The proposed use would be in the public interest and is in conformance with the Bureau's planning for the lands involved.

A lease issued under this notice will reserve to the United States all mineral deposits in said lands, together with the right to mine and remove the same under applicable laws and regulations. Such a lease will also be subject to the provisions of the Recreation and Public Purposes Act and to all applicable regulations to the Secretary of the Interior.

Upon publication of this notice in the **Federal Register**, the above described land will be segregated from all appropriations except as to applications under the mineral leasing laws and the Recreation and Public Purposes Act.

The lease will have no impact to any of the Granger grazing lease permittees.

Comments

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments in writing to the Area Manager, Kemmerer Resource Area, Box 632, Kemmerer, Wyoming 83101. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this notice will become effective 60 days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Ron Wenker, Area Manager, Kemmerer Resource Area, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101, 307-877-3933.

Dated: December 16, 1986.

Ron Wenker,

Area Manager.

[FR Doc. 87-6 Filed 1-8-87; 8:45 am]

BILLING CODE 4310-22-M

[ID-010-07-4410-08]

Review Period Extension of Proposed Jarbidge Resource Management Plan Modification

AGENCY: Bureau of Land Management, Department of the Interoir [ID-010-07-4410-08].

ACTION: Review period extension of proposed Jarbidge Resource Management Plan Modification.

SUMMARY: the BLM Boise District Manager has extended the review period on the modified Jarbidge Resource Management Plan (JRMP). The supplemental information on the JRMP modification appeared in the Friday, December 12, 1986 issue of the **Federal Register**, Volume 51, No. 239, p. 44838. A 30 day extension has been granted. This 30 day extension is in addition to the original 30 day comment period as required by 43 CFR 1610.2(f)(5).

Deadline for Comments and Supplementary Information

Commens should be submitted to J. David Brunner, BLM District Manager, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705 by close of business February 11, 1987. If you have any questions concerning the proposed modifications or need additional information, please contact Gary Carson at the above address or telephone (208) 334-1582.

January 5, 1987.

J. David Brunner,

District Manager.

[FR Doc. 87-411 Filed 1-8-87; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

Illinois and Michigan Canal National Heritage Corridor Commission; Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Illinois and Michigan Canal National Heritage Corridor Commission will be held January 22, 1987, beginning at 10 a.m. at the Reddick Mansion, Ottawa, Illinois.

The Commission was originally established on August 24, 1984, pursuant to provisions of the Illinois and Michigan Canal National Heritage Corridor Act of 1984, 98 Stat. 1456, 16

U.S.C. Sec. 461 note, to implement and support the conceptual plan.

Matters to be discussed at the meeting will include the discussion of bylaws to govern Commission proceedings, the development of an interpretive plan for the corridor, and the development and placement of signs within the corridor.

The meeting will be open to the public. Interested persons may submit written statements to the official listed below prior to the meeting. Further information concerning the meeting may be obtained from Alan M. Hutchings, Chief, Division of External Affairs, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone 402–221–3481 (FTS 864–3481). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 3 weeks after the meeting.

Dated: January 6, 1987.

Charles H. Odegaard,

Regional Director, Midwest Region.

[FR Doc. 87–429 Filed 1–8–87; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–355 (Preliminary)]

Certain Silica Filament Fabric From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured, or threatened with material injury, by reason of imports from Japan of woven fabrics, of glass (silica filaments), whether or not colored, containing not over 17 percent of wool by weight, provided for in items 338.25 and 338.27 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).[2]

Background

On October 27, 1986, a petition was filed with the commission and the Department of Commerce by counsel representing Haveg Division, Ametek, Inc., of Wilmington, DE, and HITCO of Newport Beach, CA, alleging that an industry in the United States is materially injured and threatened with material injury by reason of LTFV imports of commercial grade amorphous silica filament fabric from Japan. Accordingly, effective October 27, 1986, the Commission instituted preliminary antidumping investigation No. 731–TA–355 (Preliminary).

Notice of the institution of the Commission's investigation and of a public conference 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 November 5, 1986 (51 FR 40271). The conferrence was held in Washington, DC, on November 19, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on December 11, 1986. The views of the Commission are contained in USITC Publication 1922 (December 1986), entitled "Certain Silica Filament Fabric from Japan: Determination of the Commission in Investigation No. 731–TA–355 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: December 11, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–433 Filed 1–8–87; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Commissioner Eckes determines there is a reasonable indication of material injury.

INTERSTATE COMMERCE COMMISSION

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(B)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: American Dehydrated Foods, Inc., 2003–E E. Sunshine, Springfield, Missouri 65804.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation:

(i). Big Red Transportation, Inc., Missouri.

B. 1. Parent corporation and address of principal office: Furst McNess Company, 120 East Clark Street, Freeport, IL 61032.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of Incorporation:

(1) W. E. Kautenberg Company, an Illinois Corporation, 1235 South Adams Avenue, Freeport, IL 61032.

(2) Regal Crown Corporation, an Illinois Corporation, P.O. Box 404, Monticello, IL 61856.

C. 1. Parent corporation and address of principal office:

House-Hasson Hardware Company, Mailing address: P.O. Box 1191, Knoxville, Tennesse 37901

Street address: 3125 Water Plant Road, Knoxville, Tennesse 37914.

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

(i) Triple H Delivery, Inc. Tennessee.

D. 1. Parent corporation and address of principal office: Pressure Vessel Service, Inc., d/b/a PVS Chemicals, Inc., 11001 Harper Avenue, Detroit, Michigan.

2. Wholly-owned subsidiaries which will participate in the operations, and states of incorporations:

(I) Bay Chemical Company—Michigan.

(II) Dynecol, Inc.—Michigan.

(III) Chemical Transport Service, Inc.—Michigan.

(IV) PVS Chemicals, Inc. (Illinois)—Michigan.

(V) PVS Chemicals, Inc. (New York)—Michigan.

(VI) PVS Chemicals, Inc. (Ohio)—Michigan.

(VII) Fanchem, Ltd.—Ontario, Canada.

(VIII) PVS Chemicals, Inc. (Michigan)—Michigan.

Noreta R. McGee,

Secretary.

[FR Doc. 87–422 Filed 1–8–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 30951]

Boston & Maine Corp. Lease Exemption From Springfield Terminal Railway Co.

Boston and Maine Corporation (B&M) and Springfield Terminal Railway Company (ST) filed a notice of exemption for B&M to lease to ST (a) the line between White River Jct., VT, and Berlin, NH, and (b) the line between Groveton, NH, and Waumbek Jct., NH, a point on the White River Jct.—Berlin line. The purpose of this transaction is to enable ST to carry on operations now performed by B&M. ST is a wholly-

owned subsidiary of Guilford Transportation Industries, B&M's parent. As a result of the transaction, it is anticipated that ST will provide a more responsive and efficient service to rail customers. Further, B&M will improve its financial viability by eliminating costly operations. With a lower cost structure, ST expects to perform these operations on a more profitable basis.

Since B&M and ST are members of the same corporate family, the lease falls within the class of transactions that are exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(3). The transactions will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition of this exemption, any employees affected by the lease transaction will be protected pursuant to *Mendocino Coast Ry., Inc.—Lease and Operate*, 354 I.C.C. 732 (1978) and 360 I.C.C. 653 (1980).

Decided: December 29, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–420 Filed 1–8–87; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30918]

Knreco, Inc., d/b/a Keokuk Junction Railway; Acquisition and Operation Exemption; The Atchison, Topeka & Santa Fe Railway Co.; Exemption

Knreco, Inc., d/b/a Keokuk Junction Railway has filed a notice of exemption to acquire and operate The Atchison, Topeka and Santa Fe Railway Company's line between La Harpe, IL (milepost 195.5) and Keokuk, IA (milepost 233.3). Any comments must be filed with the Commission and served on John D. Heffner or Susan M. Milligan, Gerst & Heffner, 1133 15th Street NW., Suite 1100, Washington, DC 20005.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: December 19, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–421 Filed 1–8–87; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-17,537]

Asarco, Inc., Central Research Division; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Asarco Incorporated, Central Research Division, South Plainfield, New Jersey. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–17,537; Asarco, Incorporated, Central Research Division, Plainfield, New Jersey (December 15, 1986)

Signed at Washington, DC, this 23rd day of December 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–439 Filed 1–8–87; 8:45 am]

BILLING CODE 4510-01-M

[TA-W-17, 463 and TA-W-17, 464]

Burnham Trucking, Inc. and Inryco, Inc.; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Burnham Trucking, Inc. and Inryco, Inc., W. Milwaukee, Wisconsin. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–17, 463; Burnham Trucking, Inc., W. Milwaukee, Wisconsin (December 19, 1986)

TA–W–17, 464; Inryco, Inc., W. Milwaukee, Wisconsin (December 19, 1986)

Signed at Washington, DC, this 23rd day of December 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–441 Filed 1–8–87; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17, 678]

Chaparral Machine & Manufacturing, Inc., Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Chaparral Machine & Manufacturing, Inc., Odessa, Texas. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA–W–17, 678; Chaparral Machine & Manufacturing, Inc., Odessa, Texas (December 19, 1986)

Signed at Washington, DC, this 23rd day of December 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–440 Filed 1–8–87; 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period December 15, 1986—December 19, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or

appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-18,006; Suttle Apparatus Corp., Lawrenceville, IL

TA-W-18,098; Hite Operating Co., Inc., Evansville, IN

TA-W-17,999; Weathercraft Manufacturing Co., Inc., Phillipsburg, PA

TA-W-17,701; Compressor Systems, Inc., Midland, TX

TA-W-17,400; Jacksonville Kraft Paper Co., Jacksonville, FL

TA-W-18,111; Trident Drilling Completion and Service, Inc., Olney, IL

TA-W-18,112; Triple B Oil Producers, Inc., Olney, IL

TA-W-18,113; Stellum Oilfield Supply, Inc., Olney, IL

TA-W-17,938; Laredo Packing Co., Laredo, TX

TA-W-18,051; ITT Barton Instruments Co., City of Industry, CA

TA-W-17,811; Ring Finishing, Inc., Warren, MI

TA-W-18,368; Lee Apparel Co., Sulphur Springs, TX

TA-W-17,879; American Bag Corp., Pine Knot, KY

TA-W-17,860; Coosa River Garment Co., Gadsen, AL

TA-W-17,675; Candi Cane Robes, Inc., New York, NY

TA-W-17,964; Brunswick Bowling and Billiards, Muskegon, MI

TA-W-18,434; Invalco, Inc., Tulsa, OK

TA-W-18,558; Cincinnati Flame Hardening, Cincinnati, OH

TA-W-18,074; S.S. White, Holmdel, NJ

TA-W-17,814; E.B. Sportswear, Inc., Lowell, NC

TA-W-17,650; Morris Fishman Manufacturing Co., Inc., Shamokin, PA

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-18,221; Judson Steel Corp., Emeryville, CA

Aggregate U.S. imports of concrete reinforcing oar did not increase as required for certification.

TA-W-17,795A; Ronnie B. Sportswear Co., Hazleton, PA

In the investigation revealed that criterion (1) has not been met. Employment did not decrease during the relevant period as required for certification.

TA-W-17,802; Bethenergy Mines, Inc., Mine #78, Ebensburg, PA

Aggregate U.S. imports of coal are negligible.

TA-W-17,552; Carr-Lowrey Glass Co, (A Division of Anchor Hocking Corp), Baltimore, MD

The investigation revealed that criterion (1) has not been met. Employment did not decline during the relevant period as required for certification.

TA-W-17,972; Control Data Corp., Minneapolis, MN

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-18,549; McDonald Tank and Equipment & Mactank Co., Great Bend, KS

Aggregate U.S. imports of oil storage tanks are negligible.

TA-W-18,409; Ruthco, Inc., Midland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,410; Ruthco, Inc., Odessa, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,411; Ruthco, Inc., Levelland, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,412; Ruthco, Inc., Gainesville, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,332; Bethenergy Mines, Inc., Tamaqua, PA

Aggregate U.S. imports of coal are negligible.

TA-W-18,331; Reading Anthracite, Pottsville, PA

Aggregate U.S. imports of coal are negligible.

TA-W-18,326; Beltrami Enterprises, Hazleton, PA

Aggregate U.S. imports of coal are negligible.

TA-W-18,321; Jeddo-Highland Coal Co., Pittston, PA

Aggregate U.S. imports of coal are negligible.

TA-W-18,712; Klaus & Son Machine & Engine Works, Hill City, KS

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,727; Titan Perforators, Inc., Refugio, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,728; Titan Perforators, Inc., Carrizo Springs, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,733; Westdale, Inc., Crane, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,734; Welex-A Halliburton Co., Snyder, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,735; Wilson Well Service, Many, LA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,736; Four M Trucking Co., Iowa Park, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,214; Coronado Transmission Co., Energy Gathering, Inc., Houston, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-17,840; Dwight Brehm Resources, Mount Vernon, IL

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,719; American International Manufacturing Corp., Fort Worth, TX

Aggregate U.S. imports of oilfield equipment.

TA-W-17,769; Bristol-Meyers Co., Industrial Div., Emergency Medical Business Unit, Syracuse, NY

Separations from the subject firm were due to the transfer of functions to another domestic facility.

TA-W-18,047; Southwest Texas Services, Inc., Laredo, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,133; Cliffwood Energy Co., Pasadena, CA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,077; South Texas Drilling, Pleasanton, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,099; Padre Drilling Co., Corpus Christi, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,608; Ford Coal Co., Hansford, WV

Aggregate U.S. imports of coal are negligible.

TA-W-18,752; Geophysical Service, Denver, CO

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,764; Rio Grande Drilling, Port O'Connor, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,767; J.W. McCutchen Drilling, Witchita, Falls, TX

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,231; Energy Exchange Corp., Oklahoma City, OK; Ramco Oil Co., London, KY

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-18,171; USX Corp., Imperial Works, Oil City, PA

Aggregate U.S. imports of oilfield equipment are negligible.

TA-W-18,581; Zenith Electronics Corp., Kostner Avenue Plant Auto-Dashboard Display Dept, Video-Displays Dept., Chicago, IL

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-18,600; AT&T Information Systems, Knoxville, TN

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-18,601; AT&T Information, Alcoa, TN

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-17,859; BHP Petroleum Co., Inc., Snyder, TX

A certification was issued covering all workers of the firm separated on or after July 28, 1985.

TA-W-17,741; Osceola Shoe Co., Inc., Manila, AR

A certification was issued covering all workers of the firm separated on or after June 19, 1985 before August 15, 1986.

TA-W-17,741A; Osceola Shoe Co., Inc., Osceola, AR

A certification was issued covering all workers of the firm separated on or after June 19, 1985.

TA-W-18,554; Great Northern Paper Co., East Millinocket, ME

A certification was issued covering all workers of the firm separated on or after October 3, 1985.

TA-W-18,553; Great Northern Paper Co., Woodlands Div., Millinocket, ME

A certification was issued covering all workers of the firm separated on or after October 3, 1985.

TA-W-17,656; Ellithrop Tanning, Gloversville, NY

A certification was issued covering all workers of the firm separated on or after October 1, 1985.

TA-W-17,795; Baron Blouse & Sportswear Co., Hazleton, PA

A certification was issued covering all workers of the firm separated on or after July 22, 1985 and before July 30, 1986.

TA-W-17,624; Robus Products Corp., Madison, IN

A certification was issued covering all workers of the firm separated on or after June 13, 1985.

TA-W-17,624A; Robus Products Corp., Manchester, MO

A certification was issued covering all workers of the firm separated on or after April 15, 1986 and before June 30, 1986.

TA-W-17,802; Weyerhouse Co., Bly Lumber Mill Bly, OR

A certification was issued covering all workers of the firm separated on or after July 9, 1985.

TA-W-17,743; United Technologies Corp., Diesel Systems, Springfield, MA

A certification was issued covering all workers excluding those workers engaged in employment exclusively related to the production of fuel injection system nezzles separated on or after May 14, 1985.

TA-W-17,774; Borg Warner Corp., Bryon Jackson Pump Division, Tulsa, OK

A certification was issued covering all workers of the firm separated on or after June 17, 1985.

TA-W-18,457; Torrington/Fafnir, Arkadelphia, AR

A certification was issued covering all workers of the firm separated on or after October 7, 1985.

TA-W-17,745; CTS Corp., Skyland, NC

A certification was issued covering all workers of the firm separated on or after July 14, 1985.

TA-W-17,755; Eberhurd Faber, Inc., Mountaintop, PA

A certification was issued covering all workers of the firm separated on or after July 1, 1986.

TA-W-17,599; Carol Ann Fashions, Inc., Hastings, PA

A certification was issued covering all workers of the firm separated on or after May 15, 1985.

TA-W-17,717; Mallard Sportswear, Scranton, PA

A certification was issued covering all workers of the firm separated on or after June 26, 1985.

TA-W-18,327; Holiday Design, Inc., Sebring, OH

A certification was issued covering all workers of the firm separated on or after August 22, 1985.

TA-W-17,974; Control Data Corp., Roseville Operation, Roseville & Cambridge, MN

A certification was issued covering all workers of the firm separated on or after August 13, 1985.

TA-W-18,312; Craddock-Terry Shoe Co., Lynchburg, VA, Lawrenceville, VA, Farmville, VA

A certification was issued covering all workers of the firm separated on or after September 22, 1985.

TA-W-18,220; Botany 500, Division of McGregor Corp., Philadelphia, PA

A certification was issued covering all workers of the firm separated on or after September 19, 1985.

TA-W-17,957; Dentex Shoe Corp., Laredo, TX

A certification was issued covering all workers of the firm separated on or after September 2, 1985.

TA-W-17,973; Wirdyne, Derry, PA

A certification was issued covering all workers of the firm separated on or after August 21, 1985.

TA-W-18,523; McAdoo Manufacturing Co., Inc., McAdoo, PA

A certification was issued covering all workers of the firm separated on or after October 14, 1985.

TA-W-18,561; Motorola, Inc., Automotive & Industrial Electronic Group, Joplin, MO

A certification was issued covering all workers of the firm separated on or after October 27, 1985.

TA-W-18,432; Shure Electronics of Arizona, Phoenix, AZ

A certification was issued covering all workers engaged in employment related to the assembly of hi-fi phonograph cartridges at the firm separated on or after January 17, 1986.

TA-W-17,742; Ziyad, Inc., Denville, NJ

A certification was issued covering all workers of the firm separated on or after July 11, 1985.

TA-W-17,767; Laurens Shirt Co., Laurens, SC

A certification was issued covering all workers of the firm separated on or after July 9, 1985 and before December 1, 1986.

TA-W-17,767A; Soren Shirt Co., New York, NY

A certification was issued covering all workers of the firm separated on or after July 9, 1985.

TA-W-17,645; Joel-Cal Made, Los Angeles, CA

A certification was issued covering all workers of the firm separated on or after June 30, 1985 and before April 30, 1986.

TA-W-17,636; Mead Corp., Chillicothe, OH

A certification was issued covering all workers of the firm separated on or after September 15, 1985.

TA-W-18,342; Franklin Electric, Inc., Jacksonville, AR

A certification was issued covering all workers of the firm separated on or after September 26, 1985.

TA-W-18,444; American Motors Jeep Corp., Toledo, OH

A certification was issued covering all workers of the firm separated on or after September 26, 1985 and before February 15, 1986.

TA-W-18,582; Bethenergy Mines, Inc., Conemaugh Shop, Conemaugh, PA

A certification was issued covering all workers of the firm separated on or after October 28, 1985.

TA-W-17,944; Hy-Lena, Inc., New York, NY

A certification was issued covering all workers of the firm separated on or after August 20, 1985.

TA-W-18,188; Hapso, Inc., Harrellsville, NC

A certification was issued covering all workers of the firm separated on or after September 5, 1985 and before October 1, 1986.

TA-W-17,444; Rando Machine Corp., Macedon, NY, Carolina Machinery Co., Charlotte, NC

A certification was issued covering all workers of the firm separated on or after July 10, 1985.

TA-W-18,064; Cities Service Oil and Gas Corp., Exploration & Production Division, Tulsa, OK

A certification was issued covering all workers of the firm separated on or after August 29, 1985.

TA-W-18,527; Murin Oil Co., Olney, IL

A certification was issued covering all workers of the firm separated on or after October 17, 1985.

TA-W-17,772; Styletek, Inc., Auburn, ME

A certification was issued covering all workers of the firm separated on or after July 3, 1985.

TA-W-17,356; Coutland Novelty Co., Inc., East Stroudsburg, PA

A certification was issued covering all workers of the firm separated on or after April 11, 1985 and before May 11, 1986.

TA-W-18,202; J.R. Handbag, Inc., Opa Locka, FL

A certification was issued covering all workers of the firm separated on or after August 25, 1985.

TA-W-18,178; C & S Dress Manufacturing, Union City, NJ

A certification was issued covering all workers of the firm separated on or after August 20, 1985.

TA-W-18,352; Clarksville Shoe Co., Clarksville, AR

A certification was issued covering all workers of the firm separated on or after September 26, 1985.

TA-W-18,353; Paris Shoe Co., Paris, AR

A certification was issued covering all workers of the firm separated on or after September 26, 1985.

TA-W-17,951; Levi Strauss & Co., Men's Wear Division, Wynne, AR

A certification was issued covering all workers of the firm separated on or after August 18, 1985.

TA-W-17,952; Levi Strauss & Co., Men's Wear Division, Little Rock, AR

A certification was issued covering all workers of the firm separated on or after August 18, 1985.

TA-W-18,179; Transamerica Delaval, Inc., Enterprise Engine Div., Oakland, CA

A certification was issued covering all workers of the firm separated on or after September 5, 1985.

TA-W-17,787; Jones & Vining, Lewiston, ME

A certification was issued covering all workers of the firm separated on or after November 1, 1986.

TA-W-17,885; Cambridge Tile Manufacturing, Cincinnati, OH

A certification was issued covering all workers of the firm separated on or after August 11, 1985.

TA-W-18,243; Goodyear Tire & Rubber Co., East Gadsden, AL

A certification was issued covering all workers of the firm separated on or after September 15, 1985.

TA-W-17,982; Stride Rite Footwear, Inc., A Subsidiary of the Stride Rite Corp., Brockton, MA

A certification was issued covering all workers of the firm separated on or after August 20, 1985.

TA-W-18,247; Davis & Geck, Division of American Cyanamid Co., Danbury, CT

A certification was issued covering all workers engaged in employment related to attaching and winding operations on surgical sutures at the firm separated on or after September 15, 1985.

TA-W-18,195; Marthon Oil Co., Northeastern Production District, Bridgeport, IL

A certification was issued covering all workers of the firm separated on or after September 1, 1985.

TA-W-18,307; Union Texas Petroleum Corp., Midland, TX

A certification was issued covering all workers of the firm separated on or after September 16, 1985.

TA-W-17,653; J. Schoeneman, Chambersburg, PA

A certification was issued covering all workers of the firm separated on or after June 11, 1985.

TA–W–17,946; Irene Fashions, Hazleton, PA

A certification was issued covering all workers of the firm separated on or after July 14, 1985.

I hereby certify that the aforementioned determinations were issued during the period December 15, 1986—December 19, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor 601 D Street, NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: December 23, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 87–446 Filed 1–8–87; 8:45 am]

BILLING CODE 4510–30–M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 22nd day of December 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Atlas Chain Co. (UAW)	W Pittston, PA	12/15/86	12/3/86	TA–W–18, 782	Precision roller chain.
Beloit Corp., Blackhawk Workers (UAW)	Rockton, IL	12/15/86	12/4/86	TA–W–18, 783	Paper making machines.
Beloit Corp., Casting Div., Foundry 6 (UAW)	So Beloit, IL	12/15/86	12/4/86	TA–W–18, 784	Castings for paper making machines.
American Pipe & Steel Supply, Inc. (Workers)	Houston, TX	12/15/86	11/20/86	TA–W–18, 785	Conditioned and sold tubular steel products.
AMF Tuboscope (Workers)	Midland, TX	12/15/86	12/8/86	TA–W–18, 786	Service to oil industry.
Peabody-Barnes Div. of Pullman (IAM)	Mansfield, OH	12/15/86	11/13/86	TA–W–18, 787	Pumps.
Flint Engineering & Construction, Inc. (Workers)	Dickinson, ND	12/18/86	12/5/86	TA–W–18, 788	Oil well drilling.
Spirax Sarco, Inc. (USWA)	Allentown, PA	12/18/86	12/8/86	TA–W–18, 789	Valves and regulations.
General Chemical Co. (OCAW)	Owensville, MO	12/18/86	12/8/86	TA–W–18, 790	Aluminum sulfate.
Samco Mfg Co., Inc. (Workers)	Lancaster, PA	12/18/86	12/8/86	TA–W–18, 791	Cadies sportswear/blazers.
Sedco Forex (Schlumberger Tech Corp) (Workers)	Dallas, TX	12/18/86	12/6/86	TA–W–18, 792	Oil well drilling.
Trico Industries (Workers)	Dickinson, ND	12/18/86	12/10/86	TA–W–18, 793	Oil moving and storing equipment.
Lemon Drop, Inc. (Workers)	Miami, FL	12/18/86	12/8/86	TA–W–18, 794	Children's sportswear.
James E. Russell Petroleum, Inc. (Company)	Chanute, KS	12/18/86	11/19/86	TA–W–18, 795	Crude oil.
Union Railroad Co. (USWA)	Monroeville, PA	12/18/86	12/8/86	TA–W–18, 796	Steel.
National Semiconductor Corp. (Workers)	West Jordan, UT	12/18/86	12/8/86	TA–W–18, 797	64K DRAMS computer chips.
Tilden Mining Co. (USWA)	National Mine, MI	12/19/86	12/10/86	TA–W–18, 798	Iron ore.
Aristech Chemical Corp. (USWA)	Clairton, PA	12/19/86	12/11/86	TA–W–18, 799	Benzone, tar-products and other by-products of cokemaking.
Gordon of Philadelphia (ACTWU)	Morristown, PA	12/18/86	12/10/86	TA–W–18, 800	Ladies clothing.
Voyager Emblem Corp. (USWA)	Sanborn, NY	12/18/86	12/18/86	TA–W–18, 801	Embroidery emblems and logos.
Frank's Sportswear (ILGWU)	Boston, MA	12/19/86	12/11/86	TA–W–18, 802	Sewing women's jackets.
Sweco, Inc. (Workers)	Odessa, TX	12/19/86	12/8/86	TA–W–18, 803	Mud cleaning on oil wells.
W&S Pit Lining (Workers)	Odessa, TX	12/19/86	12/12/86	TA–W–18, 804	Lines oil well pits.
Witco/Richardson Co. (URW)	Indianapolis, IN	12/19/86	12/9/86	TA–W–18, 805	Rubber and plastic automotive battery.
Newton Machine Works (Workers)	Midland, TX	12/19/86	12/12/86	TA–W–18, 806	Manufactures gears that go into pumping units.

[FR Doc. 87–445 Filed 1–8–87; 8:45 am]

BILLING CODE 4510–30–M

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The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1987.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to

the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than January 20, 1987.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 29th day of December 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Articles produced
Tesoro Land & Marine Rental Co. (Workers)	Bay City, TX	12/22/86	12/2/86	TA-W-18, 807	Rents oilfield equipment.
Harlo Mfg. Co. (Union)	Elizabeth, NJ	12/22/86	12/15/86	TA-W-18, 808	Ladies' loungewear.
Freeman Shoe, Co. (UFCW)	Dixon, Ill	12/19/86	12/3/86	TA-W-18, 809	Men's shoes and components.
Freeman Shoe, Co. (UFCW)	Beloit, WI	12/19/86	12/3/86	TA-W-18, 810	Men's shoes and components.
American Recreation Products (Workers)	Fayette, AL	12/19/86	12/10/86	TA-W-18, 811	Sleeping bags.
Davy-McKee Corp. (Workers)	Hibbing, MN	12/19/86	12/11/86	TA-W-18, 812	Design engineering and construction of projects.
Pioneer Production Co. (Workers)	Midlands, TX	12/19/86	12/11/86	TA-W-18, 813	Oil and gas.
Supreme Slipper (Workers)	Lewiston, ME	12/19/86	11/19/86	TA-W-18, 814	Ladies' slippers and canvas shoes.
I.R.I. International (Workers)	Pampa, TX	12/19/86	11/22/86	TA-W-18, 815	Oil and gas well drilling equipment.
Consolidated Cigar (Workers)	McAdoo, PA	12/19/86	12/12/86	TA-W-18, 816	Cigars.
Bethlehem Rebar Inds. (Workers)	Channelview, TX	12/19/86	12/11/86	TA-W-18, 817	Manufactures reinforcing steel bars.
B.J. Titan Services (Workers)	Dickinson, ND	12/18/86	12/6/86	TA-W-18, 818	Cements and acidizing oil wells.
Axelson, Inc. (Workers)	CO Spring, CO	12/22/86	12/13/86	TA-W-18, 819	Oil pump components.
Mar-Lit Industries (Div. of Fitz Rainwear) (ILGWU)	Pawtucket, RI	12/22/86	12/12/86	TA-W-18, 820	Ladies' rain coats.
Charles E. Mayfield (Workers)	Princeton, LA	12/29/86	12/15/86	TA-W-18, 821	Oil and natural gas.
NSC International (Workers)	Hot Springs, AR	12/29/86	12/2/86	TA-W-18, 822	Punch-bind machine and plastic ring spiral bookbinding
Bethlehem Steel Corp. (Workers)	Tulsa, OK	12/29/86	12/5/86	TA-W-18, 823	Supply equipment for the oil industry.
Yellow Dog Rental (Company)	Dickinson, ND	12/29/86	12/5/66	TA-W-18, 824	Rents equipment to the oil company.
Weatherford Marine Crane (Workers)	Houston, TX	12/15/86	11/1/86	TA-W-18, 825	Manufacturer of cranes and pumping equipment.
Koch Service (Workers)	Wichita, KS	12/29/86	12/3/86	TA-W-18, 826	Trucking oil/salt water.

[FR Doc. 87-444 Filed 1-8-87; 8:45 am]
BILLING CODE 4510-30-M

Employment Standards Administration

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination; Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

Alabama:

AL87-17 (Jan. 2, 1987)—pp. 36-38

Pennsylvania:

PA87-4 (Jan. 2, 1987)—pp. 874-875

PA87-7 (Jan. 2, 1987)—pp. 906-907

PA87-10 (Jan. 2, 1987)—p. 934

PA87-23 (Jan. 2, 1987)—p. 1006

Volume II

Wisconsin:
WI87-13 (JAN. 2, 1987)—p. 1147

Volume III

California:
CA87-4 (JAN. 2, 1987)—pp. 67-100, pp. 100a-100b

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under the Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the Country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 6th day of January 1987.

James L. Valin,

Assistant Administrator.

[FR Doc. 87-493 Filed 1-8-87; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

Summary of Decisions Granting In Whole or In Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at the petitioner's mine if the Secretary determines either or both of the following: That an alternate method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the **Federal Register**. Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the request for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: January 2, 1987.

Patricia W. Silvey,

Associate Assistant Secretary For Mine Safety and Health.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-82-83-C	49 FR 15159 and 48 FR 46871.	Texas Utilities Generating Company.	30 CFR 77.201-1	Petitioner's proposal to install a low-level methane detection system with specified conditions to continuously monitor for methane in all surface coal handling facilities considered acceptable alternate method. Granted.
M-83-175-C	49 FR 5216	Pyro Mining Company	30 CFR 75.1103	Petitioner's proposal to use carbon monoxide detectors in lieu of point-type heat sensors in conjunction with the booster-belt conveyor system considered acceptable alternate method. Granted with conditions.
M-84-53-C	49 FR 13759	Barnes & Tucker Company	30 CFR 75.1100-3	Petitioner's proposal to install a dry waterline along the slope belt for fire protection with specific operating and pressurizing conditions considered acceptable alternate method. Granted with conditions.
M-84-64-C	49 FR 13759	Barnes & Tucker Company	30 CFR 75.1100-3	Petitioner's proposal to install a dry waterline along the slope belt for fire protection with specific operating and pressurizing conditions considered acceptable alternate method. Granted with conditions.
M-84-165-C	49 FR 40503	Pyro Mining Company	30 CFR 75.1103-4(a)	Petitioner's proposal to use carbon monoxide monitors in lieu of point-type heat sensors to monitor the conditions along the conveyor belts considered acceptable alternate method. Granted with conditions.
M-84-181-C	49 FR 40505	U.S. Steel Mining Co., Inc.	30 CFR 75.1700	Petitioner's proposal to plug and mine through abandoned wells penetrating the coal bed considered acceptable alternate method. Granted with conditions.
M-84-217-C	49 FR 46828	U.S. Steel Mining Co., Inc	30 CFR 75.1103-4(a)	Petitioner's proposal to install a low-level carbon monoxide detection system at specific locations in each belt conveyor entry considered acceptable alternate method. Granted with conditions.
M-84-218-C	49 FR 46828	U.S. Steel Mining Co., Inc	30 CFR 75.326	Petitioner's proposal to use the ventilating air from conveyor belt entries as intake air to provide additional volume and velocity for the working face considered acceptable alternate method. Granted with conditions.
M-84-238-C	49 FR 50124	Maynard Branch Mining Co., Inc	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part with conditions.
M-84-261-C	49 FR 7148	Peabody Coal Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-84-267-C	50 FR 19820	Monterey Coal Company	30 CFR 77.216(3)a	Petitioner's proposal to inspect impoundments and monitor instruments on a monthly basis, in lieu of every seven days, supplemented by additional inspections if major precipitation or run-off occurs considered acceptable alternate method. Granted with conditions.
M-85-2-C	50 FR 13888	Consolidation Coal Co	30 CFR 75.1105	Petitioner's proposal to enclose the pumps in a fire-proof structure equipped with an automatic fire suppression device activated by heat sensors considered acceptable alternate method. Granted with conditions.
M-85-4-C	50 FR 13888	Clinchfield Coal Company	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-85-14-C	50 FR 13889	Consolidation Coal Company	30 CFR 75.326	Petitioner's proposal to use air in belt entries to ventilate active working places and to install an early warning fire detection system with carbon monoxide monitors considered acceptable alternate method. Granted with conditions.
M-85-15-C	50 FR 13889	Consolidation Coal Company	30 CFR 75.1103-4(a)	Use of a carbon monoxide monitoring system in lieu of point-type heat sensors at every belt drive and tailpiece and at intervals not to exceed 2,000 feet along the belt considered acceptable alternate method. Granted with conditions.
M-85-20-C	50 FR 18943	Quarto Mining Company	30 CFR 75 1100-2(b)	Petitioner's proposal to install a dry pipe fire protection system which can be charged electrically or manually along the entire length of the slope conveyor belt considered acceptable alternate method. Granted with conditions.
M-85-23-C	50 FR 18943	Emery Mining Corp.	30 CFR 75.305	Petitioner has demonstrated diminution of safety in certain areas and petitioner's proposal to establish an air monitoring station at a specific location considered acceptable alternate method. Granted with conditions.
M-85-24-C	50 FR 26852	Amax Coal Company	30 CFR 75.503	Use of 800 feet of portable trailing cables on roof bolting machines considered acceptable alternate method. Granted with conditions.
M-85-28-C	50 FR 27027	Cross Mountain Coal, Inc.	30 CFR 77.1605(k)	Petitioner's proposal to develop a specific traffic system and rules and to post them throughout the mine areas and to incorporate it into the training and retraining programs considered acceptable alternate method. Granted with conditions.
M-85-33-C	50 FR 27073	Eastern Associated Coal Corp.	30 CFR 75.300	Petitioner has demonstrated a diminution of safety and petitioner's proposal to ventilate the mine naturally in lieu of mechanical ventilation considered acceptable alternate method. Granted with conditions.
M-85-37-C	50 FR 27072	Canon Coal Company	30 CFR 75.1303	Petitioner's proposal to store explosives in underground magazines for a period of time not to exceed their shelf lives considered acceptable alternate method. Granted with conditions.
M-85-39-C	50 FR 27073	The New River Company	30 CFR 75.1100	Petitioner's proposal to use a dry pipe firefighting system with hose outlets at 300-foot intervals with specified conditions considered acceptable alternate method. Granted with conditions.
M-85-41-C	50 FR 27072	Barnes & Tucker Company	30 CFR 75.1100-3	Petitioner's proposal to install a dry waterline equipped with an automatic actuating valve along the slopes belt for fire protection considered acceptable alternate method. Granted with conditions.
M-85-42-C	50 FR 27703	BethEnergy Mines Inc.	30 CFR. 75.503	Use of a metal spring loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-44-C	50 FR 32124	Consolidation Coal Co	30 CFR. 75.305	Petitioner has demonstrated a diminution of safety in certain areas; petitioner's proposal to establish an air monitoring station at a specific location considered acceptable alternate method. Granted with conditions.
M-85-47-C	50 FR 35614	Jet Coal Company, Inc	30 CFR. 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-85-68-C	50 FR 32127	Westmoreland Coal Company	30 CFR. 75.503	Use of a metal locking device in lieu of padlock to secure plugs to receptacles for mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-74-C	50 FR 33122	Gateway Coal Company	30 CFR. 75.1105	Petitioner's proposal to install an active fire suppression system in lieu of ventilating the fireproof pump room into a return airway considered acceptable alternate method. Granted with conditions.
M-85-82-C	50 FR 35615	Oneida Coal Company, Inc	30 CFR. 75.503	Use of metal locking devices, each consisting of a fabricated metal bracket and a thumb screw in lieu of padlocks to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-87-C	50 FR 37446	A.S.&W. Coals, Inc	30 CFR. 75.1710	Used of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted in part.
M-85-92-C	50 FR 37447	Marion Fules, Inc.	30 CFR. 75.503	Use of a metal spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-94-C	50 FR 37446	J.J.G. Coal Company	30 CFR. 75.301	Proposed airflow reduction in petitioner's mine, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-85-97-C	50 FR 35616	Tennessee Consolidated	30 CFR. 75.506(d) and 75.1303.	Use of the nonpermissible FEMCO Ten-Shot Blasting Unit with specific safeguard considered acceptable alternate method. Granted.
M-85-100-C	50 FR 46708	Carter Coal Corporation	30 CFR. 75.603	Use of a self-snapping harness snap in lieu of a padlock to prevent mine scoop battery connector tightening rings from loosening and disconnecting battery plugs considered acceptalbe alternate method. Granted with conditions.
M-85-101-C	50 FR 35613	Eastern Associated Coal Corp	30 CFR 75.1105	Installation of dry chemical fire suppression devices on each electrical installation considered acceptable alternate method to ventilating electrical installation directly into the return. Granted with conditions.
M-85-103-C	50 FR 39187	Windsor Power House Coal Company.	30 CFR 75.503	Use of a metal locking device in lieu of a padlock to secure plugs to receptacles for mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-105-C	50 FR 39186	Mettiki Coal Corporation	30 CFR 75.1400	Petitioner's proposal to allow a fireboss and pumper to travel into and out of the mine on a diesel-powered 955 Eimco Mine Tender utility vehicle on weekends and holidays without having a hoisting engineer on duty considered acceptable alternate method. Granted with conditions.
M-85-122-C	50 FR 47130	Old Ben Coal Company	30 CFR 75.1700	Petitioner's proposal to plug and mine through abandoned oil and gas wells penetrating the coal bed considered acceptable alternate method. Granted.
M-85-123-C	50 FR 47130	Old Ben Coal Company	30 CFR 75.1700	Petitioner's proposal to plug and mine through abandoned oil and gas wells penetrating the coal bed considered acceptable alternate method. Granted.
M-85-124-C	50 FR 47130	Old Ben Coal Company	30 CFR 75.1700	Petitioner's proposal to plug and mine through abandoned oil and gas wells penetrating the coal bed considered acceptable alternate method. Granted.
M-85-132-C	50 FR 47130	Pioneer Coal Sales, Inc	30 CFR 75.506(d) and 30 CFR 75.1303.	Use of nonpermissible FEMCO Ten-Shot Blasting Unit with specific safeguards considered acceptable alternate method. Granted.
M-85-135-C	50 FR 49628	Cateway Coal Company	30 CFR 75.503	Use of a metal retainer device bolted to the battery receptacle with the plug secured by hand-operated spring-loaded pin attached to the retainer device in lieu of padlocks to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-139-C	50 FR 46712	North Mountain Coal, Inc	30 CFR 75.301	Proposed airflow reduction in petitioner's mine, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-85-166-C	50 FR 53215	NotroCoal, Inc	30 CFR 75.503	Use of a metal spring-loaded locking device in lieu of a padlock for the purpose of locking battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION—Continued

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-85-169-C	50 FR 49629	Trail Mountain Coal Co	30 CFR 75.1100-2(b)	Petitioner's proposal to install a two-inch solenoid valve and a remote control switch at the portal of the belt entry, with a low pressure bleedoff that would allow the water to drain considered acceptable alternate method. Granted with conditions.
M-85-171-C	50 FR 49626	Beatrice Pocahontas Company	30 CFR 75.1700	Petitioner's proposal to plug and mine through abandoned wells penetrating the coal bed considered acceptable alternate method. Granted with conditions.
M-85-181-C	50 FR 53213	C.&W. Coal Company	30 CFR 75.503	Use of a metal locking device in lieu of a padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-5-M	50 FR 27071	American Minerals, Inc	30 CFR 56.9088	Petitioner's proposal to operate front-end loaders under specified conditions with the use of seat belts, governed controls and trained operators in lieu of using ROPS considered acceptable alternate method. Granted with conditions.

[FR Doc. 87-443 Filed 1-8-87; 8:45 am]
BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Application No. D-6956 et al.]

Proposed Exemption; Batterymarch Financial Management (BFM), et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The application for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Batterymarch Financial Management (BFM) Located in Boston, MA

[Application No. D-6956]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(b)(2) of the Act shall not apply to the direct purchase, sale or exchange of securities between any two or more clients of BFM in connection with the overall realignment of the investment portfolios of such clients, provided that all such purchases, sales or exchanges are effected at the current market price on the date of the transactions.

Summary of Facts and Representations

1. BFM is a Massachusetts business trust with offices in Boston, Massachusetts. It is an investment adviser registered under the Investment Advisers Act of 1940. BFM specializes in investing in U.S. and foreign equities primarily for tax-exempt institutions. As of October 1, 1986, BFM managed an aggregate of approximately $9.4 billion on behalf of 118 clients. Of this total, approximately $5 billion represented the assets of employee benefit plans governed by the Act (ERISA Clients).

2. Each ERISA Client has its own portfolio of securities. Such portfolio typically represents less than 25 percent of the plan's total assets. BFM continually strives to develop the appropriate investment portfolios for its various clients. BFM's investment strategy changes from time to time to reflect changes in equity markets and the economy in general. After extensive research, BFM has now developed, based upon fundamental financial data and computer models, a target investment portfolio (the Optimum Portfolio) for its clients. The Optimum Portfolio focuses on industries, rather than on specific securities. Within any industry, however, investments will be made only in securities which BFM ranks in the top 30 percent of all securities which it follows.

3. BFM believes it is in the best interests of each client to have its portfolio become more closely aligned with the Optimum Portfolio. To accomplish this, it will be necessary for BFM to purchase and/or sell securities for each account until each portfolio is comprised of the appropriate industry mix. BFM will be realigning all of its client portfolios, including the portfolios of its non-ERISA clients. BFM will receive no additional fee or other compensation of any type as a result of

such trading; it will continue to receive its customary management fee based upon a percentage of assets under management.

4. Given the size of BFM's client accounts and the amount of trading which will be required to effect the desired realignment, relatively large blocks of certain securities will have to be bought and sold. The applicant represents that whenever a block of a security with a substantial market value is bought or sold on the open market, several different types of transaction costs will be incurred. The trade itself will tend to adversely influence the market price, at least slightly. In addition, brokerage commissions will be incurred on the purchase or sale. Finally, since purchases are generally made at the "asked" (i.e., higher) price, and sales are generally made at the "bid" (i.e., lower) price, the spread between bid and asked represents an additional cost for the transaction.

5. BFM has determined that there is an opportunity for its clients to save a substantial portion of the costs identified above with respect to the purchases and sales of certain securities. BFM has determined that it would be possible to achieve a portion of the proposed realignment by causing direct trades between its clents' portfolios. By such "balance-trading" between client portfolios, i.e., by causing the transfer of the securities representing a particular industry that one client may need from another client which happens to have an overabundance of that security, it would be possible to effect some of the necessary trades directly between client portfolios, thereby avoiding the need to trade in the open market. To the extent that securities of a particular industry are not available, BFM would have to cause its clients' portfolios to buy or sell on the open market.

6. The proposed balance-trading program would save the clients' accounts the entire cost of the market impact losses, a portion of the cost implicit in the spread between bid and asked prices and a portion of the cost of the brokerage commissions. Even when balance-trading can be effected directly between client accounts, brokerage commissions cannot be avoided entirely. Because all of the clients do not use the same institutional trustee, a broker is needed to efficiently process the mechanical aspects of the balance trades. However, since the broker's role is limited to the mechanical processing of the trades, BFM expects that it will be able to negotiate a very favorable commission rate for all of the proposed balance trades. BFM has already obtained one bid of one cent per share for this service, whereas BFM estimates that if these same trades were to be done on the open market, the brokerage commission would probably be two cents per share. BFM estimates that the total savings to its ERISA Clients by using balance-trading transactions instead of using the open market will be between two and three million dollars. BFM itself is not a broker-dealer. Any fee paid in connection with the proposed portfolio realignment program will be paid to a broker who is unrelated to, and completely independent of, BFM.

7. BFM proposes to structure the balance-trading transactions as follows. BFM would first develop a comprehensive list of all the available balance-trading opportunities, based upon the current holdings of all client accounts and the changes necessary in order to achieve the desired portfolio realignment. It will notify each of its clients of the balance-trading opportunity available with respect to its portfolio and will simultaneously provide each client with a general description of the proposed course of action. Each client will be given an opportunity, exercisable for a period of 15 days, to decline to participate in the balance-trading program. If any client declines, its portfolio will nevertheless be realigned via open market transactions.

8. BFM will then set a date upon which all of the balance-trading will occur. At least three days prior to the specified date, BFM will give the independent broker specific written instructions regarding the quantity of securities to be purchased or sold, and the identity of the client portfolios involved. BFM will determine in advance (and specify to the broker) the pricing mechanism to be used by the broker. If the security is listed on a national securities exchange or on the NASDAQ National Market System, the price is to be the price at the close of the market. In the case of securities traded over-the-counter, other than those listed on the NASDAQ National Market System, the price will be the mean between the last "bid" and "asked" prices on the date of the transactions. On the selected date, the broker will proceed to effect all of the scheduled transactions at the price determined under the specified pricing mechanism. If an extraordinary event (e.g., a tender offer) occurs between the date the list is provided to the broker and the time that such balance trades are to occur, and if such event substantially affects the market price of a security to be traded, BFM will notify the broker that such security is not available for balance-trading. Any subsequent sale or purchase of such security necessary to achieve the desired realignment will be made on the open market.

9. The applicant represents that, to the best of its knowledge, none of its ERISA Clients is a party in interest within the meaning of Act section 3(14) with respect to any other ERISA Client, nor are any of its non-ERISA clients parties in interest with respect to any of its ERISA CLients. Therefore, the proposed balance-trading which involves the portfolios of ERISA Clients should not result in any violations of section 406(a) of the Act. However, although all transactions will occur at market prices, an ERISA Client which participates in the proposed balance-trading program may be deemed to have interests which are adverse to those of any other client which participates on the other side of such a trade. Thus, when BFM causes an ERISA-Client to engage in balance-trading, it may be deemed to be acting on behalf of a party whose interests are adverse to those of an ERISA Client. Thus, an exemption from Act section 406(b)(2) has been requested.

10. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act because: (1) Neither BFM nor any affilate of BFM will be receiving any commissions or fees in connection with the proposed transactions; (2) the price for the securities being traded will be the current market prices of the securities on the date of consummation of the proposed transactions; and (3) BFM represents that the proposed transactions are in the best interests of its clients, who will save between two and three million dollars in transaction costs as a result of the proposed transactions.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

The Evans Retirement Plan and Trust (the Plan) Located in New York, NY

[Application No. D–6968]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the

exemption is granted the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply to the proposed cash sale of certain publicly traded securities to the Plan by James and Mary Evans (the Evans), disqualified persons with respect to the Plan, provided, that the terms of sale are no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party at the time the transaction is consummated.[1]

Summary of Facts and Representations

1. The Plan is a defined benefit Keogh plan whose only participants are the Evans. The Plan has net assets of $357,540 as of March 27, 1986. The Evans are both self-employed individuals who serve as directors on the boards of various publicly traded companies.

2. In order to meet the Plan's minimum funding requirement of $340,000, the Evans propose to transfer certain publicly traded securities to the Plan with the remainder to be paid in cash. The proposed contribution would include approximately 515 shares of Citicorp stock, 900 shares of General Motors (GM) common stock and 1670 shares of GM Class E common stock. After the proposed transfer, the Plan's investment in each company will not exceed 25% of the total Plan assets. All of the above securities are publicly traded on the New York Stock Exchange (the Exchange) and the number of shares contributed will be dependent upon and valued at the closing price of the securities on the Exchange on the date of the contribution. The Evans will pay any and all expenses related to the transfer of the securities to the Plan.

3. In summary, the Evans represent that the proposed transaction meets the statutory criteria for an exemption under section 4975(c)(2) of the Code because:

(a) Each of the Company's securities will represent less than 25% of the Plan's assets on the date of acquisition;

(b) All expenses relating to the transfer will be paid by the Evans; and

(c) The Evans are the only Plan participants effected by the transaction, and desire that the transaction be consummated.

Notice to Interested Persons: Because the Evans are the only participants in the Plan, it has been determined by the Department that there is no need to distribute the notice of pendency to interested persons. Comments and requests for a hearing must be received by the Department within 30 days of the date of publication of this notice of proposed exemption.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 6th day of January, 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-494 Filed 1-8-87; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefit Plans; Meeting

Pursuant to section 512 of the Employee Retirement Income Security Act of 1974 (ERISA) 29 U.S.C. 1142, a meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Monday, February 2, 1987, in Room N-3437C, U.S. Department of Labor Building, Third and Constitution Avenue, NW., Washington, DC.

The purpose of the meeting, which will begin at 9:30 a.m., is to plan an agenda for 1987 and to invite public comment on any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before January 28, 1987, to Charles W. Lee, Jr., Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, Room N-5677, 200 Constitution Avenue, NW., Washington, DC 20210. Individuals wishing to address the Advisory Council should forward their request to the Executive Secrtary or telephone (202) 523-8753. Oral presentations will be limited to ten minutes, but an extended statement may be submitted for the record.

Signed at Washington, DC, this 6th day of January, 1987.

Dennis M. Kass,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 87-442 Filed 1-8-87; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 87-1; Exemption Application No. D-3878 et al.]

Grant of Individual Exemptions; Bay Area Painters Pension Trust Fund 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

[1] Since the Evans are the only participants in the Keogh plan there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

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.

Bay Area Painters Pension Trust Fund (the Plan) Located in Mt. View, California

[Prohibited Transaction Exemption 87–1; Exemption Application No. D–3878]

Exemption

The restrictions of section 406 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 (F) of the Code, shall not apply to the past sales of 55 notes secured by second deeds of trust (the Mortgage Notes) by certain limited partnerships described hereinafter, to the Plan after origination of the Mortgage Notes by the Prudential Mortgage Bankers & Investment Corporation, a party in interest with respect to the Plan, provided the terms of sale of each of the Mortgage Notes were as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party on the dates the transactions were consummated.

Effective date: This exemption will be effective beginning December 19, 1977 and extend to July 19, 1980, the date the last of the 55 Mortgage Notes was purchased by 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 July 2, 1986 at 51 FR 24243.

For Further Information Contact: Linda Hamilton of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

National Training Fund Employee Benefit Pension Plan (the Plan) Located in St. Paul, MN

[Prohibited Transaction Exemption 87–2; Exemption Application No. D–6461]

Exemption

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 to: (1) The purchase by the Plan of a mobile welding trailer (the Trailer) from the Leasing Corporation of America; (2) the lease (the Lease), through May, 1990, of the Trailer from the Plan to the National Training Fund for the Sheet Metal and Air Conditioning Industry (the Employer), a contributing employer to the Plan; and (3) the sale of the Trailer to the Employer at the end of the Lease, provided that the terms of the transactions are at least as favorable to the Plan as those 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 October 10, 1986 at 51 FR 36494.

For further information contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Exber, Inc., dba El Cortez Hotel and Casino Profit Sharing Retirement Plan and Trust (the Plan) Located in Las Vegas, NV

[Prohibited Transaction Exemption 87–3; Exemption Application No. D–6628]

Exemption

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 to the cash sale by the Plan of a parcel of real property (the Property) to Exber, Inc. dba El Cortez Hotel and Casino, the Plan sponsor, provided that the Plan receives not less than the fair market value of the Property as of the date of 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 October 31, 1986 at 51 FR 39820.

For further information contact: David Lurie of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

G.A. Davis Company Employee Stock Ownership Plan (the Plan) Located in Houston, Texas

[Prohibited Transaction Exemption 87–4; Exemption Application No. D–6680]

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 the sale on January 9, 1986 of a certain parcel of improved real property (the Property) by the Plan to Southwest Alloy Supply Company, a party in interest with respect to the Plan, for $428,000, provided that such amount was 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 October 31, 1986 at 51 FR 39821.

Effective date: The effective date of this exemption is January 9, 1986.

For further information contact: Mr. E.F. Williams of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Freeman Toyota Employees' Welfare Benefit Plant and Trust (the Plan) Located in Santa Rosa, California

[Prohibited Transaction Exemption 87-5; Exemption Application No. L-6778]

Exemption

The restrictions of section 406(a), 406 (b)(1), and (b)(2) of the Act shall not apply to the cash sale by the Plan of certain real property to Thomas Freeman, a party in interest with respect to the Plan; provided that such sale is on terms at least as favorable to the Plan 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 supportig the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 31, 1986 at 51 FR 39824.

For further information contact: Ronald Willett of the Department, telephone (202) 523-8881, (This is not a toll-free number.)

Edward H. DeHart Defined Benefit Pension Plan (the Plan) Located in Annapolis, MD

[Prohibited Transaction Exemption 87-6; Exemption Application No. D-6789]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed contribution in kind to the Plan of various publicly traded securities (the Securities) owned by Edward H. DeHart (Mr. DeHart), a sole proprietor and the only participant in the Plan; provided that the value of the Securities is the fair market value as determined in the *Wall Street Journal* on the date the Securities are contributed by Mr. DeHart to the Plan. [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 October 31, 1986, at 51 FR 39824.

For further information contact: Angelena Le Blanc of the Department, telephone (202) 523-8196. (This is not a toll-free number.)

[1] Because Mr. DeHart is a sole proprietor and the only participant in the Plan, there is not jurisdiction under Title I of the Employee Retirement Income Security Act (the Act) pursuant to 29 CFR 1510.3-3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

J.R. Olson Company, Inc. Defined Benefit Pension Plan (the Plan)

[Prohibited Transaction Exemption 87-7; Exemption Application No. D-6836]

Exemption

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 sale (the Sale) on August 5, 1986, of a certain parcel of real property by the Plan to James R. Olson and Marci L. Olson, husband and wife, and disqualified persons with respect to the Plan, provided that the terms of the Sale were not less favorable to the Plan than terms obtainable in an arms'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 November 18, 1986, at 51 FR 41706.

Effective date: This exemption is effective August 5, 1986.

For further information contact: Mr. C.E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Employee Group Life Plan of GLENFED, Inc. and Its Subsidiaries (the Plan) Located in Glendale, California

[Prohibited Transaction Exemption 87-8; Exemption Application No. D-6841]

Exemption

The restrictions of section 406 (a) and (b) of the Act shall not apply to the reinsurance of risks and the receipt of premiums therefrom by GLENFED Life Insurance Company from the insurance contracts sold by Metropolitan Life Insurance Company to provide life insurance benefits to participants of the Plan, provided the following conditions are met:

(a) GLENFED Life Insurance Company—

(1) Is a party in interest with respect to the Plan by reason of a stock or partnership affiliation with GLENFED, Inc. (the Corporation) that is described in section 3(14) (E) or (G) of the Act,

(2) Is licensed to sell insurance or conduct reinsurance operations in at least one of the United States or in the District of Columbia,

(3) Has obtained a Certificate of Authority from the Department of Insurance of its domiciliary state, Arizona, which has neither been revoked nor suspended, and

(4) (A) Has undergone an examination by an independent certified public accountant for its last completed taxable year immediately prior to the taxable year of the reinsurance transaction; or

(B) Has undergone a financial examination (within the meaning of the law of its domiciliary State, Arizona) by the Superintendent of Insurance for the State of Arizona within 5 years prior to the end of the year preceding the year in which the reinsurance transaction occurred.

(b) The Plan pays no more than adequate consideration for the insurance contracts;

(c) No commissions are paid with respect to the direct sale of such contracts, or the reinsurance thereof; and

(d) For each taxable year of GLENFED Life Insurance Company, the gross premiums and annuity considerations received in that taxable year by GLENFED Life Insurance Company for life and health insurance or annuity contracts for all employee benefit plans (and their employers) with respect to which GLENFED Life Insurance Company is a party in interest by reason of a relationship to such employer described in section 3(14) (E) or (G) of the Act does not exceed 50 percent of the gross premiums and annuity considerations received for all lines of insurance (whether direct insurance or reinsurance) in that taxable year by GLENFED Life Insurance Company. For purposes of this condition (d):

(1) the term "gross premiums and annuity considerations received" means as to the numerator the total of premiums and annuity considerations received, both for the subject reinsurance transactions as well as for any direct sale or other reinsurance of life insurance, health insurance or annuity contracts to such plans (and their employers) by GLENFED Life Insurance Company. This total is to be reduced (in both the numerator and denominator of the fraction) by experience refunds paid or credited in that taxable year by GLENFED Life Insurance Company.

(2) all premium and annuity consideration written by GLENFED Life Insurance Company for plans which it alone maintains are to be excluded from both the numerator and denominator of the fraction.

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 October 31, 1986 at 51 FR 39825.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (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 January 1987.

Elliot I. Daniel,

Associate Director for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 87-495 Filed 1-8-87; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-206]

Southern California Edison Co.; Systematic Evaluation Program Availability of the Final Integrated Plant Safety Assessment Report for the San Onofre Nuclear Generating Station, Unit 1

The Nuclear Regulatory Commission's (NRC) Office of Nuclear Reactor Regulation (NRR) has published its Final Integrated Plant Safety Assessment Report (IPSAR) (NUREG-0829) related to the Southern California Edison Company's (licensee) San Onofre Nuclear Generating Station Unit 1 located in San Diego County, California.

The Systematic Evaluation Program (SEP) was initiated by the NRC to review the design of older operating nuclear reactor plants to reconfirm and document their safety. This report documents the review completed under the Systematic Evaluation Program for the San Onofre 1 Plant. Areas in the report identified as requiring further analysis or evaluation and required modifications for which design descriptions have not yet been provided by the licensee to the NRC will be reviewed as part of the operating license conversion review. Supplements to the Final IPSAR will be issued addressing those items. The review provided for (1) an assessment of the significance of differences between current technical positions on selected safety issues and those that existed when the San Onofre 1 Plant was licensed, (2) a basis for deciding how these differences should be resolved in an integrated plant review, and (3) a documented evaluation of plant safety when all supplements to the IPSAR have been issued. The report addresses comments and recommendations made by the Advisory Committee on Reactor Safeguards (ACRS) in connection with its review of the Draft Report, issued in April 1985. These comments and recommendations, as contained in a report by the ACRS dated August 13, 1985, and the NRC staff's related responses are included in Appendix H of this report.

Pursuant to 10 CFR 50.71(e)(3)(ii), the licensee is required within 24 months after receipt of the letter dated December 18, 1986 from the Director of the Office of Nuclear Reactor Regulation to the licensee transmitting the Final IPSAR, to file a complete Final Safety Analysis Report (FSAR), which is up-to-date as of a maximum of six months prior to the date of filing the revision.

The Final IPSAR is being made available at the NRC's Public Document Room, 1717 H Street, NW., Washington, DC 20555, at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713, for inspection and copying. Copies of this Final Report (Document No. NUREG-0829) may be purchased at current rates from the National Technical and Information Service, Department of Commerce, 5258 Port Royal Road, Springfield, Virginia 22161, and from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013.

Dated at Bethesda, Maryland, this 18th day of December, 1986.

For the Nuclear Regulatory Commission.

Dominic C. Dilanni,

Acting Director, Division of PWR Licensing-A.

[FR Doc. 87-462 Filed 1-8-87; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-277 and 50-278]

Philadelphia Electric Co., Peach Bottom Atomic Power Station, Units 2 and 3; Exemption

I

The Philadelphia Electric Company (PECO, the Licensee) is the holder of Facility Operating License No. DPR-44 which authorizes operation of Peach Bottom Atomic Power Station, Unit 2 and Facility Operating License No. DPR-56 which authorizes operation of Unit 3. These operating licenses provide, among other things, that the Peach Bottom Atomic Power Station is subject to all rules, regulations, and Orders of the Commission now or hereafter in effect.

The station comprises two boiling water reactors at the Licensee's site locate in York County, Pennsylvania.

II

On November 19, 1980, the Commission published a § 50.48 and a new Appendix R to 10 CFR 50 regarding fire protection features of nuclear power plants. The revised § 50.48 and Appendix R became effective on February 17, 1981. Section III of Appendix R contains 15 subsections, lettered A throuth O, each of which specified requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these subsections, III.G, is the subject of the Licensee's exemption requests.

Subsection III.G.2 of Appendix R requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistence equivalent to that required of the barrier.

b. Separation of cables and equipment and associated nonsafety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and

an automatic fire suppression system shall be installed in the fire area.

c. Enclosure of cable and equipment and associated nonsafety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

Subsection III.G.3 of Appendix R requires that for areas where alternative or dedicated shutdown is provided, fire detection and a fixed fire suppression system shall also be installed in the area, room, or zone under consideration.

III

By letters dated September 17, 1984 and May 23 and September 24, 1985, the Licensee requested exemptions from Section III.G of Appendix R. By letters dated March 29 and June 6, 1985 and March 7, 1986, the Licensee transmitted structural steel evaluations and delineated proposed modifications as well as requested exemptions from Section III.G.2.

The following list of exemption requests reflects the latest status:

1. Radwaste Building HVAC Equipment Area (Room 292, Elevation 150 Feet).

An exemption was requested from the specific requirement of Section III.G.2.a to the extent that duct penetrations through the fire barrier are not provided with fire dampers.

2. Turbine and Reactor Building (Fire Areas 8 and 50).

An exemption was requested from the specific requirements of Section III.G.2.b to the extent that automatic fire suppression systems are not installed throughout the fire areas at elevation 195 feet.

3. • Units 2 and 3 Main Steam Pipe Tunnel, Elevation 135 Feet.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that fire dampers are not provided in duct penetrations at elevation 135 feet.

• Standby Gas Treatment System Penetrations.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that duct penetrations through fire barriers are not provided with fire dampers.

• Unit 2 Control Rod Drive Equipment Area Elevation 135 Feet.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that fire dampers are not provided in duct penetrations.

• Unit 2 Switchgear Room Duct Chase, Elevations 135 and 165 Feet.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that fire dampers with a fire rating of less than 3 hours are provided in the duct penetrations.

• Spent Resin Tank Room, Elevation 91 Feet, 6 Inches.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that fire dampers with a fire rating of less than 3 hours are provided in the duct penetrations.

4. Outboard Main Steam Isolation Valve Rooms (Fire Areas 208 and 254).

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that non-rated blowout panels and an open vertical labyrinth do not provide 3-hour fire rated barriers.

5. • Radwaste Building, Units 2 and 3 M–G Set Rooms, Elevation 135 Feet.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that certain structural steel members forming a part of or supporting fire barriers should be protected to provide fire resistance equivalent to that of the barrier.

• Reactor Building, Units 2 and 3 HPCI Rooms, Elevation 88 Feet.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that certain structural steel membes forming a part of or supporting fire barriers should be protected to provide fire resistance equivalent to that of the barrier.

• Turbine Building, Emergency Switchgear Rooms, Elevation 135 Feet.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that certain structural steel members forming a part of or supporting fire barriers should be protected to provide fire resistance equivalent to that of the barrier.

• Turbine Building, Battery Rooms, Elevation 135 Feet.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that certain structural steel members forming a part of or supporting fire barriers should be protected to provide fire resistance equivalent to that of the barrier.

• Reactor Building, RHR Pump and HX Room, Elevation 91 Feet, 6 Inches.

An exemption was requested from the specific requirements of Section III.G.2.a to the extent that certain structural steel members forming a part of or supporting fire barriers should be protected to provide fire resistance equivalent to that of the barrier.

In summary, the exemptions were requested from separating cables and equipment and associated nonsafety circuits of redundant trains by a 3-hour rated fire barrier per the requirements of Section III.G.2.a of Appendix R, and from providing automatic fire suppression systems as a part of protection requirements of Section III. G.2.b of Appendix R.

In Fire Areas 8 and 50 and the radwaste building HVAC equipment area, redundant safe shutdown equipment is well separated with no intervening combustibles. Lack of intervening combustibles, the low combustible loading, and the provision of alternate shutdown capability independent of the remote shutdown panel area and the HVAC equipment area provide sufficient passive protection to ensure that one shutdown division would remain free of fire damage.

The staff also finds that there is reasonable assurance that a fire in the areas for which exemptions have been requested from the requirements of Section III.G.2.a (redundant safe shutdown systems not separated by a 3-hour barrier) would be of low magnitude, detected in its incipient stage, and extinguished by the fire brigade. The low combustible loading in each of such areas ensures that redundant safe shutdown equipment located in the adjoining areas will not be damaged before a fire is controlled.

Automatic fire suppression systems are provided in the areas in which certain members of structural steel supporting fire barriers are not protected. The staff finds that due to the provision of these systems and/or administrative procedures, there is reasonable assurance that a fire in these areas would not affect structural steel.

Based on the review of the Licensee's analysis, the staff also concludes that the installation of 3-hour rated fire dampers, 3-hour rated blowout panels, barriers between redundant trains, the installations of automatic fire suppression systems throughout affected fire areas, and the installation of fireproofing on structural steel forming part of or supporting fire barriers would not significantly increase the level of fire protection in these areas. A more detailed evaluation concerning the exemption requests is contained in the Safety Evaluation issued concurrently.

By letter dated March 7, 1986 and in a meeting held with Philadelphia Electric Company personnel on May 6, 1986 (which was documented in the NRC's staff meeting summary dated May 13, 1986), the Licensee provided information relevant to the "special circumstances" finding required by revised 10 CFR 50.12(a) (see 50 FR 50764). In this correspondence, the licensee (1) stated how the criteria established in 10 CFR 50.12 are satisfied and that the activities to be authorized by the requested exemptions do not violate any other

applicable laws or regulations, (2) discussed why the exemptions present no undue risk to the public health and safety because when consideration is given to the effects of alternative mitigative features, there is adequate fire resistance and protection without the minimal if any additional protection that would be provided if the licensee were required to implement modifications that met a literal, strict compliance with all aspects of Appendix R, (3) discussed how and why the cost of the overall fire protection program would be substantially increased if the exemptions are not granted without any demonstrable or corresponding increase in the level of improvement in fire protection and (4) discussed how the intent and equivalency criteria of Appendix R would be achieved by granting the exemption. The Licensee stated that existing and proposed fire protection features at Peach Bottom Units 2 and 3 accomplished the underlying purpose of the rule. Implementing additional modifications to provide additional suppression systems, detection systems, and fire barriers would require the expenditure of engineering and construction resources as well as the associated capital costs which would represent an unwarranted burden on the Licensee's resources. The Licensee stated that these costs are significantly in excess of those required to meet the underlying purpose of the rule. The staff concludes that "special circumstances" exist for the Licensee's requested exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR 50. See 10 CFR 50.12(a)(2)(ii).

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), (1) the exemptions as described in Section III are authorized by law and will not present an undue risk to the public health and safety and are consistent with common defense and security and, (2) special circumstances are present for the exemptions in that application of the regulation in these particular circumstances is not necessary to achieve the underlying purposes of Appendix R to 10 CFR 50. Therefore, the Commission hereby grants the following exemptions from the requirements of Section III.G of Appendix R to 10 CFR 50:

1. Radwaste Building HVAC Equipment Area (Room 292, Elevation 150 Feet) to the extent that redundant safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to Section III.G.2.a.

2. Turbine and Reactor Buildings (Fire Areas 8 and 50) to the extent that automatic fire suppression systems are not installed throughout the fire areas pursuant to Section III.G.2.b.

3. • Units 2 and 3 Main Steam Pipe Tunnel, Elevation 135 Feet to the extent that redundant safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to Section III.G.2.a.

• Standby Gas Treatment System Penetrations to the extent that safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to Section III.G.2.a.

• Unit 2 Control Rod Drive Equipment Area, Elevation 135 Feet to the extent that safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to Section III.G.2.a.

• Unit 2 Switchgear Room Duct Chase, Elevation 135 and 165 Feet to the extent that safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to Section III.G.2.a.

• Spent Resin Tank Room, Elevation 91 Feet, 6 Inches to the extent that redundant safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to Section III.G.2.a.

4. Outboard Main Steam Isolation Valve Rooms (Fire Areas 208 and 254) to the extent that redundant safe shutdown cables and equipment are not separated by a 3-hour rated fire barrier pursuant to Section III.G.2.a.

5. • Radwaste Building, Units 2 and 3 M–G Set Rooms, Elevation 135 Feet to the extent that certain structural steel members forming a part of or supporting fire barriers are not protected to provide fire resistance equivalent to that of the barrier pursuant to Section III.G.2.a.

• Reactor Building, Units 2 and 3 HPCI rooms, Elevation 88 Feet to the extent that certain structural steel members forming a part of or supporting fire barriers are not protected to provide fire resistance equivalent to that of the barrier pursuant to Section III.G.2.a.

• Turbine Building, Emergency Switchgear Rooms, Elevation 135 Feet to the extent that certain structural steel members forming a part of or supporting fire barrriers are not protected to privide fire resistance equivalent to that of the barrier pursuant to Section III.G.2.a.

• Turbine Building, Battery Rooms, Elevation 135 Feet to the extent that certain structural steel members forming a part of or supporting fire barriers are not protected to provide fire resistance equivalent to that of the barrier pursuant to Section III.G.2.a.

• Reactor Building, RHR Pump and HX Room, Elevation 91 Feet, 6 Inches to the extent that certain structural steel members forming a part of or supporting fire barriers are not protected to provide fire resistance equivalent to that of the barrier pursuant to Section III.G.2.a.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of these exemptions will have no significant impact on the environment (51 FR 47324).

A copy of the concurrently issued Safety Evaluation related to this action 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 located at the Government Publication Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania, 17126. A copy may be obtained upon written request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 31st day of December 1986.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Acting Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 87–461 Filed 1–8–87; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b, of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on January 8–10, 1987, in Room 1046, 1717 H Street, NW., Washington, DC. Notice of this meeting was published in the **Federal Register** on December 19, 1986 (51 FR 46960, pp. 46960–46961). A portion of this meeting has been rescheduled as noted below.

Friday, January 9, 1987

8:30 A.M.—9:30 A.M.: Meeting with NRC Executive Director for Operations (Open/Closed)—Discuss proposed NRC Staff reorganization and assignment of personnel and its impact on ACRS activities.

Portions of this session will be closed as necessary to discuss internal NRC personnel rules and practices as well as information the release of which would

represent a clearly unwarranted invasion of personal privacy.

9:30 A.M.—10:30 A.M.: Systems Interactions (Open)—Briefing and discussion of NRC Staff resolution of ACRS comments in its report of May 13, 1986 on Proposed Resolution of USI A–17, Systems Interactions in Nuclear Power Plants.

10:45 A.M.—12:00 Noon: Implications of the Chernobyl Accident (Open)—Briefing by NRC Staff regarding proposed report on Implications of the Chernobyl Accident to nuclear power plants in the United States and discussion of proposed ACRS comments and recommendations to the NRC regarding this matter.

1:00 P.M.—1:30 P.M.: Appointment of New ACRS Member (Closed)—Discuss the qualifications of candidates proposed for appointment to the ACRS.

This session will be closed as necessary to discuss internal agency personnel policies and practices as well as information the release of which would represent a clearly unwarranted invasion of personal privacy.

1:30 P.M.—6:30 P.M.: Improved Light Water Reactors (Open)—Discuss proposed ACRS report to the NRC regarding the characteristics of improved light water reactors.

Dated: January 2, 1987.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 87–388 Filed 1–8–87; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23952; File No. SR–NASD–86–35]

Self-Regulatory Organization; Proposed Rule Change by National Association of Securities Dealers, Inc.

In the matter of Self-Regulatory Organization; Proposed Rule Change by National Association of Securities Dealers, Inc. to extend the period of effectiveness of the Pilot Program with the Stock Exchange, London, England, for the Exchange and Distribution of International Securities Information; Order Granting Accelerated Approval of Proposed Rule Change Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 31, 1986, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The National Association of Securities Dealers, Inc. ("NASD") is requesting approval from the Securities and Exchange Commission ("SEC") to extend the period of effectiveness of the Pilot Program undertaken by the NASD and The Stock Exchange, London, England ("Exchange") which was the subject of two (2) previous filings made by the NASD, File No. SR–NASD–86–4 and SR–NASD–86–26. Both of those filings were approved timely by the Commission enabling continuation of the Pilot Program through October 21, 1986 and January 2, 1987, respectively. The NASD is seeking the extension of this approval for three (3) months until April 3, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purposes of and basis for the proposal and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this rule filing is to obtain an extension of the SEC's temporary approval of the two (2) year Pilot Program through April 3, 1987. Absent such an extension, the NASD's link with the Exchange will terminate January 2, 1987. The NASD intends shortly to file with the Commission a modification of the Pilot Program in terms of the fees to be charged subscribers for receipt of the information contained in the link.

The Pilot Program, the first transatlantic communication link of its kind between major domestic and foreign equities marketplaces, provides a unique opportunity to gether and analyze information leading to the efficient and effective development of international trading, related regulatory programs and potentially new systems designs. As originally filed with the SEC, approval of the Pilot Program was requested for a two year period. At the SEC's request, however, the NASD acquiesced in the Agency's approval of the Pilot for shorter, consecutive time periods. Although the stated purpose of this rule filing is to obtain an extension of the Commission's approval of the Pilot Program through April 3, 1987, the NASD continues to believe that it should be approved for the remainder of the full two year period. The NASD believes this to be the minimum period necessary for the Program to be productive in terms of the purposes underlying the creation of the Pilot Program.

Although "Big Bang Day" in the United Kingdom has passed, additional time is needed to properly assess the incorporation of Exchange-supplied bid and offer quotations and last sale information into the Pilot Program. Of necessity, this assessment process must address the appropriateness of the categories as well as the number of securities included in the Pilot Program, the adequacy and sufficiency of the market information being presented, and the most effective format for its presentation in each country. In sum, the changes that have occurred in the Exchange's market after "Big Bang Day" are integral components of the evolving international market structure. Continuation of the Pilot Program will provide an opportunity essential to effective evaluation of these changes in a cooperative operational and regulatory environment. Representatives from the NASD and the Exchange have established and continue to maintain a dialogue that will likely lead to development of a number of important trading and regulatory initiatives, in close cooperation with the SEC and its staff.

The NASD believes that the premature termination of the Pilot Program would ill serve the longer term interests of the securities industry and the investors it serves. In originally filing the Pilot Program with the SEC, the NASD and the Exchange recognized the evolutionary nature of an international linkage and crafted a proposal that would provide adequate flexibility to adapt to the changing conditions of the market in London both before and after "Big Bang Day." The Pilot Program, if permitted to continue by the SEC, will yield invaluable operational and regulatory experience during this evaluation period.

In its release approving the implementation of the Pilot Program for

the initial period,[1] the SEC stated its belief that "a two-year pilot program for the exchange of quotation information is a useful first step to ascertain the degree of interest in London for OTC securities and in the U.S. for Exchange securities. The two-year pilot program will enable the NASD and Exchange to explore the possibility for and implications of a trading link between the two entities while they address any problems that might arise with the information exchange."

In its release [2] the SEC also raised two issues as being of potential concern, namely, enforcement of U.S. securities laws in the context of international transactions and the potential competitive impact of the information exchange upon Instinet. The NASD reiterates its belief that neither of these concerns presents a problem sufficient to terminate this invaluable international experiment. As to the enforcement of U.S. securities laws in the context of international transactions, it would appear the SEC's concern has been allayed somewhat with the execution of an agreement with the United Kingdom Department of Trade and Industry covering the sharing of information. Thus, tangible progress has been demonstrated in this area.

The second issue, involving Instinet's concern over the exchange of information between the NASD and the Exchange without the imposition of separate charges upon their respective subscribers, will be addressed in a proposal that will be filed with the Commission during the next several weeks.

In sum, the NASD is unaware of any issue not being addressed that would justify termination of the Pilot Program at this time. Moreover, during the requested extension, only information on a limited group of securities of international interest will be exchanged on a like kind basis in lieu of separate and offsetting monetary transfers. The NASD and the Exchange will not introduce an automatic execution linkage during the additional period.

The statutory bases for the Pilot Program and the requested extension thereof, are found in sections 11A(a)(1) (B) and (C), 15A(b)(6), and 17A(1) (B) and (C) of the Securities Exchange Act of 1934 (the "Act"). Subsections (B) and (C) of section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, the availability of information with respect to quotations for securities and the execution of investor orders in the best market through new data processing and communications techniques. Section 15A(b)(6) requires that the rules of the Association be designed "to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market. . . ." Section 17A(a)(1) sets forth the Congressional goal of linking all clearance and settlement facilities and reducing costs involved in the clearance and settlement process through new data processing and communications techniques. The NASD believes that the requested extension of approval for the Pilot Program will foster significant progress toward these ends by providing the cooperative regulatory environment and operating experience necessary to realize these goals in the international marketplace.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Pilot Program discussed herein will likely be an important part of the foundation for the ultimate, more broadly based linkage of global markets and necessary regulatory harmonization, the paramount purpose of which is protection of the investing public. There is much still to be learned about the operation of international links, and the NASD believes this can be achieved only by on-line experience. Absent the Commission's approval of another extension of the Pilot Program, the evolutionary process of international market linkages will suffer a serious setback. This would result in diminished opportunities for inter-market trading. Therefore, in evaluating the competitive impact of this rule proposal, the Commission is requested to carefully consider the importance of its benefit to the investing public and issuers. Such, in our view, is and properly should be the primary focus in developing international mechanisms for the safe and efficient trading of securities, especially when these mechanisms may provide the framework and foundation for systems which could well have worldwide scope and long term application. This should be the paramount consideration at this time. Accordingly, the NASD reiterates its belief that other considerations should be secondary in view of these more important and overriding considerations.

The Commission has set forth in its release approving the Pilot Program the arguments made by Instinet regarding the competitive impact which it believes the Program will have upon it. Basically, Instinet asserts that the NASD is granting and receiving access to securities information through the link on uniquely favorable terms as a result of its status as a self-regulatory organization ("SRO") and that such preferential position is unfair and anticompetitive. These assertedly favorable terms are that no separate charge is received by the NASD or the Exchange for the information and that such information may be used by the NASD or the Exchange for automated trading purposes. It asserts the NASD's use of its SRO status to achieve this preferential position is unfair and anticompetitive.

The NASD believes that its Pilot Program has served and will continue to serve to materially advance competition for execution of internationally traded equities at the best price available either here or in the United Kingdom. The greater exposure of non-domestic equities information which this Pilot Program provides will assist in broadening the depth and liquidity of the markets and further the ability of issuers to raise capital for future expansion on a truly global basis. More importantly, however, regulatory cooperation is being significantly advanced to the benefit of the entire investing public.

Finally, during the period of extension requested herein, no use will be made of the information exchanged for purposes of operation of an automatic execution system. Given the limited numbers of securities involved, the limited use to be made of the information exchanged, and the remaining opportunity to address Instinet's concern during the future course of the Pilot Program, the NASD submits that the benefits to be derived from the further extension of the Pilot Program significantly outweigh any potential burden upon competition and materially advance the purposes to be served under the above-referenced sections of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Not applicable.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the 35th day after its publication in the **Federal Register**, and, in any event, by January

[1] *See* Securities Exchange Act Release No. 23158 (April 21, 1986), 51 FR 15989 (April 29, 1986).

[2] *Id.*

2, 1987, the expiration date for the Pilot Program previously approved by the Commission. The NASD believes that continuation of the Pilot Program provides an opportunity to develop additional information leading to the efficient and effective development of international trading, related regulatory programs and the potential for new system designs. Accordingly, the NASD believes that good cause exists to accelerate the effectiveness of the rule change no later than January 2, 1987.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, of sections 11A(a)(1)(B) and (C), 15A(b)(6), and 17A(1)(B) and (C) and the rules and regulations thereunder.

The Commission finds that good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that accelerated approval will avoid an unnecessary interruption of the Pilot Program while the NASD continues to pursue resolving the outstanding issues regarding fees charged in connection with the linkage. Specifically, the Commission expects that during this interim extension, the NASD will make a concerted effort to address the concerns raised in the comment letter Instinet submitted regarding the original proposed rule change, SR–NASD–86–4. Accordingly, the Commission does not believe that the current linkage should be terminated while these efforts are ongoing.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filings will also be available for inspection and copying at the principal office of NASD. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: January 5, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–416 Filed 1–8–87; 8:45 am]

BILLING CODE 8010–01–M

Forms Under Review by Office of Management and Budget Agency Clearance Officer—Kenneth Fogash (202) 272–2142

Upon written request copy available from: Securities and Exchange Commission Office of Consumer Affairs Washington, DC 20549.

Regulation 144.

Form 144.

No. 270–112.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance Form 144 relating to the resale of restricted securities effected without registration pursuant to Rule 144 (17 CFR 230.144) under the Securities Act of 1933. Form 144 is a notification of resale of securities without registration in reliance of Rule 144.

Submit comments to OMB Desk Officer: Robert Neal (202) 395–7340, Office of Information and Regulatory Affairs, Commerce and Lands Branch, Room 3228 NEOB, Washington, DC, 20503.

January 5, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–491 Filed 1–8–87; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23953; File No. SR–MSRB–86–16]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Uniform Practice

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on December 31, 1986, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change adds to the interest payment claim procedure described in Board rule G–12(1) claims based on certain types of inter-dealer book-entry transactions. The proposed rule change would allow a dealer to make an interest payment claim under the procedure against another dealer based upon a transaction with a contractual settlement date before, and settlement by book-entry on or after, the interest payment date of the security. A dealer receiving such an interest payment claim would be required under rule G–12(1) to respond within 10 business days (20 business days if the claim relates to an interest payment scheduled to be made more than 60 days prior to the date of claim). The full text of the proposed rule change is available for inspection and copying at the Commission's Public Reference Room and at the offices of the Board.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Board rule G–12(1) currently provides a procedure for dealers wishing to obtain misdirected interest payments on municipal securities from other dealers. The rule identifies the appropriate dealer to which a claim should be directed and the content of the written notice of claim. The rule also states that a dealer receiving a claim made under the procedure must respond to the claim by paying it or by stating its basis for denying the claim within 10 business days following receipt of the claim (20 business days if the claim involves an interest payment scheduled to be made more than 60 days prior to the date of the claim). Rule G–12(1) currently addresses only claims based on physical deliveries of securities.

Under certain circumstances, and interest payment made on a municipal security delivered by book-entry may be directed to the wrong party. Specifically, if the contractual settlement date of a transaction is prior to the interest payment date of the security and the

delivery is made through a depository on or after the interest payment date, the depository will not automatically credit the purchaser with the interest payment it is due. A dealer making a book-entry delivery in such a case must provide the purchaser with the correct interest payment.

A dealer that is tendered a book-entry delivery on which an interest payment is due from another dealer may reject the delivery until some arrangement is made regarding the interest payment. Alternatively, the dealer may accept the delivery without the interest payment and then request the interest payment from the delivering dealer. The proposed rule change would allow the purchasing dealer to use the Board's interest payment claim procedure to make a claim against the delivering dealer. A dealer receiving a claim made under the procedure would have to respond with payment of the interest or a statement of its basis for denying the claim within the time periods specified in rule G–12(1).

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934, as amended, ("the Act") which requires and empowers the Board to adopt rules which are

> designed . . . to foster cooperation and coordination with persons engaged in . . . clearing, settling, processing information with respect to, and facilitating transactions in municipal securities . . . .

The Board believes that the proposed rule change will further the purposes of the Act by facilitating the resolution of interest payment claims based upon certain types of book-entry transactions.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board believes that the proposed rule change would not impose any burden on competition since it applies uniformly to all brokers, dealers and municipal securities dealers and serves primarily to facilitate the processing of interest payment claims based on certain types of book-entry transactions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be sumbitted by January 30, 1987.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 5, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87–489 Filed 1–8–87; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 a.m., Thursday, February 19, 1987, at the Lobster Pot Restaurant, Montpelier, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 828–4422.

Jean M. Nowak,

Director.

January 5, 1987.

[FR Doc. 87–401 Filed 1–8–87; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration, Region X Advisory Council, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m. on Friday, January 9, 1987, in Room 485 U.S. Courthouse Building, West 920 Riverside Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651 U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 99210, telephone (509) 456–3781.

Jean M. Nowak,

Director, Office of Advisory Councils.

January 5, 1987.

[FR Doc. 87–402 Filed 1–8–87; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circulars: Small Airplane Airworthiness Standards

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Publication of advisory circulars; part 23 airplanes.

SUMMARY: The purpose of this notice is to advise the public of advisory circulars (ACs) issued by the Small Airplane Directorate since January 1986. These ACs, listed below, relate to Part 23 of the Federal Aviation Regulations (FAR) and/or Part 3 of the Civil Air Regulations (CAR). They were issued to inform the aviation public of acceptable means of showing compliance with the Airworthiness Standards in the FAR and/or CAR, but the material is neither mandatory nor regulatory in nature.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Snitkoff, Manager, Policy & Guidance Section, ACE–111, Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street,

Kansas City, Missouri 64106; commercial telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION:

Background

These ACs were developed in response to the needs identified by the FAA Airframe Policy and Program Review Public Meeting held in Wichita, Kansas, on June 8–9, 1983; and a recommendation from the National Transportation Safety Board (NTSB).

Comments

Interest parties were given the opportunity to review and comment on each AC during the development phase. At that time, notices were published in the **Federal Register** to announce the availability of, and request written comments to each proposed AC. Each comment was reviewed and resolved. Appropriate comments were incorporated in the AC.

Distribution

The published ACs are available upon request through the U.S. Department of Transportation, Subsequent Distribution Unit, M–494.3, Washington, DC 20596.

Advisory circulars published

AC No.	Subject	Date signed
AC 23-4	Static Strength Substantiation of Attachment Points for Occupant Restraint System Installations.	6/20/86
AC 23-5	Cutouts in a Modified Fuselage of Small Airplanes.	8/6/86
AC 23-6	Interpretation of Failure for Static Structural Test Programs.	9/2/86
AC 23.909-1	Installation of Turbochargers in Small Airplanes with Reciprocating Engines.	2/3/86
AC 23.1419-1	Certification of Small Airplanes for Flight in Icing Conditions.	9/2/86

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 87–398 Filed 1–8–87; 8:45 am]

BILLING CODE 4910–13–M

Airplane Simulator and Visual System Evaluation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Issuance and Availability of Advisory Circular (AC) 120–40A: Airplane Simulator and Visual System Evaluation.

SUMMARY: Advisory Circular 120–40A is a revision to Advisory Circular 120–40 and sets forth one means that would be acceptable to the FAA Administrator for the evaluation of airplane simulators to be used in training programs or for airmen checking under Title 14, Code of Federal Regulations (CFR). The advisory circular simplifies the methods for determining the standards for a specific level simulator and necessary testing. In addition, the advisory circular (1) establishes new testing criteria to determine the accuracy of the visual scene presented in a simulator at precision approach minimums, (2) establishes a standard for motion system latency for a basic visual simulator, (3) clarifies visual system requirements, and (4) clarifies aircraft and simulator data requirements. The revision has been issued and is available for distribution.

FOR FURTHER INFORMATION CONTACT: Mr. Edward M. Boothe, Flight Standards Division (ASO–205), Federal Aviation Administration, Southern Region, 3400 Norman Berry Drive, East Point, Georgia, Telephone: (404) 763–7773.

ADDRESS: A copy of this advisory circular may be obtained by writing to: Federal Aviation Administration, Flight Standards Division, ASO–205, P.O. Box 20636, Atlanta, Georgia 30320.

SUPPLEMENTARY INFORMATION:

The Proposal

On October 21, 1985, the FAA published in the **Federal Register** (50 FR 42644) a proposal to revise Advisory Circular (AC) 120–40, "Airplane Simulator and Visual System Evaluation." That proposal was the result of numerous meetings with simulator users. The FAA requested comments on the proposal from any interested persons as part of its final decisionmaking process.

Discussion of Comments Received

In response to the proposal, the FAA received eight written comments from airline companies, simulator manufacturers, airplane manufacturers, aviation trade/industry associations and interested foreign governments. In addition, the FAA has had the benefit of considerable dialogue at user group meetings. The FAA appreciates the thoughtful and meaningful contributions and the interest expressed by all of those who took time to participate in the development of this advisory circular. Several of the comments are beyond what the FAA was able to consider and thus could not be included at this time. Those comments are under study by the FAA's National Simulator Program Manager for consideration in further changes to this advisory circular. Interested parties will be invited to participate in further revisions to this advisory circular.

Summary Responses to Substantive Comments Received

Two comments were received relating to the terms "specific airplane" and "applicant's airplane" in paragraph 5a and Appendix 1, paragraphs 2a and 2e. The commenters requested the language be changed to allow for the qualification of simulators which cannot be configured so that a specific "applicant's" airplane cockpit is replicated by the simulator. The FAA agrees that it is not always possible for training organizations, who are not certificate holders, but who offer their training services commercially, to replicate every detail of the "applicant's" aircraft. Every effort should be made, however, for the simulator to be as close as possible a replica of the cockpit of the airplane for which training or checking is being accomplished. Differences must be evaluated on a case-by-case basis to assure that the simulator is sufficient to provide the necessary training and checking. Since the majority of simulators are qualified for operators who use them in their own programs, the FAA concludes that paragraph 5a and Appendix 1, paragraphs 2a and 2e should not be changed to dilute the concern for the benefits of replication.

One commenter suggested moving the discussion, concerning Approval Test Guide (ATG) results, from paragraph 7e to paragraph 7b for continuity and clarification. The FAA agrees and the contents of the proposed paragraph 7e have been renumbered as paragraph 7b(4) and the remaining subsections of paragraph 7 have been renumbered.

One comment was received to paragraph 7f. The commenter suggested elimination of the National Simulator Program Managers (NSPM) final review of the Approval Test Guide (ATG) and initial evaluation test results following an initial evaluation. They felt the initial evaluation to be sufficient. The FAA disagrees. Past experience with the existing review process by the NSPM has been very productive in improving the quality of ATG's and objective test results. Thus, the benefits of that process are being retained.

One comment was received to paragraph 7g. One commenter suggested the master ATG be stored at the local FAA office if requested by the simulator operator. The FAA agrees. Due to possible proprietary rights of source documents, an operator may wish to maintain the ATG within their own security system. The language of paragraph 7g has been changed to allow storage of master ATG source material

at either the local FAA office or at the operator's facility, but subject to full accessibility upon request by the Administrator.

One commenter recommended a change to paragraph 8b(1) which would provide availability of the Optional Test Program (OPT) to all simulators "possessing appropriate automatic data recording and plotting capability." The FAA agrees. The proposed paragraph has been changed to reflect the suggested language.

There were three comments addressing Appendix 1, paragraph 4d. These concerned the FAA's proposed method of evaluating the visual scene at precision approach minimums. One commenter suggested duplicating the last sentence of paragraph 4d and adding the sentence to Appendix 5, paragraph 2d(2), "Notes." The FAA agrees. An additional "Note" will be added to Appendix 5, paragraph 2d(2), stating "Operators should indicate in their ATG how their calculations are used to develop the visual scene and the visual system approach/runway light intensity used." Another commenter assumed that checking of the visual system at Category II decision height would apply only to simulation of aircraft certified to operate to CAT II minimums. The commenter's assumption is incorrect. Category II decision height was selected due to the approach light/threshold environment available at approximately 100 feet AGL. If the visual scene is accurate at CAT II minimums, the visual scene should be accurate at Category I and Category III minimums using the respective RVR values.

Another commenter indicated the proposed method of calculating the visual scene in Appendix 1, paragraph 4d, "needs to be more specific," but offered no alternative or more specific methods. The FAA has tested the methods proposed and found them to be an acceptable method of evaluating the visual scene at decision height. Therefore, the methods proposed have been retained in the advisory circular.

One commenter objected to the recommended use of volumetric three-dimensional windshear models (true three-dimensional) under Appendix 3, paragraph 3(b). The FAA concludes that the proposed language is consistent with the existing rule in FAR Part 121, Appendix H, which requires ". . . three-dimensional windshear dynamics based on aircraft data . . ." for a Phase II simulator. Thus, that provision is being retained.

One commenter objected to the wording in Appendix 3, paragraph 5c, and Appendix 5, paragraph 4c(3), which would not require demonstration of Phase II visual system occulting capability on recurrent evaluations unless specifically requested, in advance, by the NSPM. The commenter reasoned that the occulting test should not be treated any differently than other visual system tests (i.e., color, RVR, focus, intensity, and attitude). The FAA agrees that is the effect of the regulation. FAR Part 121, Appendix H, states a Phase II visual system must include ". . . a capability of at least 10 levels of occulting. . . ." If a visual system does not continually maintain this capability, it does not meet Phase II requirements. Accordingly, the language of Appendix 3, paragraph 5c, and Appendix 5, paragraph 4c(3), is changed to reflect this requirement.

One comment was received on Appendix 5, paragraph d(1), regarding simulator configuration for visual system latency tests. The commenter correctly states that the takeoff, approach and landing configurations are similar in speeds, configuration and environment, but uses this similarity to propose that only one test is needed in these configurations. The FAA cannot agree. Although the commenter's assumptions are basically correct for an aircraft with a relatively simple flight control system, more complex aircraft incorporate multiple leading edge devices, flap sections, ailerons and flight control authority based on flap/leading edge device positions which can significantly affect aircraft response in those differing configurations. With multiple flap postions available for takeoff and landing, and the possible response time changes with the various configurations, the FAA has concluded a test in both areas is needed.

The same commenter indicated a belief that a test in the cruise configuration is not needed as proposed. The commenter correctly notes that the majority of training in a simulator is accomplished in an IFR environment when in a cruise configuration. However, the visual system latency test also incorporates a test for the onset of motion cues which are crucial in providing a realistic flight environment. Therefore, a cruise configuration visual system test should be included in Appendix 5, paragraph d(1).

Two comments were received on Appendix 5, paragraph d(2), relating to the proposed 100 feet tolerance on the visual ground segment seen at precision approach minimums. One commenter suggested a 200 feet tolerance due to the variable conditions encountered in "real world situations." The FAA disagrees. The artificial weather created with a simulator's visual system is constant as determined by the person controlling the visual presentation. The majority of visual systems create a homogeneous restriction to visibility which improve the chances of a pilot acquiring the runway enviornment at decision height. The predicted ground segment available to a pilot at decision height in a homogeneous fog can be easily calculated and will normally result in a 600–800 segment in view at decision height, depending upon the type aircraft simulated. Accurate visual scene depiction at decison height in a simulator increases the probability of accurate decision making in the "real world" thereby increasing the chances of safely completing a low weather approach. A tolerance of 200 feet could create a situation of allowing a 33% error in the simulated scene or as high as a 90% error if slant range reductions to visibility are incorporated in the visual system.

Another commenter suggested the 100 feet tolerance is ambiguous and should be more descriptive. The FAA agrees. For clarification, the following words have been added to Appendix 5, paragraph d(2): "depth of field of view."

Additional Changes From Proposal

The FAA has continued its own review of the proposed AC 120–40A and has found several areas which need clarification.

a. The first sentence of paragraph 4b has been changed to properly reflect the simulator evaluation responsibilities of the National Simulator Evaluation Program.

b. Paragraph 9b has been revised to read as follows:

The simulator will lose its eligibility for approval when the NSPM can no longer certify original simulator performance criteria to the POI based on a special or recurrent evaluation. Additionally, the POI shall advise operators if a deficiency is jeopardizing training requirements and arrangements shall be made to resolve the deficiency in the most effective manner, including the withdrawal of approval by the POI, if necessary.

c. The title of paragraph 12 has been changed from "Grandfather Rights" to the more appropriate term "Simulator Qualification Basis."

d. FAR Part 61, Appendix A and other sections of the FAR's allow the use of a nonvisual simulator for training and checking. Accordingly, an addtional sentence has been added to Appendix 1, paragraph 1, to state "An operator desiring evaluation of an aircraft

simulator which does not possess a visual system should meet the standards of a basic simulator with the exception of paragraph 4 (visual systems) of this appendix."

e. To more accurately reflect the content of FAR Part 121, Appendix H, the following requirements are added to Appendix 3 (Phase II Simulator Standards).

(1) Timely permanent update of simulator hardware and programming subsequent to airplane modification.

(2) Sound of precipitation and significant airplane noises perceptible to the pilot during normal operations and the sound of a crash when the simulator is landed in excess of landing gear limitations.

Issued in East Point, Georgia, on November 13, 1986.

William M. Berry, Jr.,

Manager, Flight Standards Divison FAA Southern Region

[FR Doc. 87-400 Filed 1-8-87; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Office of Hazardous Materials Transportation Research and Special Programs Administration, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedure governing the application for, and the processing of, exemptions from the Department of Transportation's Hazadous Materials Regulations (49 CFR Part 107, Subpart D), notice is hereby given of the exemptions granted in Novermber 1986. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
2709-X	DOT-E-2709	Atlantic Research Corp., Camden, AR.	49 CFR 173.52, 173.93, 177.821, 177.834(L)(1), 177.835(k).	To authorize use of DOT Specification 6J/2S or 6D/2S metal drum/polyethylene containers or non -DOT specification drums, for shipment of Class A and B explosive liquids. (Mode 4.)
4575-X	DOT-E-4575	Union Carbide Corp., Danbury, CT.	49 CFR 173.314(c), 173.315(a)	To authorize use of DOT Specification 106A500X and 110A500W multi unit tank car tanks; DOT Specification 105A300W, 112A340W, 114A340W tank car tanks and the proposed AAR 120A300W, 112A340W tank cars, for transportation of certain liquefied compressed gases. (Modes 1, 2, 3.)
4575-X	DOT-E-4575	Racon, Inc., Wichita, KS	49 CFR 173.314(c), 173.315(a)	To authorize use of DOT Specification 106A500X and 110A500W multi unit tank car tanks; DOT Specification 105A300W, 112A340W, 114A340W tank car tanks and the proposed AAR 120A300W, 112A340W tank cars, for transportation of certain liquefied compressed gases. (Modes 1, 2, 3.)
4631-X	DOT-E-4631	Nitrochem Energy Corp., Biwabik, MN.	49 CFR 173.114a, 173.304(a)	To authorize use of non-DOT specification hopper-type tank trucks and cargo tank trailers, for shipment of a blasting agent and a nonflammable compressed gas. (Mode 1.)
4719-P	DOT-E-4719	Halocarbon Products Corp., Hackensack, NJ.	49 CFR 173.314(c), 173.315(a)(1), 179.102-11.	To become a party to Exemption 4719. (Modes 1, 2.)
5248-X	DOT-E-5428	Static Control Systems Division/3M, New Brighton , NM.	49 CFR 173.431(a), 175.3	To authorize shipment of a certain quantity of polonium-210 in any DOT Specification approved outer Type A packaging. (Modes, 1, 2, 4.)
5951-P	DOT-E-5951	Van Waters & Rogers, Inc., Spartanburg, SC.	49 CFR 173.314(c)	To become a party to Exemption 5951. (Mode 4.)
6267-X	DOT-E-6267	Bio-Lab, Inc., Conyers, GA	49 CFR 173.154, 173.217(a)	To authorize use of DOT Specification 12B corrugated fiberboard boxes with inside polyethylene bottles and non-DOT specification double-faced fiberboard boxes, for transportation of certain oxidizing materials. (Modes 1, 2, 3.)
6296-X	DOT-E-6296	Platte Chemical Co., Fremont, NE.	49 CFR 173.377(g)	To authorize additional bag packagings, for transportation of certain Class B poisons in DOT Specification 44D multi-wall paper bags. (Modes 1, 2.)
6296-X	DOT-E-6296	UNIROYAL Chemical Co., Inc., Bethany, CT.	49 CFR 173.377(g)	To authorize additional bag packagings, for transportation of certain Class B poisons in DOT Specification 44D multi-wall paper bags. (Modes 1, 2.)
6349-X	DOT-E-6349	Airco Industrial Gases, Murray Hill, NJ.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification insulated, containerized portable tanks, for shipment of certain flammable and nonflammable gases. (Modes 1, 2, 3.)
6349-X	DOT-E-6349	Union Carbide Corporation, Danbury, CT.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification insulated, containerized portable tanks, for shipment of certain flammable and nonflammable gases. (Modes 1, 2, 3.)
6434-X	DOT-E-6434	Rhone-Poulenc Inc., Monmouth Junction, NJ.	49 CFR 173.377(i)(1)	To authorize use of non-DOT specification paper bags, for transportation of a poisonous B solid material. (Modes 1, 2.)
6484-X	DOT-E-6484	Dow Chemical Co., Midland, MI	49 CFR 172.101, 173.149	To authorize transport of mixtures of nitromethane and various solvents in DOT Specification MC-307 or MC-312 tank motor vehicles. (Mode 1.)
6484-X	DOT-E-6484	ANGUS Chemical Co., Northbrook, IL.	49 CFR 172.101, 173.149a	To authorize transport of mixtures of nitromethane and various solvents in DOT Specification MC-307 or MC-312 tank motor vehicles. (Mode 1.)
6530-P	DOT-E-6530	Scott Environmental Technology, Inc., Plumsteadville, PA.	49 CFR 173.302(c)	to become a party to Exemption 6530. (Modes 1, 2.)
6543-X	DOT-E-6543	Rohm and Hass Co., Philadelphia, PA.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To authorize shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, Type 304 stainless steel cylinders and/or 14 gauge Type 316 stainless steel cylinders. (Modes 1, 2, 3, 4.)
6922-X	DOT-E-6922	Halocarbon Products Corp., Hackensack, NJ.	49 CFR 173.314(c), 179.300-15	To authorize use of a DOT Specification 106A500-X multi-unit tank car tank, for shipment of certain compressed gases. (Modes1, 2, 3.)
6963-X	DOT-E-6963	I.S.C. Chemicals Limited, Bristol, England.	49 CFR 173.264(a), 173.264(b)	To authorize use of non-DOT specification intermodal portable tanks, for transportation of hydrofluoric acid and anhydrous hydrofluoric acid. (Modes 1, 3.)
7060-P	DOT-E 7060	Airborne Express, Inc., Wilmington, OH.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To become a party to Exemption 7060. (Mode 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7060-X	DOT-E 7060	Central Skyport Inc., Columbus, OH.	49 CFR 175.702(b), 175.75(a)(3)(ii)	To authorize carriage of non-fissile radioactive materials aboard cargo-only aircraft when the combined transport index exceeds 50.0 and/or the separation criteria cannot be met. (Mode 4.)
7268-X	DOT-E 7268	Union Carbide Corp., Danbury, CT.	49 CFR 173.304(a)(1)	To authorize use of a DOT Specification 39 nonrefillable cylinder, for shipment of a nonflammable compressed gas. (Modes 1, 2, 3.)
7466-X	DOT-E 7466	Firmenich Inc., Princeton, NJ	49 CFR 173.119(a)(7), 175.3	To authorize shipment of certain flammable liquid mixtures, in a spun 99-percent pure aluminum can, overpacked in a corrugated fiberboard box. ((Modes 1, 2, 3, 4.)
7517-X	DOT-E 7517	Trinity Industries, Inc., Dallas, TX	49 CFR 173.314(c)	To authorize manufacture, marking and sale of non-DOT specification fusion welded tank car tanks, for transportation of nonflammable compressed gases. (Modes 1, 2, 3.)
7544-P	DOT-E 7544	Jones Chemicals, Inc., Caledonia, NY.	49 CFR 173.245, 173.249, 173.272	To become a party to Exemption 7544. (Modes 1, 2, 3.)
7574-X	DOT-E 7574	Remmers Aviation, Inc., Burlington, IA.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize transport of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
7607-P	DOT-E 7607	Smith & Deninson, Hayward, CA	49 CFR 172.101, 175.3	To become a party to Exemption 7607. (Mode 5.)
7654-P	DOT-E 7654	Tennessee Eastman Co., Kingsport, TN.	49 CFR 173.119(f)	To become a party to Exemption 7654. (Modes 1, 2.)
7846-X	DOT-E 7846	Union Carbide Corp., Danbury, CT.	49 CFR 173.314(c)	To authorize frame mounting and manifolding of DOT Specification seamless steel tank car tanks, for shipment of certain nonflammable gases. (Modes 1, 3.)
7873-X	DOT-E 7873	Bromine Compounds, Limited, Beer Sheva, Israel.	49 CFR 173.353a	To authorize use of non-DOT specification intermodal portable tanks, for transportation of a Class B poison liquid. (Modes 1, 3.)
8003-X	DOT-E 8003	Pennwalt Corp., Buffalo, NY	49 CFR 173.154(a)(14)	To authorize use of one-gallon, open-head polyethylene containers inside a DOT Specification 12B box, for transportation of organic peroxides. (Modes 1, 3.)
8023-X	DOT-E 8023	Acurex Corp., Mountain View, CA	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped cylinders, for shipment of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, 5.)
8037-X	DOT-E 8037	Mauser-Werke, GmbH (Mauser Packaging Ltd.) New York, NY.	49 CFR 173.127, 173.175, 173.184, 178.224.	Modify by permitting shipment of lacquer base and lacquer chips, dry, classed as flammable solid; and an additional fiber drum of 40 liter and 100 liter capacity. (Modes 1, 2, 3.)
8080-X	DOT-E 8080	Diamond Shamrock Corp., Deer Park, TX.	49 CFR 173.164	To authorize transport of dry chromic acid in DOT-105A300W tank car which has been converted to DOT-111A100W1; a DOT-103AW tank car converted to DOT-103W; a DOT-111A100W2 tank car converted to DOT-111A100W1; or a true DOT-111A100W1 tank car. (Mode 2.)
8091-P	DOT-E 8091	U.S. West Material Resources Inc., Englewood, CO.	49 CFR Parts 100 through 177	To become a party to Exemption 8091. (Modes 4, 5.)
8094-X	DOT-E 8094	Milport Chemical Co., Milwaukee, WI.	49 CFR 173.245, 173.249, 173.263, 173.268, 173.272.	To authorize shipment of corrosive materials in a DOT Specification 56 tank where a DOT Specification 60 tank is permitted in the regulations. (Mode 1.)
8119-X	DOT-E 8119	BJ-Titan Services, Houston, TX	49 CFR 173.119(a), (m), 173.245(a), 173.263(a).	To authorize use of a non-DOT specification cargo tank designed and constructed in full compliance with DOT Specification MC-307 or MC-312 with certain exceptions, for transportation of certain corrosive and flammable liquids. (Mode 1.)
8445-P	DOT-E 8445	American Cyanamid Co., Wayne, NJ.	49 CFR Part 173, Subparts D, E, F, H	To become a party to Exemption 8445. (Mode 1.)
8445-P	DOT-E 8445	Polarold Corp., Cambridge, MA	49 CFR Part 173, Subparts D, E, F, H	To become a party to Exemption 8445. (Mode 1.)
8451-X	DOT-E 8451	Atlas Powder Co., Dallas TX	49 CFR 173.65, 173.86(e), 175.3	To authorize shipment of not more than 25 grams of high explosives and pyrotechnics in 4 or 6 inch diameter piper overpacked in cushioned DOT Specification 12H box, strong wooden box, or metal drum. (Modes 1, 2, 4.)
8451-X	DOT-E 8451	Unidynamics/Phoenix, Inc., Phoenix, AZ.	49 CFR 173.65, 173.86(e), 175.3	To authorize shipment of not more than 25 grams of high explosives and pyrotechnics in 4 or 6 inch diameter piper overpacked in cushioned DOT Specification 12H box, strong wooden box, or metal drum. (Modes 1, 2, 4.)
8451-X	DOT-E 8451	U.S. Department of Energy, Washington, DC.	49 CFR 173.65, 173.86(e), 175.3	To authorize shipment of not more than 25 grams of high explosives and pyrotechnics in 4 or 6 inch diameter piper overpacked in cushioned DOT Specification 12H box, strong wooden box, or metal drum. (Modes 1, 2, 4.)
8453-P	DOT-E 8453	Austin Powder Co., Cleveland, OH.	49 CFR 173.114a	To become a party to Exemption 8453. (Mode 1.)
8453-P	DOT-E 8453	El Dorado Chemical Co., St. Louis, MO.	49 CFR 173.114a	To become a party to Exemption 8453. (Mode 1.)
8472-X	DOT-E 8472	Ohmart Corp., Cincinnati, OH	49 CFR 173.302, 175.3	To authorize use of non-DOT specification, metal, single trip, inside container, for shipment of a nonflammable gas. (Modes 1, 2, 3, 4, 5.)
8477-X	DOT-E 8477	Mobay Chemical Corp., Pittsburgh, PA.	49 CFR 173.247(a)	To authorize use of a noninsulated DOT Specification 111A100W6 tank car tanks, for transportation of thionyl chloride. (Mode 2.)
8480-P	DOT-E 8480	Braun, Inc., Lynnfield, MA	49 CFR 173.24(a)(1), 175.3, Parts 172, 177.	To become a party to Exemption 8480. (Modes 1, 2, 3, 4.)
8480-X	DOT-E 8480	The Gillette Co., Boston, MA	49 CFR 173.24(a)(1), 175.3, Parts 172, 177.	To authorize transport of a flammable gas in a device which allows a slow rate of leakage of the gas. (Modes 1, 2, 3, 4.)
8522-X	DOT-E 8522	Tuscarora Plastics, Inc., Sterling, VA.	49 CFR 177.839(a), 177.839(b), 178.150, Part 173 Subpart F.	To authorize manufacture, marking and sale of non-reusable expanded polystyrene cases similar to DOT Specification 33A, except that it will incorporate 6 cavities to contain not more than six 5-pint bottles, or 6 20-ounce bottles, for shipment of those commodities presently authorized in DOT-33A. (Modes 1, 2, 3.)
8526-X	DOT-E 8526	National Starch and Chemical Corp., Bridgewater, NJ.	49 CFR 177.834(l)(2)(i)	To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.)
8538-P	DOT-E 8538	Atlas Powder Co., Tamaqua, PA	49 CFR 173.62, 178.177	To become a party to Exemption 8538. (Mode 1.)
8554-P	DOT-E 8554	Green Mountain Explosives, Inc., Bradford, VT.	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1.)
8554-X	DOT-E 8554	Mesabi Powder Co., Hibbing, MN	49 CFR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tank. (Mode 1.)
8554-P	DOT-E 8554	Southwestern Explosives, Inc., Midland, TX.	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1).
8554-P	DOT-E 8554	Pepin Explosives, Inc., Negaunee, MI.	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8554-X	DOT-E 8554	Austin Powder Co., Cleveland, OH.	49 CFR 173.114a, 173.154, 173.93	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tank. (Mode 1.)
8554-P	DOT-E 8554	Piedmont Explosives, Inc., Statesville, NC.	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1.)
8554-X	DOT-E 8554	Atlas Powder Co., Dallas, TX	49 CFR 173.114a, 173.154, 173.93	To authorize use of rubber lined DOT Specification MC-312 cargo tanks with modified bottom outlets, for shipment of certain corrosive waste liquids. (Mode 1.)
8554-P	DOT-E 8554	IRECO Inc., Salt Lake City, UT	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1.)
8554-P	DOT-E 8554	Olson Explosives, Inc., Decorah, IA.	49 CFR 173.114a, 173.154, 173.93	To become a party to Exemption 8554. (Mode 1.)
8580-X	DOT-E 8580	Priority Air, Inc., Sanford, FL	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
8723-P	DOT-E 8723	H.L.&A.G. Balsinger, Inc., Bridgeville, PA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 8723. (Modes 1, 3.)
8723-P	DOT-E 8723	Roundup Powder Co., Inc., Miles City, MT.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to Exemption 8723. (Modes 1, 3.)
8748-X	DOT-E 8748	Battelle, Pacific Northwest Laboratories, Richland, WA.	49 CFR 172.101, 173.302, 175.3	To authorize use of non-DOT specification containers, for transportation of a nonflammable gas. (Modes 1, 2, 3, 4, 5.)
8787-X	DOT-E 8787	Motorola Semiconductor Sector, Phoenix, AZ.	49 CFR 173.119(a)(7), 173.249(a)(13), 173.272(g), 173.299(a)(1).	To authorize transport of certain flammable and corrosive liquids in DOT Specification 2E polyethylene bottles, packed in a DOT Specification 12B fiberboard box. (Mode 1.)
8789-X	DOT-E 8789	Turner, Sycamore, IL	49 CFR 173.304, 175.3	To authorize manufacture, marking and sale of non-DOT specification small, low pressure cylinders with certain exceptions, for transportation of flammable gases. (Mode 1.)
8817-X	DOT-E 8817	Allied Corp., Morristown, NJ	49 CFR 173.274(a)(1), Note 1	To authorize shipment of fluorosulfonic acid in non-DOT specification acid-resistant screw cap glass bottles, overpacked in metal cans, packed in a DOT Specification 15A, 15B, 15C, 16A, or 19A wooden box. (Modes 1, 2, 3.)
8831-X	DOT-E 8831	Teledyne Energy Systems, Timonium, MD.	49 CFR 172.400, 173.249, 175.3	To authorize transport of small amounts of potassium hydroxide solution, in non-DOT specification containers, overpacked in a strong wooden case. (Modes 1, 4, 5.)
8861-X	DOT-E 8861	Hoover Group, Inc., Beatrice, NE	49 CFR 173.119(m), 173.346, 173.349, 173.352.	To authorize manufacture, marking and sale of DOT Specification 57 portable tanks, for shipment of various flammable liquids which are also corrosive or poison and certain Class B poison liquids. (Modes 1, 2.)
8878-X	DOT-E 8878	Corning Glass Works, Corning, NY.	49 CFR 173.245	To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooden box. (Mode 1.)
8878-X	DOT-E 8878	Preussag AG Metall, Boslar, West Germany.	49 CFR 173.245	To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooden box. (Mode 1.)
8893-P	DOT-E 8893	Atlas Powder Co., Dallas, TX	49 CFR 172.101	To become a party to Exemption 8893 (Mode 1.)
8923-X	DOT-E 8923	Union Carbide Corp., Danbury, CT.	49 CFR 173.119(m), 173.3a	To authorize transport of a flammable liquid which is also corrosive in DOT Specification 51 portable tanks. (Mode 1.)
8927-X	DOT-E 8927	HTL Industries, Inc., Duarte, CA	49 CFR 173.302(a), 175.3, 178.44	To authorize manufacture, marking and sale of non-DOT specification girth, welded steel spheres, for transportation of nonflammable gases. (Modes 1, 2, 4, 5.)
8939-X	DOT-E 8939	Hollice Clark Truck Fabrication, Inc., Odessa, TX.	49 CFR 173.119, 173.245, 178.253	To authorize manufacture, marking and sale of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable liquids and corrosive liquids. (Mode 1.)
8952-X	DOT-E 8952	Trojan Corp., Salt Lake City, UT	49 CFR 173.65	To authorize use of a DOT Specification 21C fiber drum, for transporting desensitized HMX (cyclotetramethylene tetranitramine). (Mode 1.)
8958-X	DOT-E 8958	Goex, Inc., Moosic, PA	49 CFR 172.101, 173.60	To authorize transport of limited quantities of black powder, classed as a flammable solid, in DOT Specification 12H fiberboard boxes. (Modes 1, 2.)
8958-P	DOT-E 8958	Add Fire Inc., Miami Shores, FL	49 CFR 172.101, 173.60	To become a party to Exemption 8958. (Modes 1, 2.)
9016-X	DOT-E 9016	Van Leer Verpackungen, Hamburg, West Germany.	49 CFR 173.127, 173.175, 173.184, 178.224.	To authorize an additional non-DOT specification fiber drum with a steel bottom and top head for shipment of nitrocellulose. (Modes 1, 2, 3.)
9066-P	DOT-E 9066	Volvo North America Corp., Rockleigh, NJ.	49 CFR 173.154, 175.3	To become a party to Exemption 9066. (Modes 1, 2, 3, 4.)
9130-P	DOT-E 9130	Calgon Corp., St. Louis, MO	49 CFR 173.154	To become a party to Exemption 9130. (Modes 1, 2.)
9157-P	DOT-E 9157	Montana Sulphur & Chemical Co., Billings, MT.	49 CFR 173.314(c), 179.300-7	To become a party to Exemption 9157. (Mode 1.)
9180-X	DOT-E 9180	M&G Tankers Limited, West Midlands, England.	49 CFR 173.119, 178.340, 178.341	To authorize manufacture, marking and sale of non-DOT specification cargo tanks manufactured from fiber reinforced plastics, for shipment of flammable liquids. (Mode 1.)
9197-X	DOT-E 9197	Greif Bros. Corp., Springfield, NJ	49 CFR 173.119(a)	To authorize manufacture, marking and sale of DOT Specification 34 drums, for transportation of certain flammable liquies. (Modes 1, 2, 3.)
9197-X	DOT-E 9197	Greif Bros. Corp., Springfield , NJ	49 CFR 173.119(a)	To authorize manufacture, marking and sale of DOT Specification 34 drums, for transportation of certain flammable liquids. (Modes 1, 2, 3.)
9209-P	DOT-E 9209	Jones-Hamiltion Co., Newark, CA	49 CFR 173.266(c)	To become a party to Exemption 9209. (Modes 1, 2, 3.)
9275-P	DOT-E 9275	Liz Claiborne Cosmetics, North Bergen, NJ.	49 CFR Parts 100-199	To become a party to Exemption 9275. (Modes 1, 2, 3, 4, 5.)
9277-X	DOT-E 9277	FMC Corp., Philadelphia, PA	49 CFR 173.377(j)	To authorize shipment of organic phosphate compound mixture, dry, Class B poison, in non-DOT specification five-ply kraft multiwall bags of 50 pounds capacity having a minimum total basis weight of 250 pounds. (Modes 1, 2.)
9280-X	DOT-E 9280	Union Carbide Corp., Danbury, CT.	49 CFR 173.119(m)	To authorize use of DOT Specification MC-330 and MC-331 cargo tanks, for transportation of flammable liquids which are also corrosive materials. (Mode 1.)
9280-X	DOT-E 9280	Dow Corning Corp., Midland, MI	49 CFR 173.119(m)	To authorize use of DOT Specification MC-330 and MC-331 cargo tanks, for transportation of flammable liquids which are also corrosive materials. (Mode 1.)
9281-P	DOT-E 9281	Jet Research Center, Inc., Arlington, TX 101, 172.100, 175.3.	49 CFR 172.101, 173.100, 175.3.	To become a party to Exemption 9281. (Modes 1, 2, 3, 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9286-X	DOT-E 9286	The Continental Group, Inc., Lombard, IL.	49 CFR 178.224	To authorize manufacture, marking and sale of non-DOT specification fiber drums, similar to DOT Specification 21C except for capacity of not over 75 gallons instead of 55-gallons, for net weight of not over 250 pounds, for transportation of various hazardous materials. (Modes 1, 2, 3.)
9290-X	DOT-E 9290	Mauser Packaging Ltd., New York, NY.	49 CFR 178.134	To authorize manufacture, marking and sale of 15 gallon steel overpacks similar to DOT 3M except for a slight reduction in wall thickness with polyethylene liner meeting DOT 2SL except for marking for shipment of those commodities authorized in DOT 37M 2SL. (Modes 1, 2, 3.)
9298-X	DOT-E 9298	Eli Lilly Co., Indianapolis, IN	49 CFR 173.252	To authorize transport of bromine in a non-DOT specification ASME Code stamped tanks. (Mode 1.)
9298-X	DOT-E 9298	Eli Lilly Co., Indianapolis, IN.	49 CFR 173.252	To authorize transport of bromine in a non-DOT specification ASME Code stamped tanks. (Mode 1.)
9316-X	DOT-E 9316	Fluoroware Inc., Chaska, MN	49 CFR 173.268, 173.299, 178.35, 178.35a, Part 173, Subpart F.	To authorize manufacture, marking and sale of a non-DOT specification inside packaging of teflon PFA plastic, similar to DOT-2SL, contained in a DOT-6D steel overpack, for shipment of up to 70% nitric acid and those corrosive liquids authorized in a DOT-6D/2L or 2SL composite packaging. (Modes 1, 2.)
9323-X	DOT-E 9323	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.119(a)	To authorize shipment only by the U.S. Department of Defense of gasoline, JP-4 fuel, and JP-5 fuel, classed as flammable liquids, in non-DOT specification Collapsible, fabric reinforced rubber drums of 500 gallon capacity. (Mode 1.)
9326-X	DOT-E 9326	Carbonaire, Inc., Palmerton, PA	49 CFR 173.315	To authorize transport of carbon dioxide refrigerated liquid, in non-DOT specification cargo tank that has been retested in accordance with MC-331 cargo tank retest requirements. (Mode 1.)
9331-X	DOT-E 9331	Olin Chemicals, Stamford, CT	49 CFR 173.263(a)(10)	To authorize shipment of sodium chlorite solutions, in DOT Specification MC-306 and MC-307 cargo tanks. (Mode 1.)
9430-X	DOT-E 9430	Bondico, Inc., Jacksonville, FL	49 CFR 173.3(c)	To authorize use of polyethylene gaskets and an optional inverted lid configuration on salvage durms. (Modes 1, 2.)
9485-P	DOT-E 9485	Kaw Valley Inc., Levenworth, KS	49 CFR 173.304	To become a party to Exemption 9485 (Modes 1, 2, 3.)
9617-P	DOT-E 9617	Buckley Powder Co., Englewood, CO.	49 CFR 177.848(f)	To become a party to Exemption 9617. (Mode 1.)
9617-P	DOT-E 9617	D&J Maurer, Inc., Philipsburg, PA	49 CFR 177.848(f)	To become a party to Exemption 9617. (Mode 1.)
9623-P	DOT-E 9623	Buckley Powder Co., Englewood, CO.	49 CFR 177.835(c)(3)	To become a party to Exemption 9623. (Mode 1.)
9623-P	DOT-E 9623	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 177.835(c)(3)	To become a party to Exemption 9623. (Mode 1.)
9623-P	DOT-E 9623	Austin Powder Co., Cleveland, OH.	49 CFR 177.835(c)(3)	To become a party to Exemption 9623. (Mode 1.)
9632-P	DOT-E 9632	Eurotainer, Paris	49 CFR 173.315, 178.245	To become a party to Exemption 9632. (Modes 1, 2, 3.)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9618-N	DOT-E 9618	Bondico, Inc., Jacksonville, FL	49 CFR 173.3(c)	To authorize manufacture, marking and sale of polyethylene, removable head, salvage drums of 90-gallon capacity for overpacking damaged or leading packages of hazardous materials, or for packing hazardous materials that have spilled or leaked, for repeckaging or disposal. (Modes 1, 2.)
9627-N	DOT-E 9627	TLC Air, Inc., Addison, TX	49 CFR 172.101, 172.204(d)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9665-X	DOT-E 9665	Aeron International Airlines, Inc., Hagerstown, MD.	49 CFR 172.101 Column 6(b), 173.69, 175.30.	To authorize transport of a propellant explosive aboard cargo aircraft only. (Mode 4.)
EE 9683-N	DOT-E 9683	Meter Engineers, Inc., Wichita, KS.	49 CFR 173.119, 173.304, 173.315	To authorize manufacture, marking and sale of non-DOTs Specification containers, for transportation of flammable liquids and gases. (Mode 1.)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8101-X	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.392(c)(7), 173.392(c)(8), 173.87.	To authorize use of the EXPLOSIVES A placard only when 30mm GAU-8 (PGU-14/B) armor piercing ammunition, containing a depleted uranium metal projectile, is loaded in the same shipping container with Class A explosives, relieves the need to label packages as containing radioactive materials. (Modes 1, 2, 3.)

Denials

9539–N—Request by Fomo Products, Inc., Akron, OH to authorize shipment of polyurethane foams, consumer commodity, classed as an ORM–D in DOT Specification 2Q metal cans without being exposed to 130 degrees F. water bath denied November 28, 1986.

Issued in Washington, DC, on December 18, 1986.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 87–447 Filed 1–8–87; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 41–86]

Treasury Notes, Series D–1994

Washington, December 31, 1986.

The Secretary announced on December 30, 1986, that the interest rate on the notes designated Series D–1994, described in Department Circular—Public Debt Series—No. 41–86 dated December 17, 1986, will be 7 percent. Interest on the notes will be payable at the rate of 7 percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 87–394 Filed 1–8–87; 8:45 am]

BILLING CODE 4810–40–M

Fiscal Service

[Dept. Circ. 570, 1986 Rev., Supp. No. 8]

Surety Companies Acceptable on Federal Bonds; Old Republic Surety Company; Change of Name

Northwestern National Surety Company, Wisconsin corporation, has formally changed its name to Old Republic Surety Company, effective May 30, 1986. The Company was last listed as an acceptable surety on Federal bonds at 51 FR 23946, July 1, 1986. Federal bond-approving officers should annotate their reference copies of the Treasury Department Circular 570, 1986 Revision, to reflect this change.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued, effective May 30, 1986, under sections 9304 to 9308, Title 31, of the United States Code to Old Republic Surety Company, Milwaukee, Wisconsin. This Certificate replaces the Certificate of Authority issued to the Company under its former name. The underwriting limitation of $1,328,000 established for the Company as of July 1, 1986, remains unchanged until the July 1, 1987 Revision is published.

Certificates of Authority expire on June 30 each year, unless revoked sooner. The Certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226, or by calling (202) 634–2381.

Dated: December 30, 1986.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87–396 Filed 1–8–87; 8:45 am]

BILLING CODE 4810–35–M

[Dept. Circ. 570, 1986 Rev., Supp. No. 9]

Surety Companies Acceptable on Federal Bonds; Chilton Insurance Company

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308, Title 31, of the United States Code. Federal bond approving officers should annotate their reference copies of the Treasury Circular 570, 1986 Revision, on page 23931 to reflect this addition: *Chilton Insurance Company.* Business address: P.O. Box 7750, Burbank, CA 91510–7750. Underwriting limitation [b]: *$203,000.* Surety licenses [c]: TX. Incorporated in: Texas. Federal Process Agents [d].

Certificates of Authority expire on June 30 each year, unless revoked prior to that date. The certificates are subject to subsequent annual renewal so long as the companies remain qualified (31 CFR, Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226, telephone (202) 634–2119.

Dated: December 30, 1986.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 87–395 Filed 1–8–87; 8:45 am]

BILLING CODE 4810–35–M

Surety Company Application and Renewal Fees; Increase in Fees Imposed

The Department of the Treasury will be increasing the fees imposed and collected as referred to in 31 CFR 223.22, relating to services performed for special benefits conferred upon surety companies.

The new fees are effective December 31, 1986, and are determined in accordance with the Office of Management & Budget Circular A–25, as amended. The increase in fees is the result of a thorough analysis of costs associated with the Surety Bond Branch (SBB).

Revenues collected in Fiscal Year 1986 fell short of covering costs by $15,000. In addition, we have increased projected expenses for Fiscal Year 1987 to allow for continued computerization efforts.

Development of the recommended fees for Fiscal Year 1987 also included the following considerations:

(a) We anticipate fewer companies being eligible for renewal in 1987 than in 1986; and (b) We are placing additional emphasis on our review of Admitted Reinsurers due to the troubled state of the reinsurance industry.

Our new rate schedule is as follows:

(1) Examination of a company's application for a Certificate of Authority as an acceptable surety or as an acceptable reinsuring company on Federal bonds—$1,800.

(2) Determination of a company's continued qualification for annual renewal of its Certificate of Authority—$950.

(3) Examination of a company's application for recognition as an Admitted Reinsurer (except on excess risks running to the United States) of surety companies doing business with the United States—$400.

(4) Determination of a company's continued qualification for annual review of its authority as an Admitted Reinsurer—$200.

Questions concerning this notice should be directed to the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226, Telephone (202) 634–2295.

Dated: December 30, 1986.

Mitchell A. Levine,

Assistant Commissioner, Comptroller.

[FR Doc. 87-397 Filed 1-8-87; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Reporting and Recordkeeping Requirement Under OMB Review

AGENCY: United States Information Agency;

ACTION: Notice of Reporting Requirement Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed or established reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the Federal Register notifying the public that the agency has made such a submission, USIA is requesting approval of its information collection on a standardized program report.

DATE: Comments must be received by January 16, 1987. If you intend to comment and cannot do so by the deadline, please contact the Agency Clearance Officer or OMB Reviewer.

Copies: Copies of the request for clearance (S.F. 83), supporting statement, transmittal letter and other documents submitted to OMB for review may be obtained from the USIA Desk Officer. Comments on the item listed should be submitted to the Office of Information and Regulatory Affairs of OMB.

FOR FURTHER INFORMATION CONTACT: Agency Clearance Officer: Thomas H. Connor, United States Information Agency, M/ASP, 301 4th Street, SW, Washington, DC 20547, Telephone (202) 485-7505, and OMB Reviewer: Francine Picoult, Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC, 20503. Telephone (202) 395-7340.

SUPPLEMENTARY INFORMATION: Title: "Bureau of Educational and Cultural Affairs Grant Application Cover Sheet," an unnumbered form. Abstract: The form is used to gather, on one easily accessible page, various types of information necessary for adequate grant panel review. The cover sheet is also designed to assist program officers in grant monitoring once a grant award has been made. Grants are awarded by USIA in furtherance of educational and cultural programs conducted under the authority of the Mutual Educational and Cultural Exchange Act of 1961.

Dated: January 5, 1987.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 87-404 Filed 1-8-87; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 6
Friday, January 9, 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, January 14, 1987.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Program Overview: Electrical; Mechanical; Children's

The staff will brief the Commission on an overview of activities on electrical, mechanical and children's products.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Sheldon D. Butts,
Deputy Secretary.
January 7, 1987.

[FR Doc. 87-543 Filed 1-7-87; 12:14 pm]
BILLING CODE 6355-01-M

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, January 15, 1987.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

Sheldon D. Butts,
Deputy Secretary.
January 7, 1987
[FR Doc. 87-544 Filed 1-8-87; 12:14 pm]
BILLING CODE 6355-01-M

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Volume 52, No. 2, FR 384, Monday, January 5, 1987.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, January 12, 1987.

CHANGE IN THE MEETING: 10:00 a.m. (eastern time) Tuesday, January 13, 1987.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariart, (202) 634-6748.

Dated: January 6, 1987.
Cynthia C. Matthews,
Executive Officer, Executive Secretariat.

This Notice Issued January 6, 1987.

[FR Doc. 87-538 Filed 1-7-87; 11:44 am]
BILLING CODE 6750-06-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Tuesday, January 6, 1987, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Memorandum and resolution regarding amendments to the delegations of authority relating to supervisory activities.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: January 7, 1987.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 87-568 Filed 1-8-87; 2:52 pm]
BILLING CODE 6714-01-M

FEDERAL ENERGY REGULATORY COMMISSION

January 7, 1987.

The following notice of meeting is published pursuant to section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: January 14, 1986, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20424.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

* Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Public Reference Room.

Consent Power Agenda, 849th Meeting—January 14, 1987, Regular Meeting (10:00 a.m.)

CAP-1.
Project Nos. 3856-005 and 006, Guadalupe-Blanco River Authority
CAP-2.
Project No. 3228-005, Atlantic Power Development Corporation
CAP-3.
Project No. 5495-004, Hydro Resource Company
CAP-4.
Project No. 7449-001, town of Durham, New Hampshire
CAP-5.
Project No. 9778-001, Trafalgar Power, Inc.
CAP-6.
Project No. 9608-001, McCallum Hydro Enterprises
Project No. 9982-001, Bridgeport Hydraulic Company
CAP-7.
Project Nos. 7306-005 and 006, Arnold Irrigation District
CAP-8.
Project No. 6092-006, Western Hydro Electric, Inc.
CAP-9.
Project No. 5756-006, Mega Hydro, Inc.
CAP-10.
Project No. 662-000, Pinedale Power and Light Company
CAP-11.
Project No. 6032-000, Niagara Mohawk Power Corporation
Project No. 9706-000, Mechanicville Corporation
Project No. 5799-001, New York State Energy Research and Development Authority
CAP-12.
Project No. 8604-000, incorporated County of Los Alamos, New Mexico
Project No. 8493-000, Hydroelectric Development, Inc.

CAP–13.
Docket No. ER87–122–000, Boston Edison Company
CAP–14.
Docket Nos. ER82–545–000 and ER83–610–000, Public Service Company of Oklahoma and Southwestern Electric Power Company
Docket Nos. ER82–546–000 and ER83–611–000, Central Power & Light Company and West Texas Utilities Company
Docket No. ER83–635–000, Texas Utilities Electric Company
Docket No. ER83–657–000 (Phase I), Houston Lighting and Power Company
CAP–15.
Docket No. ER86–370–001, New York State Electric & Gas Corporation
CAP–16.
Docket No. ER85–538–001, Gulf States Utilities Company
CAP–17.
Docket No. EL86–58–000, Louisiana Public Service Commission v. System Energy Resources, Inc. (formerly Middle South Energy, Inc.)
Docket No. EL86–59–000, Louisiana Public Service Commission v. Middle South Services, Inc.
CAP–18.
Docket No. QF86–15–000, Calderon Energy Company

Consent Miscellaneous Agenda

CAM–1.
Docket No. RM84–14–025, deregulation and other pricing changes on January 1, 1985, under the Natural Gas Policy Act
CAM–2.
Docket Nos. RI83–9–001, 002 and GP83–11–001, Northern Natural Gas Company, division of Enron Corporation
CAM–3.
Docket No. GP86–22–001, Williston Basin Interstate Pipeline Company v. Arco Oil and Gas Company
Docket No. SA86–15–001, Williston Basin Interstate Pipeline Company
CAM–4.
Docket No. RM85–1–180, regulation of natural gas pipelines after partial wellhead decontrol (Bishop Pipeline Corporation)
CAM–5.
Docket No. RM85–1–000, regulation of natural gas pipelines after partial wellhead decontrol (Process Gas Consumers Group)
CAM–6.
Docket No. RM87–10–000, delegation of authority to decide Freedom of Information Act and Government in the Sunshine Act appeals
CAM–7.
Docket No. RA86–2–000, Commonwealth Oil Refining Company, Inc.
CAM–8.
Docket No. RM86–12–000, generic determination of rate of return on common equity for public utilities

Consent Gas Agenda

CAG–1.
Docket Nos. RP87–16–001 and 002, El Paso Natural Gas Company
CAG–2.
Docket No. RP87–14–001, Algonquin Gas Transmission Company
CAG–3.
Docket Nos. RP87–15–001, 002, 003, 004 and 005, Trunkline Gas Company
CAG–4.
Docket Nos. TA87–1–51–002, 003, 004 and TA86–6–51–004, Great Lakes Gas Transmission
CAG–5.
Docket No. RP82–71–019, Northern Natural Gas Company, division of Enron Corporation
CAG—6.
Docket No. RP87–6–000, El Paso Natural Gas Company
CAG—7.
Docket Nos. ST86–922–000, ST82–424–000, ST82–476–000 and ST83–130–000, Sun Gas Transmission Company, Inc.
CAG—8.
Docket Nos. RP82–16–005 and 006, United Gas Pipe Line Company
CAG—9.
Docket No. RP86–71–000, Valley Gas Transmission, Inc.
CAG–10.
Omitted
CAG–11.
Docket Nos. RI74–188–090 and RI75–21–085, Independent Oil & Gas Association of West Virginia
CAG–12.
Docket Nos. CP85–710–002, 003 and 004, Northern Natural Gas Company, division of Enron Corporation
CAG–13.
Docket No. CP87–49–002, Distrigas of Massachusetts Corporation
Docket No. CP87–50–000, Cabot Energy Supply Corporation
CAG–14.
Docket Nos. CP84–4–004, CP84–4–005, CP86–264–001, and CP86–264–003, Natural Gas Pipeline Company of America
CAG–15.
Docket No. CP 85–741–001, National Fuel Gas Supply Corporation
Docket No. CI85–597–001, Empire Exploration, Inc.
CAG–16.
Docket No. CP85–826–002, CP86–95–002 and CP86–96–002, National Fuel Gas Supply Corporation
Docket Nos. CP86–414–004, CP86–437–002, 004, CP86–556–001 and CP86–557–003, Natural Gas Pipeline Company of America
Docket No. CP86–294–004, Northern Natural Gas Company, division of Enron Corporation
CAG–17.
Docket No. CP86–439–003, Southern Natural Gas Company
CAG–18.
Docket No. CP86–93–000, National Fuel Gas Supply Corporation
CAG–19.
Docket No. CP86–488–000, K N Energy, Inc.
Docket Nos. CI84–470–001, CI84–472–001, CI84–473–001 and CI86–414–000, Plains Petroleum Company
CAG–20.
Docket No. CP86–377–000, Trunkline Gas Company
CAG–21.
Docket Nos. CP79–444–002 and CP81–474–002, Tennessee Gas Pipeline Company, a division of Tenneco Inc.
CAG–22.
Docket No. CP83–439–003, Southern Natural Gas Company
CAG–23.
Docket No. CP87–64–000, Southern Natural Gas Company

I. Licensed Project Matters

P–1.
Reserved

II. Electric Rate Matters

ER–1.
Docket No. ER87–23–000, Ocean State Power. Order on power sale agreements for the sale of capacity and corresponding energy from a 235 MW combined cycle gas-fired generating unit.
ER–2.
Docket No. ER81–177–001 (Phase I), Southern California Edison Company. Opinion on rate increase.
ER–3.
Docket No. EL85–47–000, John J. Byrne. Order on interlocking directorate.
ER–4.
Docket Nos. QF84–147–000 through 009, Alcon (Puerto Rico), Inc. Order on rehearing regarding an application for qualifying status of a cogeneration facility.
ER–5.
Docket No. QF86–23–000, Freeport-McMoran Inc. and Gunnison Capital, Ltd. Order on an application for certification of a proposed facility as a qualifying bottoming-cycle cogeneration facility.
ER–6.
Docket No. QF85–210–000, Pynoyl Corporation. Order on an application for certification as a qualifying small power production facility.
ER–7.
Docket No. QF85–511–000, Veterans Administration Central Office. Order on an application for certification of a facility as qualifying cogeneration facility.
ER–8.
Docket No. QF85–139–000, Antrim Mining, Inc. Order on an application for certification of qualifying status for a small power production facility.

Miscellaneous Agenda

M–1.
Reserved
M–2.
Docket No. RM87–11–000, proposed test for affiliated entities limitation under section 601(b)(1)(E) of Natural Gas Policy Act of 1978

I. Pipeline Rate Matters

RP–1.
(A) Docket Nos. RP86–32–000, 002, RP86–68–000 and 003, Northwest Central Pipeline Corporation. Order No. 436 rate settlement.
(B) Docket No. CP86–631–000, Northwest Central Pipeline Corporation. Order No. 436 blanket certificate application.

(C) Docket Nos. CI86–594–000 and CI86–596–000, Northwest Central Pipeline Corporation. Related limited-term abandonment and blanket certificate.

RP–2.
Omitted

RP–3.
Omitted

II. Producer Matters

CI–1.
Docket Nos. CI86–370–000 and CI86–373–000, Texas Gas Transmission Corporation
Docket Nos. CI86–378–000 and CI86–397–000, Arkla, Inc. (Exploration and production division) and ARkla Energy Marketing Company
Docket Nos. CI86–375–000 and CI86–408–000, Trunkline Gas Company
Docket Nos. CI86–447–000 and CI86–450–000, United Gas Pipeline Company
Docket Nos. CI86–451–000 and CI86–504–000, Natural Gas Pipeline Company of America
Docket Nos. CI86–510–000 and CI86–513–000, Tennessee Gas Pipeline Company, a division of Tenneco, Inc.
Docket Nos. CI86–637–000 and CI86–638–000, ANR Pipeline Company
Docket Nos. CI86–641–000 and CI86–642–000, Northwest Pipeline Corporation and Northwest Marketing Company
Docket Nos. CI86–737–000 and CI86–738–000, Arkla Energy Reserves. Basket order on applications for limited-term abandonments and limited-term blanket certificates with pre-granted abandonment.

CI–2.
Omitted

III. Pipeline Certificate Matters

CP–1.
Docket Nos. CP68–179–006, CP74–192–009, 010 and CP86–704–000, Florida Gas Transmission Company, Proposal for pooling gas entitlements; application for section 7(c) authorization to construct and operate facilities to increase capacity; request to modify previous abandonment order authorizing conversion of gas line to transport liquid petroleum products.

Kenneth F. Plumb,
Secretary.

[FR Doc. 87–564 Filed 1–7–87; 2:46 pm]
BILLING CODE 6717–01–M

FOREIGN CLAIMS SETTLEMENT COMMISSION

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Oral Hearings on Objections to Decisions Issued Under the Ethiopian Claims Program

Thurs., Jan. 22, 1987 at 10:00 a.m.
E–023—Seventh-Day Adventist Church
Thurs., Jan. 22, 1987 at 11:00 a.m.
E–013—Saba Habachy, et al.
Thurs., Jan. 22, 1987 at 2:30 p.m.
Consideration of Proposed Decisions on claims under the Ethiopian Claims Program and Final Decisions on objections filed to Proposed Decisions on claims under the Ethiopian Program.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111—20th Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111—20th Street, NW., Room 400, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, DC, on January 7, 1987.

Judith H. Lock,
Administrative Officer.

[FR Doc. 87–580 Filed 1–8–87; 3:36 pm]
BILLING CODE 4410–01–M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Wednesday, January 14, 1987.

PLACE: 1776 G Street, NW., Washington, DC 20456, 7th Floor, Filene Board Room.

STATUS: Open.

MATTERS TO BE CONSIDERED.

1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Review of Central Liquidity Facility Lending Rate.
4. Insurance Fund Report.
5. Credit Union Rating System.
6. Examination of Overseas Branches of Federal Credit Unions.
7. Final Rule: § 748.2, NCUA Rules and Regulations, Bank Secrecy Act.

RECESS: 10:45 a.m.

* * * * *

TIME AND DATE: 11:00 a.m., Wednesday, January 14, 1987.

PLACE: 1776 G Street, NW., Washington, DC 20456, 7th Floor, Filene Board Room.

STATUS: Close.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii) and (9)(B).
3. Board Briefings. Closed pursuant to exemptions (2), (6), (8), (9)(A)(ii) and (9)(B).
4. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,
Secretary of the Board.

[FR Doc. 87–548 Filed 1–7–87; 1:52 pm]
BILLING CODE 7533–01–M

POSTAL RATE COMMISSION

TIME AND DATE: 11:00 a.m. on Thursday, January 15, 1987.

PLACE: Conference Room, 1333 H Street, NW., Suite 300, Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: To consider the Postal Service motion for reconsideration of Commission Order No. 733 in Docket Nos. C84–1 and C87–2.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

Charles L. Clapp,
Secretary.

[FR Doc. 87–499 Filed 1–8–87; 9:45 am]
BILLING CODE 7715–01–M

Corrections

Federal Register
Vol. 52, No. 6
Friday, January 9, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published 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.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Additions and Deletion

Correction

In notice document 86–29028 appearing on page 46908 in the issue of Monday, December 29, 1986, make the following correction:

In the second column, under **Commodities**, the entry for "Coat, Women's Pajama" should read:

Coat, Women's Pajama, 6532–01–222–6565, 6532–01–222–3116

BILLING CODE 1505–01–D

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Proposed Additions and Deletion

Correction

In notice document 86–29029 beginning on page 46908 in the issue of Monday, December 29, 1986, make the following correction:

In the third column, under **Commodities**, in the entry for "Box Spring", in the second line, the number should read "7210–00–NIB–0006".

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket No. 83C–0127]

Listing of D&C Red No. 8 and D&C Red No. 9 for Use in Ingested Drug and Cosmetic Lip Products and Externally Applied Drugs and Cosmetics

Correction

In rule document 86–27250 beginning on page 43877 in the issue of Friday, December 5, 1986, make the following corrections:

1. On page 43877, in the first column, in the next to last line of the **SUMMARY** and in the first line of **DATES**, "January 5, 1987" should read "January 6, 1987".

2. On page 43896, in the second column, in the first complete paragraph, in the 16th line, "January 5, 1987" should read "January 6, 1987".

§ 81.10 [Corrected]

3. On page 43899, in the first column, in § 81.10(t), in the last line, "January 5, 1987" should read "January 6, 1987".

§ 81.30 [Corrected]

4. On the same page, in the second column, in § 81.30, "January 5, 1987" should read "January 6, 1987" in the eighth line of paragraph (s)(1) and in the seventh line of paragraph (s)(2).

BILLING CODE 1505–01–D

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Privacy Act of 1974; Proposed Changes to a System of Records

Correction

In notice document 86–26307 beginning on page 42158 in the issue of Friday, November 21, 1986, make the following correction:

On page 42159, in the first column, in the 30th line, "of" should read "to".

BILLING CODE 1505–01–D

federal register

Friday
January 9, 1987

Part II

Environmental Protection Agency

40 CFR Part 85

Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 85

[AMS-FRL-3071-3]

Control of Air Pollution From Motor Vehicles and Motor Vehicle Engines; Emission Control System Performance Warranty Regulations and Voluntary Aftermarket Part Certification Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) proposes to amend the Emission Control System Performance Warranty regulations. In addition, EPA proposes to amend the Voluntary Aftermarket Part Certification Program. These proposals are made in response to the October 14, 1983 decisions of the United States Court of Appeals for the District of Columbia Circuit.[1] The court's decisions for the most part upheld the Performance Warranty and Aftermarket Parts Certification Regulations.[2] However, it cited four areas of the regulations where some revision was required.

These areas of concern were: (1) the resolution of disputes between vehicle manufacturers and certified after market part manufacturers over warranty responsibility, (2) the certification of parts without specified emission-critical parameters such as specialty and add-on parts, (3) warranty denials based on the use of uncertified parts, and (4) labeling requirements for certified parts. The court also directed EPA to reconsider its rationale for rejecting the use of vehicle "short tests" for the certification of parts. This notice of proposed rulemaking (NPRM) proposed regulatory revisions intended to address the court's concerns and improve the regulatory program.

DATES: Public Comment: Comments on the NPRM must be submitted on or before April 9, 1987. The date and place of a public hearing will be announced shortly in the **Federal Register.** The public comment period will be open until at least 30 days after the hearing.

ADDRESS: Comments on the NPRM may be submitted to the U.S. Environmental Protection Agency, Central Docket Section (A-130), Gallery 1, West Tower Lobby, Waterside Mall, 401 M Street SW., Washington, DC., 20460, Attn: Docket No. EN-84-08.

FOR FURTHER INFORMATION CONTACT: Michael Sabourin, Certification Division, U.S. Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, MI 48105 (313) 668-4316.

SUPPLEMENTARY INFORMATION:

I. Background

Section 207(a)(1) of the Clean Air Act (the Act), requires motor vehicle manufacturers to warrant that each new vehicle is designed, built, and equipped to conform to the applicable Federal emission standards. The vehicle manufacturer must also warrant that the vehicle is free from defects which would cause the vehicle or engine to fail to conform to the applicable regulations within the useful life of the vehicle. Section 207(b) of the Act outlines the EPA's responsibilities for testing of vehicles in actual use to assure they meet applicable standards. That section also requires that any such testing regulations be accompanied by rules requiring vehicle manufacturers to warrant the performance of emission control devices or systems of any vehicles subject to in-use testing (the performance warranty) for the vehicles' entire useful lives. EPA promulgated these emission control system performance warranty regulations on May 22, 1980 (45 FR 34829).[3]

As required by section 207(a)(2) of the Act, EPA also promulgated regulations that allowed automotive part manufacturers to certify their parts as equivalent to original equipment manufacturer (OEM) parts. 45 FR 78448 (1980). Proper maintenance and use of a vehicle are prerequisites to section 207(b) performance warranty coverage. Thus, these voluntary self-certification regulations[4] provide a means for aftermarket part manufacturers to assert that their parts are functionally equivalent to OEM parts and, therefore, their use cannot be considered improper maintenance or use. Thus, consumers can use certified aftermarket parts on their vehicles without compromising the vehicles' capabilities to meet emissions standards and without jeopardizing their emission control performance warranties. The vehicle manufacturers are required by section 207(b) to honor warranties for vehicles with certified parts. However, under the existing regulations the certified part manufacturer is required to reimburse the vehicle manufacturer if the certified part caused the emission failure.

Vehicle manufacturers and part manufacturers challenged several aspects of the aftermarket part certification regulations and the emission control system performance warranty regulations.[5] On October 14, 1983, the United States Court of Appeals for the District of Columbia Circuit ruled on the petitions. The court's decision basically upheld the regulations. However, its decision made it necessary to consider amendments in the following areas:

A. The reimbursement mechanism between vehicle manufacturers and certified part manufacturers to resolve warranty disputes over certified parts;

B. The certification of specialty parts and the use of "short tests" [6] for the certification of parts;

C. The burden placed on the vehicle manufacturers by the requirement that they "present evidence that an uncertified part on a vehicle was defective, or not equivalent from an emission standpoint to an OEM part" [7] before the vehicle manufacturer could be free of warranty responsibility;

D. The permanency of labels or identification symbols on certified parts. (Although not required by the court, this proposal also addresses the issue of requiring unique identification symbols on the label.)

II. Summary of Proposal

A. Reimbursement procedures for warranty cost claims by vehicle manufacturers against certified aftermarket part manufacturers are proposed to be established. EPA proposes to

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[1] *Specialty Equipment Market Association (SEMA)* versus. *Ruckelshaus*, 720 F.2d 124; *Automotive Parts Rebuilders Association (APRA)* v. *EPA*, 720 F.2d 142.

[2] Code of Federal Regulations, Title 40, Part 85, Subpart V.

[3] In the preamble to those regulations, EPA stated, "In general, the emission performance warranty will require a vehicle manufacturer to repair, at no charge to the owner, any emission control device or system which causes a vehicle to fail an EPA approved emission short test [see footnote 6] during its useful life if the owner is subject to a penalty or sanction under State or Federal law because of the short test failure, and if the owner has maintained and operated the vehicle in accordance with the manufacturer's written instructions." Emission performance warranty requirements are described in more detail in 40 CFR 85.2103.

[4] *See* 40 CFR Part 85, Subpart V. There is no requirement that aftermarket parts be certified. However, certified aftermarket parts must be honored by the vehicle manufacturer's warranty. To self-certify, the part manufacturer must meet the requirements of 40 CFR 85.2114 and 85.2115.

[5] *SEMA* v. *Ruckelshaus*, 720 F.2d 124; *APRA* v. *EPA*, 720 F.2d 142.

[6] The "short test" is an emission inspection performed on a vehicle that is operating in one or several steady state modes. Hydrocarbons (HC) and carbon monoxide (CO) are usually monitored by taking continuous raw concentration readings of the tailpipe exhaust.

[7] 40 CFR 85.2105 (b).

provide additional definitions and guidance for resolving disputed claims. In addition, disputes which cannot be informally resolved between manufacturers are proposed to be decided through independent binding arbitration. Each part and vehicle manufacturer seeking certification must agree to binding arbitration should a reimbursement dispute occur over the use of a certified aftermarket part. If any part or vehicle manufacturer refuses to participate in binding arbitration concerning a specific claim, that manufacturer will automatically lose the dispute.

If an independent arbitrator is used, EPA proposes that the losing party pay all arbitration costs in addition to vehicle repair costs incurred. If the judgment is against the vehicle manufacturer, it need only pay the arbitrator costs of the decision, since they have already absorbed the original repair costs. If the judgment is against the aftermarket part manufacturer, it must not only pay all arbitrator costs, but also reimburse the vehicle manufacturer for the original repair costs. If the judgment is not clearly against either party, the part manufacturer and vehicle manufacturer would share the cost of arbitration equally, or as the arbitrator otherwise determines is appropriate.

If the part manufacturer does not pay its costs under arbitration settlement (including any applicable original repair costs and arbitrator costs), EPA will decertify that part for use on all vehicle applications for which it is certified. The aftermarket part manufacturer could then be liable for all results of decertification as already specified in 40 CFR 85.2121.

B. Specialty part manufacturers had been excluded from the aftermarket part certification program. The Court directed EPA to reconsider inclusion of specialty parts into the part certification program. EPA proposes that the existing regulation be revised to allow both specialty and replacement parts to be certified under the same certification demonstration program. However, an additional option is being considered that would allow the vehicle manufacturer to deny warranty coverage for certified specialty (i.e., add-on, non-replacement) parts based on adequate demonstration that the specialty part caused the vehicle's emission failure. In these cases the consumer would go directly to the specialty part manufacturer for warranty reimbursement.

C. EPA proposes to expand the certification options for aftermarket part manufacturers. The current regulations allow certification only for parts which have emission-critical parameters and performance criteria defined in the regulations. The proposed revision will allow certification via emissions testing for parts which do not have emission-critical parameters defined in the regulations. This will greatly expand the availability of the option to voluntarily certify aftermarket parts.

Moreover, EPA is proposing a simple emissions certification program which has been designed to maximize the range of parts that are eligible for certification. Necessary emission control has been assured while compliance demonstration costs are minimized. This proposal breaks emission-related aftermarket parts down into several categories for determining durability and emission performance. The first category corresponds to those parts which have defined emission-critical parameters, as in the current regulations. With these parameters defined, the functional performance of the part over its useful life can be evaluated using bench test procedures as detailed in the regulations. Functional performance criteria are used to determine certification and no actual emissions testing is required. Today's proposal does not include any new emission-critical parameters or changes to those already in the regulations.

The proposed revisions also address those parts which do not have emission-critical parameters and test procedures already defined in the regulations. A number of these parts could cause easily detectable driveability problems when their performance has deteriorated to a point where this performance deterioration could result in emissions noncompliance. Since it is likely the vehicle operator will have such a driveability problem corrected and thus, the part repaired or replaced, we do not believe that in-use emission noncompliance due to part deterioration will be a significant problem. Thus, the emission durability of such parts (defined in this proposal as "non-critical emission-related parts") need not be evaluated during the certification program. In most such cases only the emissions impact of installing the aftermarket part on the vehicle is a concern. For these parts, EPA proposes to allow the manufacturer to demonstrate certification compliance by emission testing an applicable vehicle in its original equipment configuration and then testing the vehicle with the aftermarket part installed. Compliance will be demonstrated if any increases in emission levels detected by the second test are not so great as to have caused the vehicle design to fail emission standards based on the vehicle manufacturer's orignial vehicle certification test results. Thus, this proposal relies on the vehicle manufacturer's certification test results to establish the vehicle's useful life emission performance in its original equipment configuration, and the change in emission performance due to aftermarket part installation to determine whether the part would continue to allow useful life vehicle emission compliance.

Since the emission impact of these non-critical emission-related parts could vary from vehicle design to vehicle design, EPA proposes to allow worst-case testing as a means of minimizing the amount of emission testing required to certify a part for a variety of applications. The part manufacturer would select that vehicle application which would be expected to have the largest increase in emission levels due to the installation of the aftermarket part. The part could then be certified for all applications in which this increase in emission level would not have caused the certification vehicles to fail standards.

The third category includes other aftermarket parts without emission-critical parameters which may not cause driveability problems when their emissions performance is deteriorated. Thus, we cannot be sure that vehicle emission compliance in-use would continue for vehicles with these parts installed. These parts are defined in this proposal as "critical emission-related parts." These parts must be first durability tested before their emission compliance can be determined. In general, the part must first be aged to its useful life and then emission tested in the same manner described above for non-critical emission-related parts. This durability aging can be conducted on a vehicle according to the driving cycle typically used for vehicle certification or using an alternative driving cycle which the part manufacturer determines will be at least as representative of in-use operation. The aged part can then be placed on a low mileage test vehicle for the certification compliance test.

A fourth category of emission-related aftermarket parts (both critical and non-critical) may also cause emission deterioration of other, original equipment parts. This is due to the synergistic effects of the aftermarket parts or the operation of the original equipment part. In these cases it is important to not only account for the emission performance deterioration of the aftermarket part, but also any additional emission performance

degradation to the rest of the vehicle's emission-related components. In this limited case, it is necessary that the emission performance of the whole vehicle be characterized with the part installed. The vehicle must be aged for its full useful life with the aftermarket part installed and then emission tested for compliance. EPA proposes that the test vehicle must meet emission standards in its aged condition with the aged aftermarket part installed in order that the aftermarket part qualify for certification. EPA recognizes this aspect of the proposal could result in a substantial cost burden to the aftermarket part manufacturer. However, this full evaluation of the vehicle's useful life emission performance is necessary to assure satisfactory in-use vehicle emission performance. This is the same burden EPA places on vehicle manufacturers when they certify similar original equipment emission-related components. Further, EPA expects that the vast majority of aftermarket parts certified will not require this useful life vehicle emission compliance demonstration.

D. Current EPA regulations require a vehicle manufacturer, in order to avoid warranty repair, to demonstrate that an uncertified part caused an emission failure by showing that the uncertified part is defective or not equivalent to the original equipment part.

EPA proposes to revise the regulations to require instead that the vehicle manufacturer only demonstrate the defect or damage to the vehicle's engine or emission control system was caused by the uncertified part. This eliminates the vehicle manufacturer's burden of absolute proof that the uncertified part is defective or not equivalent to the original equipment part. Instead, the vehicle manufacturer will be required to pinpoint the uncertified part as the cause of failure via a written document to the customer listing a technical rationale supported by any evidence used in the determination.

E. EPA proposes to establish a better parts labeling scheme which will require the part manufacturer to identify its certified parts with durable and unique labels.

F. EPA proposes to reject "short tests" as a basis for parts certification.

III. Discussion of Proposals

A. Reimbursement Plan

Under the existing regulations, a motor vehicle manufacturer must honor a consumer emission performance warranty claim, provided the vehicle has been properly maintained with original equipment manufacturer (OEM) parts or certified aftermarket parts. However, the motor vehicle manufacturer can require reimbursement from the certified part manufacturer for "reasonable expenses" incurred in the repair of a vehicle if a "valid emission performance warranty claim" arose because of the use of the certified aftermarket part.[8] The existing regulations do not define the two terms "reasonable expense" and "valid emission performance warranty claim", nor do they specify a reimbursement plan for the manufacturers to follow in the event of a dispute between the two parties.

The Motor Vehicle Manufacturers Association (MVMA) and the Automotive Parts Rebuilders Association (APRA) contended in one lawsuit that the two terms, "reasonable expense" and "valid emission performance warranty claim," were too vague to provide meaningful guidance to part manufacturers and vehicle manufacturers, and the Court agreed. The Court required that EPA either apply its expertise in the area and define the terms within the regulations, or provide a forum in which the terms would be clarified through an adversarial process, such as arbitration.[9]

EPA has decided to propose general definitions for the terms "valid emission performance warranty" and reasonable expenses" to provide meaningful guidance for part and vehicle manufacturers. At the same time, EPA recognizes that any individual case may require further interpretation of these two terms. EPA proposes that, where further disagreement occurs, the two terms be further clarified in a conflict resolution process, specifically, binding arbitration (discussed further below). However, establishing definitions for these two terms should minimize the misunderstanding between involved parties and reduce the number of occasions when binding arbitration will be necessary.

A "valid emission performance warranty claim" on a vehicle would be defined generally as one that meets the requirements outlined in section 207(b)(2) (A)–(C) of the Act. A claim would be considered as valid provided: (1) there is no evidence that the vehicle had not been properly maintained and operated in accordance with manufacturer instructions in a manner linked to the emission failure; (2) the vehicle failed to conform to applicable emission standards as measured by an EPA-approved type of emissions warranty test during the useful life of a part related to emission control,[10] or exhibited physical failure during its useful life; and (3) in the case of a test failure, the owner is subject to a sanction as a result of the test failure.

The "reasonable expense" incurred due to the repair of a warranty failure caused by a certified aftermarket part would include the charges in any expense categories that would be considered payable by the involved vehicle manufacturer to its authorized dealer under a similar warranty situation where an OEM part was deemed the cause of failure. These expense categories include, but are not limited to, the cost of labor, materials, recordkeeping, and billing. The vehicle manufacturer, who has extensive experience with the evaluation of warranty claims from its dealer network for OEM parts, should make an evaluation of what is deemed reasonable and submit an itemized bill to the part manufacturer. The part manufacturers have the right to dispute any portion of the billing that they deem unreasonable.

While this guidance is still quite general, it will considerably narrow the areas of dispute between vehicle and part manufacturers. Moreover, EPA believes it is necessary to leave some latitude to resolve individual, diverse warranty cases on a case-by-case basis.

The MVMA and APRA had also contended that no dispute resolution mechanism was available for the manufacturers. The court ruled that "if reimbursement is to be a mandatory element of the certification program, then EPA must provide some forum for resolution of reimbursement disputes."[11] EPA is proposing these disputes be settled through independent binding arbitration.

The Agency intends that independent settlement between manufacturers will be the normal mechanism of resolution. However, for more serious disputes, independent binding arbitration would be required because it is a reasonable method for manufacturers to present a case and receive quick, impartial action on a decision. The following paragraphs outline an example of how an arbitration exchange could possibly take place. This is only a suggested venue

[8] 40 CFR 85.2117(b).

[9] *SEMA v. Ruckelshaus*, 720 F.2d at 139–140.

[10] Under section 207(b)(2) of the Act, the performance warranty covers the primary emission control devices or systems for the full useful life of the vehicles, but covers other emission-related parts only for two years or 24,000 miles, whichevers comes first.

[11] *SEMA v. Ruckelshaus*, 720 F.2d at 139.

and comments on this example are welcome, as well as comments on how much detail should be incorporated in the final regulations.

As an example of how the arbitration process could proceed, the vehicle manufacturer could initiate a certified aftermarket part warranty claim by sending a letter to the part manufacturer explaining why the certified part caused the failure (or multiple failures in the case of several vehicles equipped with the same part), and a billing for reasonable expenses incurred. The part manufacturer could be required to respond within 30 days by paying the claim or requesting a meeting to resolve any disagreement. A meeting or teleconference could occur within the next 14 days. A requirement could be established that the parties must talk on at least two occasions to attempt resolution before resorting to arbitration.

When arbitration is necessary, EPA proposes that the involved manufacturers attempt to select a mutually agreeable arbitrator to hear the case. If the manufacturers cannot set up an agreeable arbitration process within a reasonable time period (for example 120 days from the date of the vehicle manufacturer's initial reimbursement claim), then EPA will assume that task and select an independent arbitrator. When the arbitrator has been chosen, a convenient time and place for an arbitration hearing could be chosen from submitted preferences of the involved parties.

During the preparation before the hearing, the manufacturers would not correspond with the arbitrator. All evidence, witnesses, and summaries would be prepared for delivery at the hearing. All parties would have a right to representation by counsel; however, they would be required to notify the other side of such representation and file a copy of that notification with the arbitrator a reasonable number of days (perhaps 10 days) before the hearing.

The actual arbitration hearing would be similar to a court trial but much more informal. For example, an arbitrator tends to accept more evidence than would a judge. The burden of proof would be equal and both parties would be allowed to present their whole argument. The general format likely would be an opening statement, a discussion of the remedy sought, introduction of witnesses and documents, and a closing statement.

The arbitrator would then close the hearing (unless the contract states otherwise) and be allowed a specified time period to decide (e.g., 60–90 days). The arbitrator's power would end with the rendering of the award, unless both parties want to reopen the case and restore the arbitrator's authority.

To avoid time delays and reduce costs, EPA suggests that the part and vehicle manufacturers could use their respective associations (MVMA, APRA, SEMA, etc.) to set up master arbitration contracts. The vehicle and part manufacturers may set up the contract independent of EPA involvement. Each manufacturer could then use the pre-established system with standardized guidelines when an arbitration dispute occurred. However, the establishment of such a contract would not be required.

The association representing the vehicle manufacturers and the association representing the part manufacturers could each be responsible for one half of any set costs or fees for establishing an arbitration contract. As an example, in a brochure printed by an arbitration association,[12] the cost for any individual claim brought to arbitration could be a percentage of the claim (about 3 percent) with a minimum incremental fee for each claim brought to arbitration (around 200 dollars). These arbitration association figures are supplied in the docket only as an example; EPA is not recommending any particular association.

If an independent arbitrator is used, the manufacturers would then be responsible for payment of all arbitration costs for each case. Individual case costs could be divided equally between all involved manufacturers; could be born by the losing party; or could be assigned by the arbitrator. EPA proposes that costs be borne by the losing party, if any. If the judgment is wholly against the vehicle manufacturer, it would need to pay only the arbitrator costs of the decision, since it would have already absorbed the original repair costs. If the judgment is wholly against the aftermarket part manufacturer, it must not only pay all arbitrator costs, but also reimburse the vehicle manufacturer for the original repair costs. If the arbitrator does not rule wholly in favor of either party, the parties could share the cost of arbitration equally or in some manner deemed appropriate by the arbitrator. Other division of cost options are considered in the EPA Issue Paper in the public docket. Comments or suggestions on the division of costs may be submitted to the docket.

[12] Information in this section referenced from *A Commercial Guide for Business People*, The American Arbitration Association. This document is in the docket.

If the part manufacturer does not pay for a lost arbitration settlement (including both original repair costs and its share of arbitrator costs), EPA proposes to decertify that part on all vehicle applications for which it is certified, subject to the outcome of any judicial review of the arbitrator's decision. The aftermarket part manufacturer could then be liable for all results of decertification specified in 40 CFR 85.2121. This includes mandatory notification by the manufacturer to all distributors of the part that it is no longer certified, and an offer to replace decertified parts in the customer's inventory with certified replacement parts. If unable to do this, the part manufacturer may be required, at the customer's request, to repurchase such inventory at a resonable price. This could reflect negatively on the part manufacturer's marketing image and cost it in lost sales and settlements with distributors. There is a strong incentive, therefore, to pay for lost arbitration settlements subject to potential judicial review, to avoid the negative effect of decertification.

By requiring a binding arbitration mechanism EPA would provide a structured forum for the initial resolution of disputes. This forum would provide a reasoned decision both parties are bound to respect. However, this does not restrict the right of either party to appeal any such arbitration decision to an appropriate court. In the case of an appeal, it is anticipated that the court will review the arbitrator's decision (similar to an appellate review) as opposed to rehearing the entire case.

Two other forms of arbitration were considered and rejected for this proposal. They were independent non-binding arbitration and binding arbitration using EPA personnel. Those options are described further in the EPA Issue Paper in the docket.

Independent non-binding arbitration is less expensive than binding arbitration; however, it would not be as effective. There is little deterrence to the losing party to ignore the arbitrator's decision. Thus, this method increases the likelihood of court involvement with accompanying higher costs and delay of the dispute resolution. This option is not recommended.

Using binding arbitration by EPA personnel to resolve disputes is not necessarily within the Agency's mandate. Further, the technical knowledge required to make an appropriate decision is not unique to EPA personnel. Many public sources of this knowledge are available. The independent arbitrator can readily gain

this technical knowledge if he or she does not already have it. Finally, EPA does not have resources to carry out an arbitration function. Therefore, this option is not being proposed.

EPA has also considered two other options besides arbitration for resolving warranty reimbursement disputes. They are independent settlement and settlement through litigation.

Independent, informal, settlement between the part and vehicle manufacturers without involving EPA, an arbitration, or the court would be most advantageous, since this option is low cost and could potentially be concluded quickly. Thus, independent settlement is preferred and EPA expects this will be the normal mechanism followed. However, in some circumstances the incentive for the parties to cooperate may be insufficient or the perceived basis of the case may be differently viewed by the parties so that independent settlement will not result. Moreover, independent settlement alone probably would not satisfy the court order that EPA provide a forum for dispute resolution. This option is best incorporated with the binding arbitration option and is not recommended alone.

Settlement through litigation has the advantages of bringing the court's insight and expertise into the issue, eliminates EPA's role as referee, and the cost of litigation encourages the manufacturers to come to a settlement in the pre-trial phase. However, the judicial process is slower than arbitration and the cost of litigation may favor the party holding the better financial position. Therefore, this process as the only option to informal, cooperative settlement is not recommended. Rather, the interim step of going through binding arbitration before any court action is appropriate.

Comments are also invited on the options rejected as well as the proposals for warranty repair reimbursement. We especially seek comments on the appropriate detailed steps to be included in the regulations for binding arbitration.

B. Certification of Specialty Parts

The current regulations only allow certification of those parts, listed in the regulations, with emission critical parameters. These listed parts can be categorized as replacement parts, meaning parts that functionally duplicate the original equipment found on a vehicle leaving the production line. The remaining automotive parts which might be expected to affect emissions (including parts sometimes referred to as specialty and add-on parts) are not covered by the existing aftermarket part certification regulations. Specialty parts consist of both modified replacement parts which alter or go beyond the original equipment included in a new vehicle and add-on parts that are not found on a vehicle when it leaves the production line.

The Speciality Equipment Market Association (SEMA) challenged the exclusion of specialty parts from the original certification program.[13] Although the court upheld the certification rules in general, it found that EPA's reasons for exclusion of specialty parts were insufficient and that EPA should reconsider this issue.[14] The court concluded that "unless the Agency offers persuasive reasons for its decision, specialty part manufacturers, at a minimum, should be allowed to participate in the certification program through the FTP method of certification."[15]

Although the current regulations provide for aftermarket certification via FTP[16] testing, this provision is available as an alternative certification procedure only for the thirteen replacement parts for which emission-critical parameters exist. Thus, the scope and the detail of the current FTP testing alternative are quite limited and are not sufficient for other aftermarket parts, including specialty parts. In this notice, EPA is proposing amendments to the FTP-based aftermarket part certification rules which will cover the certification of these other aftermarket replacement and specialty parts. Therefore, in conjunction with the amendments outlined below, EPA proposes to include specialty parts in its revised aftermarket part certification program.[17]

[13] *SEMA v. Ruckelshaus*, 720 F.2d at 135.

[14] *Id.* at 135–137.

[15] *Id.* at 137.

[16] The Federal Test Procedure (or "FTP") is a procedure for testing vehicles to determine if they meet federal emissions standards. It is more fully described in 40 CFR Part 86.

[17] An added benefit to certifying specialty parts is that the manufacturers and purchasers of certified specialty parts would be protected from potential liability for "tampering" violations under section 203(a) of the Clean Air Act in accordance with EPA's existing enforcement policy. Section 203(a) generally prohibits any person from causing, or any person in the automotive industry from, tampering with any emission control system device on a vehicle after its sale. Under EPA's enforcement policy, if a Federal environmental control agency expressly represents (e.g., by certification of a part) that reasonable basis exists that a given act will not adversely affect emissions performance, EPA will not regard the act as a violation of section 203(a).

Specialty Part Reimbursement

A supplemental option is being proposed at this time that would allow the vehicle manufacturer to deny warranty to any vehicle for which a certified specialty part was shown to have caused the emissions failure. Specialty parts are add-on parts that do not functionally duplicate any original equipment part and are therefore not necessary for the proper operation of the vehicle. Therefore, specialty parts are not installed for the express purpose of maintaining or repairing the vehicle, but add some additional function, or alter the original configuration of the vehicle in some way. In contrast, replacement parts functionally duplicate existing original equipment parts and can therefore be used for the maintenance and repair of the vehicle. Warranty coverage and reimbursement for *replacement* parts would be dealt with as described in the preceding section. However, for *specialty* parts, the owner would go directly to the part manufacturer for reimbursement for any permissible claim related to the specialty part. This procedure would be consistent with section 207(b) which states that no vehicle's warranty shall be made invalid ". . . on the basis of any part used in the *maintenance or repair* of a vehicle or engine if such part was certified as provided under subsection (a) (2)" (emphasis added).

Congress wanted to protect consumers who, in good faith, used non-OEM, but certified parts to properly maintain or repair their vehicle ". . . from being caught in the middle of disputes between vehicle and part manufacturers and to make it less risky for them to buy less expensive, non-original equipment parts."[18] For replacement parts, therefore, the vehicle manufacturer must honor the owner's warranty and seek reimbursement directly from the part manufacturer.

However, specialty parts are not used, in the strict sense, in the maintenance and repair of vehicles. In fact they typically alter the original configuration or calibration. A vehicle owner who has specialty parts installed on his or her vehicle is knowingly altering the original configuration and is, therefore, no longer using parts merely to maintain or repair the vehicle. Congress did not necessarily intend to preserve the original vehicle warranty of a consumer who knowingly uses a certified specialty part to alter the original manufacturer's emissions configuration.

[18] *APRA v. EPA*, 720 F.2d at 159.

Under the option being proposed, the vehicle manufacturer who has demonstrated that a certified specialty part is the cause of the failure of a vehicle to pass an emissions test may deny warranty coverage to that vehicle. Adequate demonstration would involve all of the assertions and objective evidence required for denial of an uncertified part warranty claim. (This demonstration is explained at length in Section C, below.) The owner of the vehicle would have to seek reimbursement directly from the specialty part manufacturer that certified the part.

This approach has many positive aspects. It upholds the literal intent of the Act by ensuring that the vehicle manufacturer warranty gives coverage for any certified part. At the same time it does not make the vehicle manufacturer liable for emission failures caused by the use of certified specialty parts which are not used solely for maintenance or repair, and which alter the original configuration or performance of the vehicle's emission-related systems. A different warranty would be given by the specialty part manufacturer, however, who has given reasonable assurance (through the certification process described below) that the part will not cause the vehicle to fail emission standards for the warranted useful life of the vehicle. Since the owners who purchase certified specialty parts are not just attempting to maintain or repair the emissions system of their vehicles, but are actively attempting to alter the original system, they are more likely to purchase the components regardless of the method they will have to use to seek warranty reimbursement than owners seeking merely to maintain or repair their vehicles.

Advantages and disadvantages of this option are discussed in more detail in the Issue Paper in the docket. Comments are invited on the feasibility of this option and on this proposed interpretation of the language in Section 207(b) of the Act and can be submitted to the same docket.

C. Proposed Rejection of Existing Short Tests and Other Non-FTP Tests.

In the court proceedings, SEMA challeged EPA's rejection of the use of short tests as a basis for certification.[19] The court found that EPA's explanation for the rejection of certification based on short tests was insufficient. The court acknowledged that there may be valid policy reasons for rejection of short tests, although they had not been articulated by EPA in its original rulemaking.[20]

As discussed more fully below, after consideration, EPA still cannot justify part certification by short tests. Vehicle manufacturers are not held accountable only to short test standards. They are required in 40 CFR Part 86 to "certify" to the more stringent FTP procedures before they can begin selling vehicles. This is part of a comprehensive program envisioned by Congress to improve and protect air quality. EPA views the Inspection and Maintenance (I/M) program,[21] which relies on the short test, and the vehicle certification process, which relies on the FTP, as two necessary and related stages in the overall program envisioned by Congress. EPA has determined that there is a significant potential for increased emissions and a risk of increased noncompliance with vehicle emission standards in-use if aftermarket part certification using currently available short tests is allowed.[22]

Finally, although alternative short tests are being considerd by EPA, EPA does not believe that alternative short tests have been developed which would eliminate these emission concerns.

Thus, the use of short tests for aftermarket part certification cannot be justified on an air quality or vehicle emission compliance basis. Rather the only possible justification would be the potential for less cost to the part manufacturer for certification. This might be significant given that at least some potential certifiers might be very small and so financially strapped that certification costs might be particularly burdensome. However, EPA believes that the difference in cost burden between the FTP and some acceptable short test would likely not be significant.

The principal issues considered by EPA in reaching these conclusions are: Congress' intent to lay the groundwork for a comprehensive motor vehicle emission control program when enacting sections 202, 206 and 207; the existing short tests capabilities; use of alternate short tests for certification; and, cost considerations. These four issues will be discussed in detail in the following sections.

1. Congress' Intent—A Comprehensive Motor Vehicle Emission Control Program

The court suggested that, if the vehicle manaufacturer is liable for a performance warranty claim on the basis of short test results, part manufactures should not be required to certify by the more stringent FTP, unless EPA has valid policy reasons to reject short tests for parts certification.[23] However, vehicle manufactures are not held accountable *only* to compliance with the short test. In the statutory scheme under Title II, Congress envisioned for vehicles a comprehensive program to control air pollution. The first stage was intended to be the most rigorous, and to screen out poor vehicle designs prior to their production. To that end, vehicle manufacturers are required to "certify" under Section 206 by whatever testing EPA determines is necessary to demonstrate that vehicles and engines are capable of complying with all applicable emission standards throughout their useful lives. In order to certify, and receive EPA's approval to sell vehicles, the vehicle manufacturer must first demonstrate that the vehicle is capable of emission compliance as measured by the strigent FTP requirements. However, it is apparent that Congress determined that certification testing on test vehicles alone was not sufficient to ensure compliance by all vehicles in actual use and, therefore, laid the groundwork for subsequent compliance programs. The selective enforcement audit (SEA) program established under section 206(c) determines compliance of samples of vehicles as they come off the assembly line. In addition, EPA's in-use compliance (recall) program conducted in accordance with section 207(c), determines emission performance of samples of properly maintained and used vehicles during their useful lives. Both of these programs monitor emissions compliance using the full FTP cycle. Thus, Congress' decision to allow alternative testing procedures (i.e., short tests) under section 207(b) to establish warrantly liability for vehicle manufacturers must be viewed in the context of the entire compliance program (certification, SEA, and recall) which assures that vehicles have been designed and built to meet the full FTP test standards.

Specifically, the short test was established in response to section 207(b)

[19] *Id.* at 135.

[20] *Id.* at 138.

[21] Inspection and Maintenance programs are mandatory emission short tests set up at a local level to monitor in-use vehicle emission performance in a particular area.

[22] The above programs are consistent with a longstanding EPA policy that even for compliance with anti-tampering regulations, parts manufacturers must have proof of demonstration of compliance with FTP emission requirements available on request. Mobile Source Enforcement Memorandum 1-A, June 25, 1974, "Interim Tampering Enforcement Policy", Office of Enforcement and General Counsel.

[23] *SEMA* v. *Ruckelshaus, supra*, 720 F.2d at 136.

which authorized EPA to establish additional testing procedures for vehicles in-use. It was developed to correlate reasonably with, and to supplement, the initial certification testing and to trigger manufacturers' performance warranty liability. When vehicles fail that additional testing, they must be repaired in order to achieve the emission performance intended by the certification process. The court upheld the appropriateness of the short test for that purpose. It is, therefore, reasonable to follow the same two-stage program for aftermarket parts in order to protect air quality, and to be consistent with the existing program for vehicles. Indeed, it is EPA's judgment that the air quality benefits intended by section 202 of the Act can only be attained through a comprehensive program of both FTP certification and assembly-line and in-use testing programs.

One of the primary purposes of the parts certification program authorized by section 207(a)(2) (in addition to protecting consumer's warranty rights and ecouraging competition) is the attainment and maintenance of such motor vehicle emission reductions. It is very important, therefore, that the aftermarker part manufacturer who wishes to "certify" parts be held to requirements that will give reasonable assurance that the projected emission levels of vehicle certification will be maintained. In EPA's judgment, such reasonable assurance cannot be given by short tests alone.

Aftermarket part manufacturers wishing to certify their parts are in effect asking to take part in a program that has been established and implemented using the FTP test at the initial stage. Moreover, under section 207(a)(2), the only way a part manufacturer can certify the part is by demonstrating that the part will not cause any application vehicle to fail federal emission standards for the applicable useful life. This ensures the minimum level of noncompliance in-use that is necessary to maintain the emission control required by sections 202 and 206 of the Act.

However, as discussed more fully in the next section, compliance with the short test alone does not provide this assurance since the short test passes some vehicles that would fail the FTP. The short test is designed merely to screen for problems on vehicles with systems that have been designed and demonstrated to pass the full FTP test. The short test is effective only if there is assurance that vehicles when properly maintained are able to comply with the full FTP requirements. Compliance with the performance warranty short test does not exempt the vehicle manufacturer from initial compliance with the certification standards using the FTP. This is consistent with the comprehensive motor vehicle program envisioned by Congress. Thus, to allow the part manufacturer to certify to short test standards only would undermine the existing certification requirements and would jeopardize attainment of the desired emission levels.

Consistent with the requirements placed on vehicle manufacturers, therefore, it is being proposed that aftermarket parts manufacturers be allowed to certify by use of FTP testing and not by use of the existing short test. However, during actual in-use operation, the certified parts will be subject to the same performance standards, measured by the short test, to which vehicle manufacturers are now subject. Thus, a parts manufacturer would be liable for a part that caused or contributed to a vehicle failing a short test (or protected from liability if the vehicle passed the short test) in the same way that a vehicle manufacturer would be.

2. Existing Short Tests

Emission tests must be administered in a reasonably short time frame for I/M program purposes in order to be practicably implemented. Thus, in developing the existing short tests, compromises were made which limit their ability to show that a particular vehicle or engine design will pass emission standards. For example, existing short tests are being used to monitor only exhaust HC and CO performance; they do not test for NOx or particulate exhaust emissions or evaporative HC emissions. In addition, in order to be used for I/M inspections (where the owner drives his vehicle into the inspection station for immediate test), the test by nature must be a hot cycle test. Therefore, it does not depict the high emission levels experienced during the cold start conditions of actual in-use operation as does the FTP. In addition, the typical short test is performed at idle in neutral or at some steady state load condition. In real life operation, vehicles are more often moving in transient load conditions (simulated in the FTP) which greatly affect the vehicle's actual emissions but are not evaluated by the typical short test. Moreover, to establish "reasonable correlation" with the FTP standards within these constraints, it was necessary to set up the I/M standards to limit errors of commission (short test failures of vehicles that would in fact pass the FTP standards). As a result, some vehicles that pass the short test may fail the FTP (errors of omission). Indeed, the I/M tests typically fail only those vehicles which exceed emission standards by a wide margin and thus have a disproportionately high adverse impact on air quality.[24]

Certification of vehicles or parts has never been based on the "reasonable correlation" established by existing short tests. Rather, certification is based on the expectation of compliance in-use with FTP-based emission standards for properly maintained and used vehicles. In order to maintain the expected air quality benefits of the certification program, EPA is attempting to establish test procedures for parts that will assure that typical vehicles will continue to comply with the federal emission standards after the aftermarket parts are installed. To that end, EPA must strive to minimize errors of omission (short test passing of vehicles that would in actuality fail the FTP test) during the part certification process, which involves ensuring that none of the controlled emission constituents fails the applicable emission standards.

Simply tightening the short test standards could improve the ability of the short test to identify vehicles which would also fail on the FTP test. However, this is not a satisfactory remedy to the problems raised by using existing short tests. First, very stringent short test standards could erroneously "fail" many vehicle designs which in actuality would pass the FTP standards (increase errors of commission).[25] This would clearly not benefit aftermarket part manufacturers in their attempt to certify. Secondly, more stringent short test standards would be of no use in evaluating parts which affect operating conditions not simulated on the existing short test (for example, cold start or power enrichment of the fuel system are not evaluated on a hot start, steady-state test). Thus, designs which pass even extremely stringent short test standards could fail the FTP-based vehicle certification standards.

In conclusion, if existing short tests were used as a basis for certifying parts, EPA would find itself certifying parts that could result in significant failures

[24] *The Emission Effects of Misfueling Five 1981-82 Model Year Automobiles with Ten continuous Tankfuls of Leaded Gasoline*, R. Bruce Michael, Emission Control Technology Division, Environmental Protection Agency, August 1983, p. 11. Within this report, there are examples of vehicles that pass the short test, but significantly fail the FTP standards. A copy of this report is in the public docket.

[25] Even with the current short test standards, a statistically small percentage of vehicles may fail these standards that could pass if tested according to the FTP and its standards.

by vehicles to meet emission standards. This would be inconsistent with the directive of section 207(b)(2) and could have a potentially significant detrimental effect on air quality. Therefore, use of existing short tests for certification is deemed unacceptable at this time.

3. Alternative Short Tests Considered

EPA also considered the option of using new short tests for certification of aftermarket parts and has tentatively rejected the alternatives considered. To develop a new short test that has good correlation to the FTP cycle would require development of a test that evaluates cold start emissions, incorporates a transient cycle, uses a chassis dynamometer, and uses a constant volume sampler (CVS) or other system to measure mass emissions. This would take considerable time and effort, potentially making this option unavailable for at least several more years. The development costs would be high and the resulting test probably would be more complex and costly to conduct than the existing short tests. Consequently, the potential cost savings to the parts manufacturer (the primary reason for adopting such an option) could be considerably reduced.

EPA has considered one particular alternative short test option in great detail. This option would use exhaust concentration measurement equipment to measure, on a continuous basis, the concentration of HC, CO, and NOx in the exhaust stream at the tailpipe. This is in contrast to the FTP which uses a CVS to sample the exhaust stream in proportion to the total exhaust flow and thus allows measurement of the mass (rather than concentration) of exhaust pollutants emitted over the driving cycle. Equipment which will measure and record exhaust concentration levels is considerably less expensive than CVS equipment. Due to this lower equipment cost, a test using concentration measurement equipment should also cost less than a CVS test. This test cost savings would benefit the aftermarket part manufacturers.

However, no concentration-based test procedure has been developed yet which will result in equivalent stringency to the FTP test. The major problem with concentration measurements is that they do not account for exhaust flow rates. A vehicle with relatively low concentrations of pollutants in the exhaust stream, but high exhaust flow rates, could have an unacceptably high total mass of pollutant emissions per mile driven. On the other hand, a vehicle with higher concentrations but a lower exhaust flow rate that more than compensates for the high concentrations would have lower total mass of pollutants per mile driven. Mass emissions testing is a more appropriate emission measurement than exhaust pipe concentrations when determining air quality impact. Since EPA is not aware of a reasonable method for accurately and inexpensively converting vehicle concentration measurements into equivalent mass emissions, EPA is not prepared to propose such a test procedure as an alternative to the FTP.

An alternative concentration-based scheme (considered by EPA) would not try to rely on prediction of mass emissions. Rather, the concentration levels of a properly performing representative vehicle in its OEM configuration would be compared to the concentration levels of the vehicle in its aftermarket part configuration. The aftermarket part would be presumed to have no significant impact on mass emissions if it did not result in an increase in average emission concentration over the entire test cycle. However, as noted above, the influence of exhaust flow rates could cause two vehicles with identical average concentrations to have significantly different mass emission rates. Because of this concern, EPA is not proposing this particular methodology. However, if based upon comments and information submitted to the docket, EPA is able to conclude that this problem with the use of an average concentration comparison can be reasonably overcome, EPA will reconsider this option for future proposal.

EPA also considered a short test alternative which would use CVS test equipment but would eliminate the cold start requirement of the FTP. While equipment costs would not be reduced, test cost could be reduced since the minimum ten hour vehicle soak portion of the FTP test sequence would be omitted. This might reduce the test cost by perhaps $100 to $200 per test and allow the vehicle to be immediately tested after vehicle delivery and pre-test preparation rather than waiting typically until the next day so as to perform a cold start test. However, such a test would be appropriate only for aftermarket parts which did not affect vehicle cold start emission performance. EPA does not know of any objective criteria which could be used to accurately predict whether a part affects FTP cold start emission performance except to run such a cold start test. Without such criteria to screen parts that might be eligible for proper emission performance evaluation without a cold start, EPA cannot propose this alternative short test procedure at this time.

4. Cost Considerations

Part manufacturers have indicated that the cost of the FTP cycle may make it prohibitive for use in certification. Present cost of an exhaust emission FTP test is approximately $600–900 per test.[26] With two tests per part (one test for the original vehicle configuration and one test with the part installed), the maximum emission tests cost to demonstrate compliance for certification is about $1800 (exclusive of any development or durability test cost that would be incurred in any event). This should not be considered an unreasonable cost for certification, especially when considering the potential adverse impact improperly designed or manufactured parts could have on vehicle emissions. Further, as discussed above, potentially acceptable alternative short tests considered by EPA would be more expensive than the current short test, perhaps as much as $250 or $650 per test.[27] In any event, EPA believes that the current certification program minimizes testing cost. Some parts can be certified using emission-critical parameters and therefore be exempt from emissions testing and incur no emission test cost burden.

Other parts can be certified by testing a vehicle in its original equipment configuration and retesting with the aftermarket part installed. Coupled with worst case testing, relatively few emission tests are required to certify a part for many vehicle installation applications. Thus, the cost difference between the FTP and an acceptable short test should not make a significant difference in a manufacturer's financial ability to certify.

EPA cannot propose the use of current short tests, or those alternative short tests considered by EPA, due to their unacceptable correlation to emission standards for certification purposes. EPA also finds no substantial economic benefit to the use of a short test since the present FTP test cycle gives the required correlation with emission standards for certification purposes, at a cost which is sufficiently low and competitive with any acceptable alternative already considered by EPA. However, if comments recommend improved short test designs which

[26] "Cost of Alternate Short Tests", EPA Memo from M. Sabourin to R. Larson, August 7, 1986, in the public docket.

[27] Ibid.

demonstrate significant cost savings and no significant risk of degraded emission performance, and which overcome the problems described above, EPA is willing to consider incorporating those short test alternatives in the final rule or proposing such alternatives at a future time. In the interim, EPA proposes to rely on FTP-based decisions for aftermarket part certification.

D. Proposed Certification Options and Durability Requirements

EPA has developed an aftermarket part certification proposal which greatly expands the number and types of parts which might apply for certification. This expanded program is designed to assure that only parts with proven emission performance qualify for certification. At the same time, great care has been taken to minimize compliance demonstration costs.

To certify aftermarket parts, the part manufacturer must prove its part will operate properly (i.e., not cause emission failure or unacceptable performance, or safety problems)[28] for the warranted useful life of the vehicle in which the part is installed. This approach is consistent with the current regulations.

1. Certification Using Emission-Critical Parameters

The current regulations provide two certification mechanisms. First, the manufacturer can use FTP test results to demonstrate that the installation of a part will not cause the vehicle to fail applicable emission standards. Alternatively the manufacturer can demonstrate performance equivalence of emission-critical parameters defined in the regulations. In either case, the part must be durability evaluated to assure that use of the parts will not cause vehicle emissions noncompliance during the full useful life of the vehicle.

At present, thirteen categories of replacement parts that are functionally equivalent to their corresponding OEM parts are allowed to certify by comparison of emission-critical parameters through the Voluntary Aftermarket Part Self-Certification Regulations.[29] Emission-critical parameters are those physical and functional characteristics of a part that control all significant effects of that part on the emissions output of the vehicle. The emission-critical parameters were developed by examining the OEM parts of certified vehicles for their emission critical components and designs. Under this procedure, it is presumed that if functional and design equivalency exists between an aftermarket part and the emission critical aspects of an OEM part, use of the aftermarket part will result in similar vehicle emission performance. The comparable OEM part has been fully certified through a rigorous test program that requires the part to be durable for its warranted useful life and allows the vehicle to pass FTP testing throughout its useful life. In the regulations, the durability requirements for any particular aftermarket replacement part are listed in the appendix to Part 85, Subpart V, with that part's emission-critical parameters. These procedures were developed in a joint effort between EPA and the automotive aftermarket manufacturing industry.

EPA is proposing to expand the applicability of the aftermarket part regulations to also include specialty parts and replacement parts which do not have defined emission-critical parameters. It would not be possible to certify specialty parts at this time using the emission-critical parameter approach. There is no comparable OEM or other certified part from which the necessary design parameters can be modeled to assure emission compliance and durability. Further, it would be unrealistic to begin any intensive effort to establish emission parameters for these parts in this rulemaking. This would first require that the FTP-basis for certification be established for each part and then its emission-critical parameters and their performance criteria determined. Therefore, for the interim, certification by FTP tesing is the proposed method of certification for specialty parts and other aftermarket parts which do not have defined emission-critical parameters. At a future date, as these parts are certified and emission-critical parameters are developed, it is likely that a new rulemaking will be opened to allow emission-critical parameter certification for these parts. An ever-increasing percentage of aftermarket parts can then be certified with proven durability and emission compliance performance based on the published emission-critical parameters.

For parts with emission-critical parameters and durability procedures defined in the regulations, the manufacturer is currently expected to routinely conform to these voluntary procedures. EPA proposes no change to these prescribed test procedures. However, we are concerned with the current provision of § 85.2114(d)(2) allowing the manufacturer to determine and use test procedures other than those described in the regulations. Unless the manufacturer took great care to assure that such other test procedures were at least as stringent as the prescribed procedures, these other test procedures could result in erosion in the stringency of the regulations. The prescribed test procedures were developed in a cooperative effort between the industry and EPA, are technically appropriate and reasonably efficient. They were developed and placed in the regulations to save the manufacturer testing cost compared to the FTP-based alternative demonstration. There is little or no need for a manufacturer to use alternative test procedures for parts with defined emission-critical parameters.

Due to the concern about possible erosion in stringency, EPA proposes to amend the regulations to require EPA approval of alternative test and durability evaluation procedures for parts with defined emission-critical parameters and specific evaluation procedures included within the regulations. EPA will approve such an alternative if the manufacturer can demonstrate that the alternative procedure results in an improved technical evaluation of the part's useful life performance or results in a significant cost savings to the manufacturer compared to the specifically prescribed procedures with no loss in technical validity.

2. Certification on the Basis of Emission Test Results

a. Overview.—The current regulations are only applicable to the thirteen parts with emission-critical parameters defined in the regulations. EPA is proposing to expand the applicability to include many other parts. These parts will not have emission-critical parameters defined in the regulations. Therefore, they must demonstrate certification by FTP testing. Further, durability evaluation procedures must also be defined. EPA proposes to adopt durability demonstration requirements commensurate with the expected likely impact on emission performance. Since durability demonstration can be expensive, we are proposing to have stringent requirements only for those parts which have a high potential for causing a vehicle to fail emission standards during its useful life. Other parts would have less stringent and less costly durability demonstration. Those parts least likely to result in in-use vehicle emissions noncompliance would

[28] The CAA, section 202(a)(4), states EPA's responsibility for not allowing use of devices or emission designs where the ". . . device, system, or element of design will cause or contribute to an unreasonable risk to public health, or safety in its operation or function."

[29] 45 FR 78448, November 25, 1980

be exempt from any durability demonstration.

The basic scheme requires the manufacturer to test a vehicle in its original equipment configuration and to repeat the test with the aftermarket part installed. The emissions levels are compared to the vehicle certification results obtained for the vehicle in its original equipment configurations. Any increase in emissions due to aftermarket part installation should not be great enough to have caused the vehicle to have failed emission standards when the vehicle was certified.

Certain parts cause driveability problems when their operation significantly deteriorates. These parts are expected to be replaced or repaired in-use to correct the driveability problem. For these parts, no durability evaluation is proposed to be required as long as the part manufacturer can demonstrate that the part will not increase the deterioration of the vehicle's other emission-related components. EPA proposes that the part manufacturer test the part in those applications expected to have the highest emission increase. Compliance will be demonstrated if this maximum emission increase is not greater than the difference between the original vehicle certification results and the standard. These results and standards are published annually by the EPA.

Other parts, while not increasing the deterioration of other emission-related components, will not cause such driveability problems and therefore their automatic replacement in-use is unlikely. These parts must be durability evaluated for their full warranted lives before being emission tested.

The final subset of the aftermarket parts may cause the vehicle's other emission-related components to excessively deteriorate. For this final subset of parts, EPA proposes durability evaluation for the full useful life of the vehicle. Compliance would be demonstrated via emission testing of the aged vehicle with the aged part installed.

b. *Non-critical emission-related parts which do not increase deterioration of other emission-related components.* EPA proposes that for specialty parts and replacement parts which do not have emission-critical parameters defined in the regulations, the manufacturer should first determine whether the part is a non-critical emission-related (non-CER) part.

Non-CER parts are emission-related parts which, when significantly deteriorated or failed create an emissions compliance concern, and which will also have an adverse impact on driveability, performance, or fuel economy significant enough to be easily detectable. Due to the decrease in performance, the driver would likely seek repair. Thus, the deteriorated or failed part would be generally repaired or replaced. Since in-use repairs and replacement would be generally done, the part does not have to be independently durability tested in order to demonstrate compliance.

There are two categories on non-CER parts: those that may cause greater deterioration in the emission performance of the vehicle's other emission-related parts compared to the OEM configuration (even if the aftermarket part is functioning properly as designed) and those that do not cause any such greater deterioration. This section deals with this latter category of non-CER parts. EPA proposes that for these non-CER parts, durability aging not be required.

EPA proposes that the aftermarket part manufacturer determine whether its parts might lead to additional deterioration of the vehicle's other emission-related components. The emission-related components include not only those components installed for the specific purpose of controlling emissions (such as exhaust gas recirculation valves) but also those other components, systems, or elements of design which must function appropriately to assure continued vehicle emission compliance (such as the fuel metering system).

The manufacturer must document the technical rationale it used to determine that the part will not cause accelerated deterioration to other emission-related components of the vehicle. This technical rationale should show that the candidate part has no significant physical or operational effect on the other emission-related systems. For example, the vehicle manufacturer might use OMS Advisory Circular No. 17F in its showing that the catalytic converter system was not adversely affected. The candidate part's effect on each major system must be addressed separately in the technical rationale. These major systems include but are not necessarily limited to the fuel system, the air injection system, the computer control system (including the oxygen sensor), the exhaust gas recirculation system, the evaporative emissions system, and the catalytic converter system.

Certification compliance of such a part can be determined by testing a vehicle application in its OEM configuration and in its aftermarket part configuration. Certification would be allowed if any increase in emissions resulting from the aftermarket part was less than or equal to the allowable margin that the vehicle manufacturer had when the OEM configuration was certified (that is, in the case of light-duty vehicles, the difference between the 50,000 mile certification emission levels and the standards). If the difference between OEM and aftermarket configuration test results is not greater than this allowable margin, the part will have demonstrated conformance to the basic constraint of the aftermarket part certification program: installation of the part would not be expected to cause vehicle emission noncompliance.

To minimize test costs, EPA recommends that the aftermarket part manufacturer demonstrate compliance via a worst case analysis. The worst case emissions compliance decision would be determined by selecting as a test vehicle that configuration from among the various applications which would be expected to have the greatest increase in emissions as a result of the aftermarket part's installation. Using this worst case change in emission, the worst case compliance decision would be determined by selecting the certification test vehicle from the various applications which has 50,000-mile emission certification levels closest to the standards. The combination of greatest change in emission and smallest vehicle compliance margin allows the certification of the other applications considered in the analysis but not actually emission tested.

It should be noted that the above described scheme does not require that the specific test vehicle actually meet emission standards when used by an aftermarket part manufactuer. Requiring the aftermarket part manufacturer to procure a complying vehicle could be more difficult and add a substantial cost requirement, especially when certifying a part for installation on older model year vehicles. This additional cost is unnecessary since the above scheme provides for a certification stringency analogous to that experienced by the OEM.

As preliminary guidance, a list of parts that should be considered as CER parts is included here to aid the part manufacturer by pointing to particular components that EPA considers have little chance of being identified as non-CER parts. For parts not appearing on this list, manufacturers will be required to make an appropriate technical decision even when further EPA guidance is not available. EPA requests suggestions and technical rationale for adding components to this list. Based on comments received to the docket this list may be expanded. The following

components are currently defined in 40 CFR 86.088–25 as critical emission-related components and therefore are not eligible for the non-CER durability exemption:

1. Catalytic converter.
2. Air injection system components.
3. Electronic engine control unit and its associated sensors (including oxygen sensor if installed) and actuators.
4. Exhaust gas recirculation system (including all related filters and control valves).
5. Positive crankcase ventilation valve.
6. Evaporative emission system (excluding canister air filter).
7. Particulate trap or trap-oxidizer system.

c. Critical emission-related parts which do not increase deterioration of other emission-related components. Not all emission-related parts cause unacceptable driveability problems when they deteriorate or fail. These other emission-related parts are called critical emission-related (CER) parts. CER parts were defined in 50 FR 10649 (March 15, 1985) as, ". . . those components which are designed primarily for emission control, or whose failure may result in no significant impairment (or perhaps even an improvement) in performance, driveability, and/or fuel economy as determined by the Administrator." Therefore, the consumer would have no way of knowing that emission failure had occurred. Without this knowledge of failure, it is likely the owner would continue to drive the vehicle with a failed part which could cause vehicle emission noncompliance. Therefore, it is necessary in the certification program to evaluate the impact of the part on vehicle emission performance over the full useful life of the part.

As was the case for non-CER parts, there are two types of CER parts—those that may cause greater deterioration in the emission performance of the vehicle's other emission-related parts compared to the OEM configuration (even if the aftermarket part is functioning properly as designed) and those that do not cause any such greater deterioration. This section of the proposal deals with this latter category of CER parts. The manufacturer should determine if its CER part affects deterioration of other emission-related components in the same manner as previously described for non-CER parts.

Since a part can be installed on a vehicle at very low mileage, it is necessary to evaluate the part for the full useful life of the vehicle or such lesser amount as the vehicle manufacturer recommends for OEM part replacement. This period would then be the warranted useful life of the aftermarket part (*see* part III.D.3 of this notice).

EPA proposes that for parts potentially affecting exhaust emissions, durability aging should be conducted by installing the part on an appropriate vehicle and driving the vehicle for the part's useful life over the durability cycle specified in 40 CFR Part 86, Appendix IV. The manufacturer may use an alternative durability cycle if it determines that the alternative cycle is at least as representative of typical in-use operation as the cycle described in this Appendix IV. Since the part may deteriorate differently depending on the vehicle application in which it is installed, EPA recommends that the manufacturer durability test the part in its "worst case" application. This worst case application is that application which is likely to result in the greatest deterioration in the part's emission performance compared to other applications.

Since these CER parts have been documented to not cause accelerated deterioration of other emission-related components, it is not necessary that the vehicle used for durability testing also be used for demonstrating emission compliance. Alternatively, the aftermarket part manufacturer may choose to demonstrate emission compliance of the aged part on another test vehicle. Again, however, useful life compliance of the test vehicle with the aftermarket part installed must be determined. The useful life emissions of the vehicle with the aged part installed should not exceed emissions standards for the part to demonstrate compliance.

So as not to require the test vehicles to be at or beyond their useful lives, EPA is proposing to allow the aftermarket part manufacturer to use a test vehicle before the end of its useful life. The vehicle would be tested in its OEM configuration and in the configuration with the aged aftermarket part installed. Any increase in emission levels cannot be greater than the allowable margin the vehicle had then originally certified. This is the same compliance demonstration scheme as used for non-CER parts, except the non-CER part need not be durability aged prior to emission testing. Again, EPA recommends using worst case analysis in order to minimize testing costs. The worst case analysis for CER parts would select emission test vehicles in the same manner as the manufacturer would for non-CER part certification described earlier. This worst case emission test vehicle may be different than the worst case durability vehicle.

d. Emission-related parts which may increase deterioration of other emission-related components. EPA expects that manufacturers will be able to determine that the great majority of their non-CER and CER parts will not accelerate deterioration of other emission-related components. In such cases, the parts can be evaluated independent of their impact on these other components. This allows the less stringent and less costly durability alternatives described above. When the manufacturer either knows that its aftermarket part is likely to cause additional deterioration to other vehicle emission-related components, or at least cannot determine that this will not occur, there is a reasonable chance that, with the part installed, a specific vehicle might fail emission standards during its useful life. Due to these synergistic effects, the total vehicle system must be durability aged and emission tested with the part installed.

EPA proposes to model aftermarket part durability evaluation of this subset of parts after the durability program now in place for vehicle certification. For parts expected to affect exhaust emissions, EPA proposes the aftermarket part manufacturer evaluate the part's impact on vehicle emission performance by installing the part on any vehicle selected from the engine family and model year upon which the part is to be used. The vehicle then accumulates mileage according to the driving cycle described in 40 CFR Part 86, Appendix IV or an alternative driving cycle which the manufacturer determines is at least as representative of typical in-use operation as the Appendix IV driving cycle. As in the case of vehicle manufacturers seeking certification of a vehicle with such a component installed, the emission performance of a vehicle with the part installed must be evaluated for the useful life of the vehicle since a part could be installed on a vehicle when it is practically new. Therefore, for light-duty vehicles the total mileage to be accumulated is 50,000 miles. EPA proposes that vehicle and component maintenance during durability evalution will be that allowed for vehicle certification in 40 CFR Part 86. For parts which the vehicle manufacturer recommends be replaced before 50,000 miles, the equivalent aftermarket part can be replaced with a duplicate new aftermarket part at or after the recommended mileage point and mileage accumulation corresponding to that recommended for the OEM part. Aftermarket part manufacturers may, at their option, conduct emission tests to monitor the vehicles's performance during this mileage accumulation.

To demonstrate certification compliance, EPA proposes to require the aftermarket part manufacturer to then have an FTP test conducted on the durability vehicle with the aged part installed. If the vehicle meets standards, then the part has demonstrated compliance. This procedure of durability evaluation followed by emission performance testing is to be completed for each engine family and model year application the aftermarket part manufacturer wishes to certify. By proposing these procedures for aftermarket part manufacturers, we are recommending the same compliance demonstration requirements as placed on a vehicle manufacturer when certifying a similar OEM part. EPA recognizes that this is a stringent requirement but necessary because of the impact on the total vehicle's emission control performance.

e. *Special cases.* The above discussion describes the general program EPA is proposing today for aftermarket part certification. However, three special cases warrant separate proposals.

Light-duty truck part durability—Light-duty vehicles have a a useful life of 50,000 miles. Light-duty trucks on the other hand have a useful life of 120,000 miles. Also, while the light-duty vehicle certification program requires vehicle durability mileage accumulation according to the 40 CFR Part 86, Appendix IV driving cycle, the light-duty truck certification requirements do not. Rather the vehicle manufacturer can determine and apply a technically appropriate methodology for evaluating light-duty truck emissions durability. The longer useful life for light-duty trucks affects aftermarket part manufacturers when certifying parts that potentially increase the deterioration of other emission-related components. As described earlier, EPA is proposing that the part manufacturer evaluate the emissions impact of such parts over the full useful life of the vehicle, or 120,000 miles in the case of light-duty trucks. Similarly, for CER parts with replacement intervals greater than 50,000 miles, EPA is proposing that the manufacturer evaluate durability of the part for that longer interval for its light-duty truck applications. On the other hand, non-CER parts and CER parts with recommended replacement intervals of 50,000 miles or less would be durability evaluated in the same manner for both light-duty vehicle and light-duty truck applications.

EPA considered allowing aftermarket part manufacturers the flexibility to determine a technically appropriate, alternative durability procedure for light-duty truck designs. To do so, the part manufacturer would have to determine an alternative to Appendix IV operation which appropriately evaluates the total system of emission-related components. However, aftermarket part manufacturers generally have that degree of design knowledge only for their individual parts. Therefore, they are not necessarily technically capable of determining an alternative methodology to Appendix IV vehicle mileage accumulation which would accurately and quantitatively evaluate both a part's durability and its synergistic effects on other emission-related components.

EPA recognizes, however, that 120,000 miles of vehicle durability evaluation is likely to be extremely costly for potential aftermarket part certifiers and would typically represent a greater durability expense than vehicle manufacturers experience if certifying a similar part. Therefore, EPA proposes to require the aftermarket part manufacturer to only conduct a maximum of 50,000 miles of vehicle emissions durability testing for its light-duty truck applications. Emission compliance for the remaining useful life would be determined by extrapolating to 120,000 miles results from emission tests conducted during that 50,000 miles of durability mileage accumulation. In order to allow this extrapolation, EPA proposes to require the manufacturer to use good engineering judgment, supported by test data if necessary, to predict any additional light-duty truck emission deterioration between 50,000 and 120,000 miles. Since it is not expected that total system durability will improve with the aftermarket part installed, the 50,000 to 120,000 mile deterioration is proposed to be at least as large as the vehicle manufacturer used in certifying the light-truck in its original equipment configuration. This durability method should provide reasonable assurance of light-truck useful life emission compliance.

Evaporative emission control system durability—For aftermarket parts which the manufacturer determines should only affect evaporative emission performance (that is, parts which in no way interact with exhaust emission-related components), EPA proposes durability requirements similar to those in place for vehicle certification. Evaporative system deterioration is probably not so much a function of vehicle mileage accumulation as it is other factors, such as system diurnal cycling. Consequently, simple vehicle mileage accumulation is likely not a satisfactory test of evaporative system deterioration. Therefore, EPA proposes to allow the aftermarket parts manufacturer to determine and document the appropriate methodology for durability evaluation of its evaporative emission control system parts and their synergistic effect on OEM evaporative emission components. As specified in the current regulations, compliance with the evaporative emission standards would be determined after completing durability evaluation by performing the evaporative emission portion of the FTP on the vehicle with the part installed.

Parts which affect on-board diagnostic systems—EPA proposes that no manufacturer may certify a part that would alter or render ineffective the on-board diagnostic system of any application vehicle. Although such a part may not cause the vehicle to fail emissions standards during the vehicle's useful life, it would defeat the vehicle's original ability to warn the driver when a malfunction has occurred in the original equipment design. This could lead to excess emissions due to lack of prompt repair. Further, this could place an unfair burden on the vehicle manufacturer and the vehicle owner to repair additional damage to the vehicle that may have been avoided had the driver been warned by a warning indicator that there was a problem with the vehicle's emission system.

A part may be certified that properly integrates with the existing diagnostic system. However, the activation of a dash warning light by a certain part's failure is not sufficient demonstration to warrant durability exemption as a non-CER part. Most OEM parts presently must undergo aging to prove durability for the full useful life of the vehicle despite their ability to activate an on-board warning light in case of failure (e.g., oxygen sensor). In addition, the driver may be inclined to ignore a malfunction warning light if the vehicle continues to run properly, whereas when a non-CER part malfunctions, the driver will be inclined to repair the problem since the part's failure generally is accompanied by driveability, performance, and/or fuel economy problems.

f. Self-certification. EPA proposes that the voluntary aftermarket part certification program continue to be conducted primarily as a self-certification program by the part manufacturer, and with little direct involvement by EPA. For example, EPA proposes to require the aftermarket part manufacturer to determine if its part is a CER part and thus subject to durability

aging or a non-CER part which does not increase the deterioration of other emission-related components and is thus exempt from durability aging. However, durability aging represents extra cost and time before certification. Thus, the manufacturer has an incentive to avoid these costs and time delays by determining that its part is non-CER and exempt from durability aging. Conceivably, this could bias the manufacturer and result in an inappropriate decision. Therefore, EPA proposes to provide an opportunity for EPA review and approval of these decisions prior to certification. This auditing provision should go a long way toward encouraging the manufacturer to make the most technically appropriate decision.

Even in those cases where EPA did not choose to exercise its auditing option and accepted the manufacturer's independent determination, the manufacturer will have an incentive to make technically appropriate durability decisions. The Agency would not likely bring action for civil penalties as a result of a determination made by the manufacturer in good faith, even if EPA disagrees with it. However, if such an incorrect determination were made by a part manufacturer (e.g., if the part experiences excessive failures or causes deterioration to original emission components before warranted mileage), the part would be decertified on all application vehicles for which it is certified and the part manufacturer could be liable for all results of decertification specified in 40 CFR § 85.2121. This includes notification to all distributors of the part that it is no longer certified and an offer to replace decertified parts in the customer's inventory with certified replacement parts. If unable to provide replacement certified parts, the part manufacturer may be required, at the customer's request, to repurchase such inventory at a reasonable price. These actions could reflect negatively on the part manufacturer's marketing image and cost it in lost sales and settlements with distributors. There is a strong incentive, therefore, to rightly characterize parts to be certified to avoid the negative effect of decertification.

g. Alternatives considered. In structuring the durability and emission compliance demonstration requirements as recommended above, EPA has tried to balance the emissions risk against the complexity and cost of the certification requirements. The less likely the potential impact on in-use emissions, the less the evaluation and demonstration burden placed on the certifying manufacturer. EPA has considered additional options which would expand upon this concept to allow even more durability and test options depending on the likely impact on in-use emissions.

This greater flexibility has been recommended by SEMA. Included in the docket and analyzed in the EPA Issue Paper are two specific SEMA suggestions. Both suggestions recommend varying levels of stringency for certification of various parts depending on the parts' similarity in design and function to OEM parts and their potential impact on emission performance. The types of certification suggested were: (1) engineering evaluation; (2) parameter comparison bench testing; (3) comparison of feedback control system operation; (4) back-to-back emission testing (testing a vehicle without, then again with, the aftermarket part) on a pre-described cycle monitoring tailpipe emissions by continuous raw analysis; (5) emission testing using only one portion of the FTP cycle; (6) full FTP emission testing.

In evaluating SEMA's suggested procedure, and a similar alternative developed by EPA (and described in the Issues Paper in the docket), EPA does see some merit in some form of certification by hierarchy. This allows full FTP certification for parts that are harder to characterize or more critical to emission performance, while not penalizing parts that are easy to characterize or likely to have relatively less potential to significantly affect emissions. At the same time, we feel that there are several issues which make this alternative impracticable at this time. First, engineering evaluation is a broad conceptual term which leaves much room for interpretation and subjectivity. EPA is proposing limited use of engineering judgment as it affects part durability evaluation. However, SEMA's recommendation greatly expands its use. The resultant degree of subjectivity is inappropriate for these regulations. Further clarification and strict narrowing of application would be needed.

Second, the method for making parameter comparisons would have to be developed and analyzed in detail since this is a very critical concern in determining whether the procedure is practicable and adequately evaluates components. Again, "bench test" is a conceptual term; specific test procedures would have to be developed and compared to FTP results for the same type of parts to see if the tests are adequate.

Third, SEMA suggests that a part can be proven to have equivalent emission control impact to an OEM part by observing its impact on the vehicle's feedback control system. However, there are many elements of the vehicle's emission control design which are not monitored by the feedback control system. An aftermarket part could affect these elements of design and thus adversely affect vehicle emission performance.

Fourth, as discussed earlier a test to adequately measure emissions using continuous concentration analysis has not yet been developed. It is unlikely that a mass-equivalent methodology for using concentration measurements can be developed in the near future. A separate set of equally stringent concentration-based exhaust emission standards would be equally difficult and time consuming to develop. Therefore, this portion of SEMA's recommendation does not appear practical enough for consideration at this time.

EPA appreciates that the cost of the FTP could be significant to some small aftermarket part manufacturers and has incorporated features in this proposal which minimize the number of tests. Nevertheless, further cost saving options warrant thoughtful consideration. For the options considered by EPA, however, the technical difficulties associated with adequately assuring emission compliance do not seem resolvable in the near term. Therefore, no short test options are proposed. As discussed earlier, the Agency is willing to further consider short test options if generally supported by the industry and if the technical hurdles such as outlined above appear resolvable in an effective way.

The durability and emission test proposals described above are summarized in flow chart form in Attachment I to this preamble.

Comments are requested on the specific durability and emission compliance test procedures discussed above including the procedures for determining durability and emission test requirements.

3. Warranty Requirements

EPA proposes to clarify the existing requirement (40 CFR 85.2117) that all aftermarket parts to be certified must be warranted by the part manufacturer not to cause emission noncompliance for the remaining warranted useful life of the vehicle on which it is installed. This warranty does not excuse the OEM's responsibility to honor a valid warranty claim as discussed in section III(A) of this preamble. Since some parts may be installed on a vehicle with low mileage, the part manufacturer generally should

be prepared to warrant these parts for the full useful life of the vehicle (potentially 50,000 miles). In the case of replacement parts, however, the part must be warranted for at least the useful life of the equivalent OEM component if that is less than the useful life of the vehicle.

In addition, the Agency proposes a minimum "acceptable quality" warranty that the part manufacturer must agree to in order to certify (as specified in 40 CFR 85.2117(a) and (a)(2) in the proposed regulation revisions). Vehicle manufacturers do not require replacement of emission-related maintenance parts more frequently than 2 years/24,000 miles. Thus, the technology exists for all OEM emission-related parts to last at least that long. It is reasonable to adopt such a minimum useful life requirement to assure that only acceptable quality parts which the manufacturer will stand behind obtain EPA certification. EPA has determined that implementation of an "acceptable quality" warranty, in addition to an emission warranty, is appropriate to provide added customer protection when the remaining warranted useful life of the vehicle is less than 2 years/24,000 miles. This provision would require the manufacturer to warrant that the part will perform its intended function in a reasonable and acceptable manner for at least 2 years or 24,000 miles, whichever comes first.

E. Denial of a Consumer Warranty Claim Based on the use of an Uncertified Replacement Part

The existing regulations are intended to implement Congress' mandate (in section 207 of the Clean Air Act) that vehicle manufacturers not be allowed to deny warranty claims when a properly installed and certified part is used for repair or maintenance. To deny a warranty claim for the use of an uncertified part, the current regulations require the vehicle manufacturer to present evidence that the uncertified part was either defective in materials or workmanship, or not equivalent from an emissions standpoint to the original equipment part.[30] Further, the uncertified part must be relevant to the failure for any warranty denial to occur.[31] The Motor Vehicle Manufacturers Association (MVMA) and APRA in their legal challenges to the regulation claimed that EPA reached ". . . beyond its authority in forcing them to carry this burden of proof (of demonstrating equivalency) before they may deny a warranty claim."[32] The Court cautioned EPA not to "shift . . . the burden of demonstrating equivalency . . . to the vehicle manufacturers" but permitted EPA to ". . . require vehicle manufacturers to submit a statement (or other evidence) indicating why an uncertified part was relevant to the vehicles' emission failure."[33]

While the vehicle manufacturer can be expected to demonstrate that the uncertified part caused the emissions failure, it is considerably more difficult to prove that the uncertified part was defective or not equivalent to an OEM part. EPA proposes to reword this section of the regulations to allow the manufacturer to deny a warranty claim based on the demonstration that the defect in or damage to the vehicle's emission system was caused by the uncertified part.[34] Further, the manufacturer must make a good faith assertion that the removal of the uncertified part and the repair, replacement, or recalibration of any OEM part that was replaced or subsequently damaged by the uncertified part will repair the emissions failure. The manufacturer would provide the consumer with a written copy of the manufacturer's technical argument and warranty denial and a list of available "objective evidence" upon which the manufacturer has based the decision. This evidence would then be made available to the consumer upon request.

This approach is consistent with the Court's decision.[35] It provides that the manufacturer not only make assertions, but also make available any "objective evidence" that the uncertified part caused a defect in or damage to the emission control system. However, this approach does not require the vehicle manufacturer to prove that the uncertified part is non-equivalent to OEM components of similar function, and does not involve any testing or data development. By defining the vehicle manufacturer's burden, this approach provides the consumer (and EPA when necessary) with the available evidence to evaluate the manufacturer's claims.

The Court indicated that it will depend on EPA's expertise to decide what is the permissible information required for the vehicle manufacturer to demonstrate that the uncertified part was relevant to the emissions failure.[36] EPA is proposing that the vehicle manufacturer provide both written assertions and a list of available "objective evidence" (described below) used in the warranty denial determination as an adequate demonstration of cause.

For example, the vehicle manufacturer would provide to the consumer a written assertion that the uncertified part was the cause of a vehicle's emission test failure due to the part's own failure and/or subsequent damage to other engine or emissions components caused by the uncertified part. Alternatively, the vehicle manufacturer could assert that the uncertified part was installed improperly and therefore caused failure to the vehicle emissions system. However, in this second case, as under the current regulations, a warranty cannot be denied based on improper installation by an OEM-authorized facility since the consumer who, in good faith, had his/her vehicle repaired at an authorized facility should have assurance that they will not lose their warranty. In addition, the written assertion would state that the removal of the uncertified part and the reinstallation and recalibration of any OEM part that was replaced or subsequently damaged by the uncertified part would be expected to repair the emissions failure.

As discussed above, the vehicle manufacturer also would provide the consumer with a list of all objective evidence. Any evidence used by the vehicle manufacturer in the warranty denial would be deemed available information and should be accessible to the consumer upon request under this rule. Some examples of what might constitute "objective evidence" (but not limited to these examples) are:

a. Past vehicle manufacturer data showing similar phenomena.

b. List of all warranty claims of a similar nature.

c. All diagnostic data collected on the vehicle for which the determination was made.

d. List of any recall information pertaining to any subsequently damaged components.

e. Any further information directly impacting the decision being made.

These criteria do not require any testing or development of data, but make available to the consumer (and EPA, if necessary) any pre-existing data or information used by the manufacturer in his determination, as a basis for the consumer to evaluate the vehicle manufacturer's claims. If the vehicle manufacturer claims other components have been subsequently damaged, the vehicle manufacturer would have to

[30] 40 CFR 85.2105(b)(1)

[31] 40 CFR 85.2104(h)(3)

[32] *APRA* v. *EPA*, 720 F.2d at 157.

[33] Ibid., at 158, n. 63.

[34] This would be consistent with the consumer warranty provisions of the Magnuson-Moss Act. See 16 CFR 700.10(c).

[35] *APRA* v. *EPA*, 720 F.2d at 158, n. 63.

[36] Ibid.

specify which components were affected and how the uncertified part had caused the damage. This information must be provided in writing to the consumer along with any objective evidence used in the determination.

EPA proposes to extend coverage in this section to both certified and uncertified specialty parts, in addition to uncertified *replacement* parts. In each case, the vehicle manufacturer could deny a warranty claim if the part can be related to the emissions failure according to the above criteria. The consumer is also in a position to challenge the manufacturer's assertions by restoring the vehicle using certified OEM parts and repeating the emission test.

The proposed rules should relieve the vehicle manufacturer from any burden of proof that the uncertified part is not equivalent from an emissions standpoint to an OEM part, while attempting to assure that the consumer is treated fairly.

In an attempt to thoroughly explore a range of possible alternatives in this issue, EPA did consider four other options which the Agency found inadequate. Option 1 would call for EPA certification testing of suspect uncertified parts. This removes the burden of proof from the vehicle manufacturer that the uncertified part was defective; however, it transfers that burden to EPA. The purpose of the voluntary certification program is to give the aftermarket part manufacturer a forum to certify its part as functionally equivalent to the existing OEM or other certified part. Option 1 eliminates the part manufacturer's incentive to certify its own parts since EPA would have to test them when a claim arises. It would not be necessary for the part manufacturer to directly challenge the vehicle manufacturer for a warranty denial claim blamed on an uncertified part since EPA would be determining the part's impact. In addition to this negative program impact, this option could require resources well beyond those which EPA would be able to commit to such a project to complete the evaluation in a timely manner. Therefore, this option is unacceptable.

Option 2 would allow warranty denial based solely on the use of an uncertified part. This lifts the burden of proof from the manufacturer, but also greatly discourages the use of aftermarket parts and could therefore be deemed anti-competitive.[37] Thus, this option is rejected.

[37] Such an option likely would also violate the Magnuson-Moss Act. *See* 16 CFR 700.10(c).

Option 3 goes a step beyond Option 2 by requiring that the manufacturer not only identify a part as uncertified, but assert that the uncertified part caused the failure. While requiring a basis for the OEM's denial, this option lifts from the vehicles manufacturer the burden of proof that the uncertified part was faulty or not equivalent to an OEM part. In so doing, however, it does not give the consumer any recourse to test the vehicle manufacturer's claim. This option is viewed as insufficient since allowing denial of a warranty without any objective proof is subject to abuse by the manufacturer. Furthermore, the Court indicated that EPA could require evidence that shows that part was the cause of the emission failure.[38] Option 3 is therefore rejected.

Option 4 builds on Option 3. It would require that the manufacturer not only assert that the emissions failure was caused by the uncertified part, but also assert that removing the uncertified part and restoring the vehicle to the OEM configuration with OEM parts will allow the vehicle to pass the short test. Although this option approaches what EPA would deem as adequate information, the consumer would not yet have sufficient information to intelligently decide whether the denial should be contested. The proposed approach is similar to Option 4 except in the amount of information available to the consumer. In addition to the assertion requirements, under the proposal the vehicle manufacturer must supply the consumer with any objective evidence used in the warranty denial determination.

F. Denial of a Warranty Claim Based on the Use of a Certified Specialty Part

If EPA adopts its proposal to have purchasers of certified specialty parts go directly to the part manufacturer for warranty repair, the vehicle manufacturer could then deny a warranty claim if the emissions failure is due to the use of the certified specialty part. EPA proposes that the vehicle manufacturer use the same procedures for determining and documenting its warranty denial as proposed for uncertified parts.

G. Labeling and Identification of Certified Parts

The MVMA contended that EPA's regulations did not provide adequate procedures for identifying the manufacturers of defective parts. The vehicle manufacturers cannot recover their reimbursable expenses if they are unable to identify the certified part manufacturer. MVMA challenged two aspects of EPA's label and identification regulations. First, MVMA argued that an identification symbol be permanent. Secondly, MVMA argued that EPA should require that part manufacturers use manufacturer unique symbols, to aid in identification of the part manufacturer. On the first subject, EPA conceded the validity of the argument and the Court agreed.

The Court dismissed MVMA's second objection (lack of a unique symbol requirement) on the technical ground that MVMA had failed to raise the issue during the NPRM comment period. However, EPA agrees with MVMA's desire for a unique symbol requirement, and it is included in this proposal. EPA proposes to require that all labels be durable through the useful life of the part as specified by the manufacturer. This NPRM also proposes to require the part manufacturer to use a unique symbol if the manufacturer's name (or the name of the party responsible for reimbursement to a vehicle manufacturer for a defective part) is not placed on a certified part.

An alternative to using a unique symbol is for EPA to issue a number for each certification submittal. The part manufacturer would be required to place the number on the part (with the same restrictions as for the name), and if the vehicle manufacturer needed to identify the part manufacturer it could contact EPA for the list. The list could also be published periodically. EPA requests comments on this type of labeling system. Based on these comments and further analyses, EPA may adopt this option in addition to or in replacement of the proposal to require the manufacturer's name or unique symbol on the part.

IV. Reporting and Recordkeeping Requirements

These proposed revisions to the existing regulations would impose some new reporting and recordkeeping requirements on aftermarket part manufacturers that choose to take advantage of the certification program, as well as the vehicle manufacturers. The addition of a reimbursement mechanism will require recordkeeping. The certification program will be extended to include specialty part manufacturers and to participate they will need to keep records and report certification. The new requirements for labeling may increase some manufacturer material expenses. The Agency does not believe the additional reporting and recordkeeping

[38] *Ibid.*

requirements are burdensome. An economic impact analysis was prepared for the original rulemaking and is contained in the Central Docket EN–79–8. The document concluded that the regulations did not pose a significant cost to the parties involved. The modifications being proposed here insignificantly affect that cost.

The information collection requirements contained in the rule which this notice proposes to amend have been cleared previously by OMB under control number 2060–0085. The changes to the information requirements proposed in this notice have been submitted to OMB for review under the Paperwork Reduction Act of 1980, 5 U.S.C. 3501 et seq. Comments on these information collection requirements should be submitted to the Office of Information and Regulatory Affairs of OMB—marked Attention: Desk Officer for EPA.

V. Regulatory Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a regulatory impact analysis. This regulation should be considered non- "major" because it meets none of the conditions for a major regulation. It will have an annual effect on the economy of less than $100 million. It will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local Government agencies, or geographic regions. Nor will there be any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This action was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Comments from OMB to EPA and any EPA response to those comments are available for public inspection in the docket for this rulemaking; Docket No. EN–84–08. The EPA's Central Docket Section (A–130) is located at 401 M Street SW., Washington, DC, 20460.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA is required to determine whether a proposed regulation will have a significant impact on a substantial number of small entities so as to require a preliminary regulatory flexibility analysis.

Since these proposed revisions affect a voluntary program, I hereby certify that this proposed regulation will not have a significant adverse impact on a substantial number of small entities. In large part, this proposal responds to a request by the specialty equipment manufacturers to also be included in this voluntary program. This request has been satisfied with a reasonable cost program.

EPA has designed this proposal to minimize certification demonstration costs while at the same time providing necessary assurance of adequate emission control. Two measures have been proposed to reduce durability costs. First, for non-CER components, in-use repair or replacement is assumed, exempting these parts from any independent certification durability demonstration. Second, for CER parts, EPA expects that many will be able to demonstrate no additional deterioration of other emission-related components; these parts can then be aged on a vehicle which in itself does not need to meet emission standards. This should help limit the durability test cost of these aftermarket parts.

Emission compliance demonstration cost is also minimized by not requiring the emission test vehicle to meet standards. Rather the change in emissions due to aftermarket part installation is quantified and compared to the pre-existing certification margin for the vehicle designs. Again, vehicle and test costs are minimized. Finally, worst-case testing is allowed to reduce the number of required test vehicles and emission tests. Only in the case of short test versus FTP test costs were we unable to find a more economic, acceptable cost-reduction alternative. Even in this case, the estimated cost differential between the required FTP tests and potentially acceptable short tests is likely less than $1,500 per part certified. This should not represent a significant barrier to aftermarket part certification.

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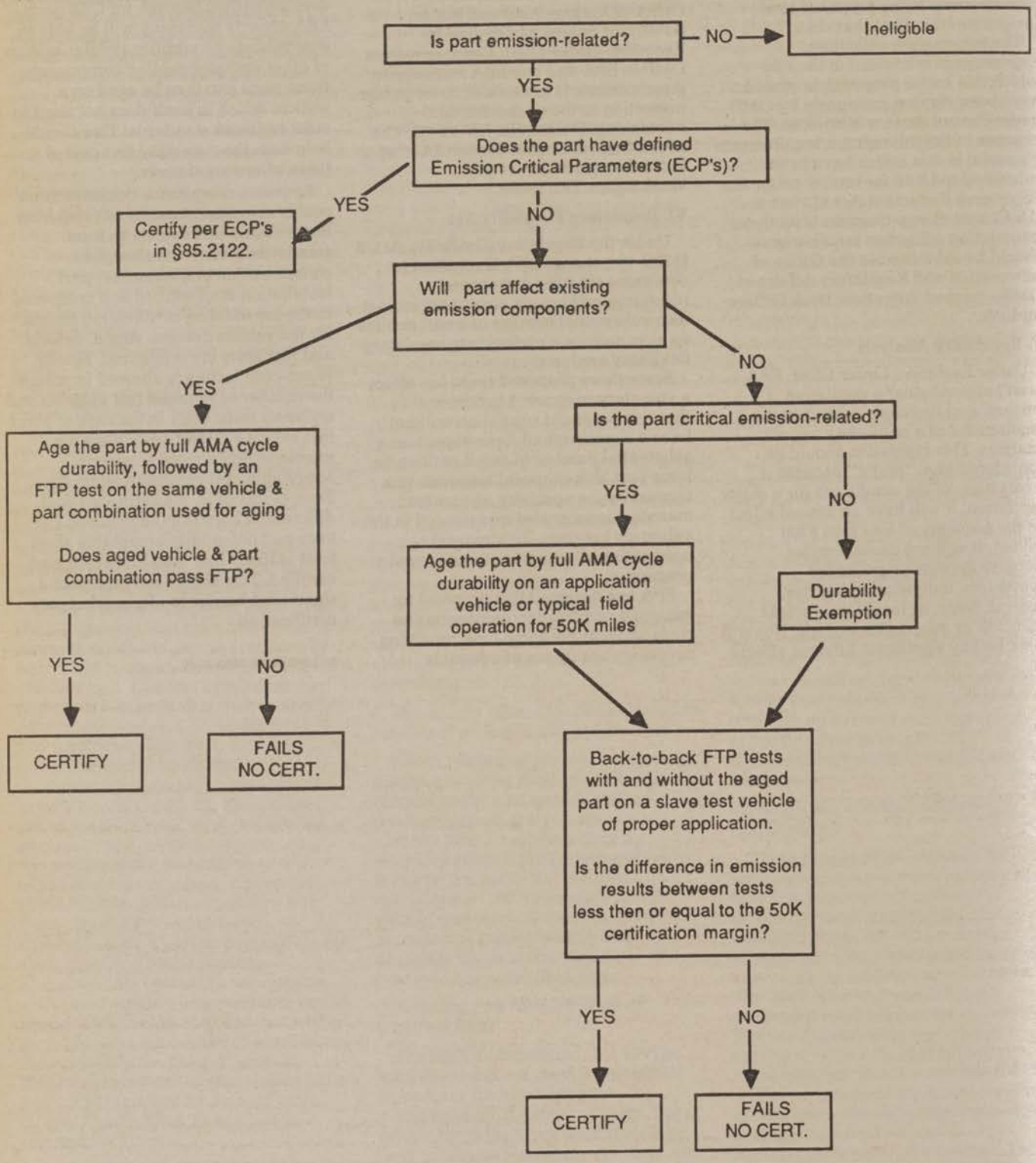
Attachment I

Aftermarket Parts Certification Procedure



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APPENDIX—EXPLANATION OF SPECIFIC CHANGES

Section	Change	Reason
1. Part 85, Authority	None	
2. Subpart V	Nomenclature change from "Director" to "Division Director," from "Director's" to "Division Director's," and from "Deputy Assistant Administrator" to "Office Director."	For clarification and new designation or responsibility.
3. Section 85.2102:		
(a)(14)	Add paragraph to define "Replacement Part."	Clarification.
(a)(15)	Add paragraph to define "Specialty Parts."	Clarification.
(a)(16)	Add paragraph to define "Objective Evidence."	Clarification.
4. Section 85.2105:		
Title	Change from "Replacement Parts" to "Aftermarket Parts."	Expanded to include specialty parts.
(a)	Revise language to identify exception in paragraph (b)	To alert reader to exception to this statement that disallows denial of warranty to certified parts.
(b)	Revised language to establish new criteria for vehicle manufacturers warranty denial.	In response to court order.
5. Section 85.2106:		
(e)(2)	Revise language to establish criteria link	Clarifies with respect to § 85.2105(b).
(f)	Correct line 10 from "to" to "of."	Typographical error.
(h)	Add language to identify part manufacturer's responsibility.	Establish consumer recourse.
6. Section 85.2107:		
(c)	Revise language to exempt certified specialty parts	Expanded to included specialty parts.
(e)	Add language to identify reimbursement language	To be consistent with § 85.2117.
(f)	Add language to include warranty denial of certified specialty parts.	Expanded for consideration of specialty parts.
7. Section 85.2110:		
(b)	Revise language to correct mailing address from "EN-397" to "EN-397F" and correct Office name.	Division is now under a new office.
8. Section 85.2112:		
Introduction	Revise by deleting language that limits regulation to parts with emission-critical parameters.	To open regulation to all emission-related after-market parts.
9. Section 85.2113:		
(e)	Change language from "Deputy Assistant Administrator" to "Office Director."	Responsibility change.
(g)	Change language from "Director" to "Division Director."	Clarification.
(l)–(r)	Add language to define new concepts	Clarification of new terms used in these revisions.
10. Section 85.2114	Revise language in entire section to explain the certification process.	To make certification available to all aftermarket parts requires these new testing methods.
11. Section 85.2115:		
(a)(1)(iii)	Revise language to include submission of durability test information.	To be consistent with new durability requirements presented in § 85.2114.
(a)(1(viii)	Revise language to identify new requirements	To include information about new durability requirements and exemption requirements.
(a)(4)	Revise language to change address from "EN-340" to "EN340F."	Change of address.
12. Section 85.2116:		
(a)(4)	Revise language to change from "§ 85.2114(c)" to "§ 85.2114(e)."	Redesignation required by changes made to § 85.2114.
(a)(7)	Revised language to add the word "or" to the end of the paragraph.	To accommodate addition of new information in paragraph (a)(8).
(a)(8)	Add language that facilitates possible inadequacy of durability documentation.	To accommodate inclusion of new durability demonstration requirements.
13. Section 85.2117:	Revised language to cover warranty requirements for all aftermarket parts.	To accommodate the expansion of the regulation to cover all aftermarket parts.
14. Section 85.2119:		
(a)	Revise language to require that label be durable and readable for the defined useful life of the part.	This is a new requirement.
(b)	Revise language to change from "identification" to "unique identification."	To include the new requirement of label uniqueness.
15. Section 85.2121:		
(a)(1)(ii)(c)	Add language that allows decertification for improper durability demonstration.	To increase incentive to part manufacturers to perform appropriate durability demonstration.
(a)(1)(vii)	Add language that allows decertification when adequate documentation to support durability demonstration is not submitted or insufficient.	To increase incentive to part manufacturers to submit information required for proper evaluation.

List of Subjects in 40 CFR Part 85

Imports, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements, Research, Warranties.

Dated: December 23, 1986.

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, 40 CFR Part 85 is proposed to be amended as follows:

PART 85—[AMENDED]

1. The authority for Part 85 continues to read as follows:

Authority: Sec. 203, 207, 208, and 301 (a). Clean Air Act, as amended (42 U.S.C. 7522, 7541, 7542, and 7601 (a)).

2. Subpart V is amended by making a nomenclature change in each occurrence in the entire subpart from "Director" to "Division Director", from "Director's" to "Division Director's", and from "Deputy Assistant Administrator" to "Office Director."

3. Section 85.2102 is amended by adding paragraphs (a)(14), (a)(15), and (a)(16) to read as follows:

§ 85.2102 Definitions.

(a) * * *

(14) "Replacement Part" means a part used only for maintenance or repair which functionally duplicates, from an emissions standpoint, the original equipment part it is replacing.

(15) "Specialty Part" means either a modified replacement part which alters or goes beyond the original equipment included in a new vehicle or an add-on part which is not found on a vehicle when it leaves the production line.

(16) "Objective Evidence" means pre-existing test or field data, warranty claims, recall information, or any other pre-existing information used to support a claim.

4. Section 85.2105 is amended by revising the section heading, and by revising paragraphs (a) and (b) to read as follows:

§ 85.2105 Aftermarket parts.

(a) Except as provided in paragraph (b) of this section, no emission performance warranty claim shall be denied on the basis of the use of a properly installed certified part in the maintenance or repair of a vehicle.

(b) Except as provided in § 85.2104(h), a vehicle manufacturer may deny an emission performance warranty claim on the basis of an uncertified replacement part used in the maintenance or repair of a vehicle, or on the basis of a certified or uncertified specialty part, if the vehicle manufacturer can demonstrate that the defect or damage to the vehicle's emission control system resulting in the vehicle's failure to meet emission standards was caused by use of the part. To deny a warranty claim, the vehicle manufacturer shall submit a written document to the vehicle owner that:

(1) Establishes a causal connection between the emissions short test failure and use of the part, and,

(2) Asserts that:

(A) Removal of the part and installation of any comparable certified or original equipment part previously removed or replaced during installation of the uncertified (or certified specialty) part will resolve the observed emissions failure in the vehicle, or,

(B) Use of the part has caused subsequent damage to other specified certified emission control components such that replacement of these components would also be necessary to resolve the observed vehicle emissions failure, and

(3) Lists all objective evidence relevant to the emissions failure that was used in the determination to deny warranty. This evidence must be made available to the vehicle owner or EPA upon request, and

(4) The owner is unable to rebut the evidence.

* * * * *

5. Section 85.2106 is amended by revising paragraphs (e)(2) and (f) by adding paragraph (h) to read as follows:

§ 85.2106 Warranty claim procedures.

* * * * *

(e) * * *

(2) Provide the owner, in writing with an explanation of the basis upon which the claim is being denied according to all criteria specified in § 85.2105(b).

(f) Failure to notify an owner within the required time period (as determined under paragraph (d) of this section) for reasons that are not attributable to the vehicle owner or events which are not beyond the control of the vehicle manufacturer or the repair facility, shall result in the vehicle manufacturer being responsible for repairing the vehicle free of charge to the vehicle owner.

* * * * *

(h) If a warranty claim for a certified specialty part has been successfully denied by the vehicle manufacturer under paragraph (b) of § 85.2105, the manufacturer of the specialty part shall honor its warranty as provided in § 85.2117(b).

6. Section 85.2107 is amended by revising paragraph (c) and adding paragraphs (e) and (f) to read as follows

§ 85.2107 Warranty remedy.

* * * * *

(c) The remedy provided under paragraph (a) of this section shall include the repair or replacement of certified parts (except certified specialty parts).

* * * * *

(e) The vehicle manufacturer may seek reimbursement for repair costs incurred when a certified replacement part is determined to be the cause of emissions failure in accordance with the criteria in § 85.2117.

(f) The vehicle manufacturer may deny warranty for a failure caused by a certified or uncertified specialty part or an uncertified replacement part in accordance with the criteria in §85.2105.

7. Section 85.2110 is amended by revising paragraph (b) to read as follows:

§ 85.2110 Submission of owners' manuals and warranty statements to EPA.

* * * * *

(b) All materials described in paragraph (a) of this section shall be sent to: Director, Field Operation and Support Division (EN–397F), Office of Mobile Sources, Environmental Protection Agency, 401 "M" Street SW., Washington, DC 20460.

8. Section 85.2112 is revised to read as follows:

§ 85.2112 Applicability.

The provisions of §§ 85.2112 through 85.2122 apply to all emission-related automotive aftermarket parts which are to be installed in or on 1968 and later model year vehicles.

9. Section 85.2113 is amended by revising paragraphs (e) and (g) and adding paragraphs (l) through (r) to read as follows:

§ 85.2113 Definitions.

* * * * *

(e) "Office Director" means the Director of the Office of Mobile Sources of the Agency or his or her delegate.

* * * * *

(g) "Division Director" means the Director of the Manufacturer's Operations Division of the Office of Mobile Sources of the Agency or his or her delegate.

* * * * *

(l) "Replacement Part"—is as defined in § 85.2102(a)(14).

(m) "Specialty Parts"—is as defined in § 85.2102(a)(15).

(n) "Objective Evidence"—is as defined in § 85.2102(a)(16).

(o) "Critical Emission-Related Components" means those components which are designed primarily for

emission control and whose failure may result in a significant increase in emissions accompanied by no significant impairment in performance, driveability, and/or fuel economy as determined by the Administrator.

(p) "Non-Critical Emission-Related Components" means those emission-related components for which any emissions failure caused by these components affects the driveability, performance, and/or fuel economy of the vehicle at a level detectable by the driver and likely to result in near term repair of failing components and correction of the emissions failure.

(q) "Valid Emission Performance Warranty Claim" means one in which there is no evidence that the vehicle had not been properly maintained and operated in accordance with manufacturer instructions; the vehicle failed to conform to applicable emission standards as measured by an EPA-approved type of emissions warranty test during its useful life, or exhibited physical failure during its useful life; and, the owner is subject to sanction as a result of test failure.

(r) "Reasonable Expense" means any expense incurred due to the repair of a warrenty failure caused by a non-original equipment certified part, including all charges in any expense categories that would be considered payable by the involved vehicle manufacturer to its authorized dealer under a similar warranty situation where an original equipment part was the cause of the failure. The expense categories shall include but are not limited to the cost of labor, materials, recordkeeping, and billing.

10. Section 85.2114 is revised to read as follows:

§ 85.2114 Basis of certification.

(a) An automotive aftermarket part manufacturer may certify a part either:

(1) On the basis of demonstrating conformance of that part with all of the relevant Emission-Critical Parameters set forth for that part in § 85.2122; or,

(2) On the basis of performing emission and durability tests in each applicable vehicle configuration for which the part is to be certified in accordance with the requirements of this section.

(b) The only emission test which can be used to obtain certification pursuant to paragraph (a)(2) of this section is the Federal Test Procedure as set forth in the applicable portions of 40 CFR Part 86 (except as provided in paragraph (b)(6) of this section). Certification testing for aftermarket parts shall be carried out in the following way:

(1) For parts certifying under aging requirements in paragraph (e)(7) of this section, at least one emission test is required. The test(s) shall be performed according to the Federal Test Procedure on the same vehicle (set to the vehicle manufacturer's specifications) and part that was previously aged in accordance with paragraph (e)(7) of this section. The results of all tests performed shall be averaged for each emission constituent. The average values will be used to determine compliance, as described in paragraph (b)(4)(i) of this section, with the applicable emission standards.

(2) For parts certifying under aging requirements in paragraph (e)(8) of this section, upon completion of aging one FTP test shall be performed with the previously aged after market part installed, and one FTP test shall be performed without the part installed on the same vehicle. If more than two tests are performed, an equivalent number of tests must be performed with and without the aftermarket part. The results of all tests performed with the part installed shall be averaged and the results of all tests performed without the part installed shall be averaged for each emission constituent. The average values will be used to determine compliance, as described in paragraph (b)(4)(ii) of this section, with the applicable emission standards.

(3) For parts determined by the part manufacturer (with appropriate technical rationale) to affect only evaporative emissions performance, upon completion of a durability demonstraion in accordance with paragraph (e)(9) of this section, one evaporative emissions portion of the FTP test shall be performed with the previously aged aftermarket part installed and the same test shall be performed without the part installed on the same vehicle. If more than two tests are performed, an equivalent number of tests must be performed with and without the aftermarket part installed. The results of all tests performed with the part installed shall be averaged and the results of all tests performed without the part installed shall be averaged for each emission constituent. The average values will be used to determine compliance, as described in paragraph (b)(4)(ii) of this section, with the applicable evaporative emission standards.

(4) The test results must demonstrate that the proper installation of the certified aftermarket part will not cause the vehicle to fail to meet any applicable Federal emission requirements under section 202 of the Act:

(i) For parts described in paragraph (b)(1) of this section, for which the applicable warranted mileage as determined under § 85.2116(a) is:

(A) 50,000 miles or less, the test results shall meet all applicable federal emission requirements under section 202 of the Act;

(B) Over 50,000 miles, the 50,000 mile test results shall be projected out to the warranted mileage point using a deterioration factor deemed appropriate by the part manufacturer but not to be less than the original vehicle manufacturer's certification deterioration factor corresponding to the engine family of the test vehicle. The results shall meet all the requirements under section 202 of the Act.

(ii) For parts described in paragraphs (b)(2) and (b)(3) of this section for which the applicable warranted mileage as determined under § 85.2117(a) is:

(A) 50,000 miles or less, the difference in FTP emission results between the tests with the previously aged aftermarket part installed and the test without the aftermarket part installed shall be less than or equal to the corresponding difference in emission results between the applicable certification emission standards and the 50,000 mile projected emission results of the corresponding vehicle certification emission-data vehicle.

(B) Over 50,000 miles, the 50,000 mile test results from each test shall be projected out to the warranted mileage point using a deterioration factor deemed appropriate by the part manufacturer but not to be less than the vehicle manufacturer's certification deterioration factor corresponding to the engine family of the test vehicle. At this projected mileage point, the difference in FTP emission results between the tests with the aftermarket part installed and the tests without the aftermarket part installed shall be less than or equal to the corresponding difference in emission results between the applicable certification emission standards and the useful life mileage projected emission results of the corresponding vehicle certification emission-data vehicle.

(iii) The test vehicle selected for certification testing in accordance with paragraphs (b)(1), (b)(2), and (b)(3) of this section is not required to meet federal emission standards. However, the vehicle shall have representative emissions performance that is close to the standards and have no obvious emission defects. It shall be tuned properly and set to original manufacturer's specifications before testing is performed.

(5) Prior to certification testing as provided in paragraphs (a) and (b) of this section, the actual part used for

certification testing, determined to be representative under paragraph (c)(4) of this section, shall be aged as provided in paragraph (e) of this section.

(6) The following portions of the Federal Test Procedure are not required to be performed when certifying a part in accordance with paragraph (a)(2) of this section:

(i) The evaporative emissions portion if the manufacturer of the part has a reasonable basis for believing that the use of the part has no effect on the vehicle's evaporative emissions;

(ii) The exhaust emissions portion if the part manufacturer has a reasonable basis for believing that the part affects only the evaporative emissions of a vehicle; and

(iii) Other portions therein which the part manufacturer believes are not relevant, *provided that* the part manufacturer has requested and been granted a waiver in writing by the Division Director for excluding such portion.

(7) For the purpose of certifying parts on the basis of emission and durability testing for use in vehicle or engine configurations other than those tested under paragraph (a)(2) of this section, there must be a showing set out in the notification of intent to certify that the configuration tested represents the "worst case" with respect to emissions of those configurations for which the results are to be applicable.

(i) Such a showing shall include:

(A) A technical discussion that supports the conclusion that the configuration tested represents the worst case, and

(B) All data that support the above conclusion.

(ii) The worst case configuration shall be that configuration which is least likely to meet the applicable emission standards among those configurations for which the emission test results under paragraph (a)(2) of this section are to be applied. This determination:

(A) Shall be based on a technical judgement by the manufacturer of the impact of the particular design or calibration of a particular parameter or combination of paramenters and/or an analysis of appropriate data, and

(B) Shall only be applicable for configurations that are required to meet the same or less stringent (higher) emission standards than those applicable to the configuration tested.

(c) An aftermarket part may be certified in accordance with § 85.2114(a)(1) only if the part's emission-critical parameters as set forth in § 85.2122(a) are equivalent to those of the original equipment or previously certified part it is to replace.

(1) A part that replaces more than one part may be certified in accordance with § 85.2114(a)(1) only if the part meets the applicable parameters of § 85.2122 for each part or parts which the aftermarket part is to replace. If a part is to replace more than one part or an entire system, compliance must be demonstrated for all emission critical parameters involved, except those which relate solely to the interface between the parts being replaced by the modified part.

(2) Compliance with the Emission-Critical Parameters may be demonstrated by compliance with the relevant Test Procedure and Criteria specified in the Appendix to this Subpart V.

(3) An aftermarket part manufacturer may certify a part on the basis of conformance with all Emission-Critical Parameters only after the part manufacturer has performed such tests, analyses, or other procedures necessary to ascertain with a high degree of certainty the emission-critical parameter specifications and tolerances for the original equipment or previously certified part for which an equivalent certified part is to be used.

(i) If information is available to identify the applicable emission-critical parameters, the prospective certifier must use such information.

(ii) If sampling and analysis of original equipment or previously certified parts is relied upon, the prospective certifier must use sound statistical sampling techniques to ascertain the mean and range of the applicable emission parameters.

(4) Certification in accordance with § 85.2114(a)(1) or (2) must be based upon tests utilizing representative production aftermarket parts selected in a random manner in accordance with accepted statistical procedures.

(d) Only emission-related components shall be certified pursuant to this subpart. The Administrator shall deny certification to parts determined not to be emission-related.

(e) Before a part may be certified pursuant to this subpart, evidence must exist to demonstrate that the part will not cause a vehicle to exceed emission standards during the full interval for which the part is to be certified.

(1) For parts for which the comparable original equipment part has no scheduled replacement, this interval shall be the useful life of the motor vehicle or motor vehicle engine.

(2) If any provision of 40 CFR Part 86 establishes a minimum replacement or service interval for a part during vehicle or engine certification, then no aftermarket part of that type may be certified with a shorter replacement or service interval.

(3) If a Recommended Durability Procedure is contained in the Appendix to this Subpart V for a part, then that test shall be used to demonstrate the durability of the part.

(4) To demonstrate durability for all parts for which no Recommended Durability Procedure is contained in the Appendix, procedures for durability demonstration are provided in paragraphs (e)(5) through (e)(9) of this section.

(5) The part manufacturer may submit a document that asserts, based on adequate technical rationale, that the candidate part will not contribute to additional deterioration of original emission components of any application vehicle. This technical rationale shall show that the candidate part has no significant physical or operational effect on the major emission systems of the vehicle. The part's effect on each major emission system must be addressed separately in the technical rationale.

(6) If the part manufacturer is unable to determine a reasonable basis for believing that use of the part to be certified will not cause additional deterioration to existing emission-related original equipment parts, the part shall be certified as provided in paragraph (e)(7) of this section.

(7) If the condition of paragraph (e)(5) of this section is not met, the following durability demonstration is required:

(i) For parts with a warranted useful life mileage of less than or equal to 50,000 miles, the test part shall be aged using the durability driving cycle provided in Part 86, Appendix IV, or an alternate cycle that the aftermarket part manufacturer has determined is at least as representative as typical in-use operation, to a mileage equivalent to the warranted useful life mileage on each applicable vehicle for which the part is to be certified (except as provided in paragraph (b)(7) of this section).

(ii) For parts with a warranted useful life mileage of greater than 50,000 miles, the test part shall be aged using the durability driving cycle provided in Part 86, Appendix IV, or an alternate cycle that the aftermarket part manufacturer has determined is at least as representative of typical in-use operation, to 50,000 miles on each applicable vehicle for which the part is to be certified (except as provided in paragraph (b)(7) of this section).

(iii) Upon completion of paragraphs (e)(7)(i) or (e)(7)(ii) of this section, the same aged part shall be tested on the same vehicle on which it was aged according to the procedures provided in

paragraph (b)(1) and (b)(3) of this section.

(8) If the condition of paragraph (e)(5) of this section is met, the following durability demonstration is required:

(i) Critical emission-related components shall be aged using the durability driving cycle provided in Part 86, Appendix IV, or an alternate cycle that the aftermarket part manufacturer has determined is at least as representative of typical in-use operation, to a mileage equivalent to the highest warranted useful life mileage of all application vehicles for which the part is to be certified. For parts with a warranted useful life mileage of greater than 50,000 miles, the test part shall be aged for 50,000 miles. The aged part will be used for certification testing as provided in paragraph (b)(2) of this section.

(ii) Non-critical emission-related components shall be exempt from aging based on a document submitted by the part manufacturer giving adequate demonstration that the part will be replaced at failure under normal operating conditions due to poor driveability, poor performance, and/or poor fuel economy (on-board diagnostics or use of warning indicators as covered in paragraph (g) of this section is not adequate demonstration that the certified part will be replaced). A representative part, as described in paragraph (c)(4) of this section, shall be used for certification as provided in paragraph (b)(2) of this section.

(9) For parts which only affect evaporative emissions performance, the aftermarket part manufacturer shall determine and document the appropriate durability demonstration. The aged part will be tested in accordance with paragraph (b)(3) of this section.

(10) The Administrator reserves the right to review any application to determine if the submitted documents adequately demonstrate durability. If a part manufacturer has not received an EPA response to an application for certification within 40 days, the application is accepted as submitted. However, acceptance of the documents required under paragraph (e)(5) through (e)(9) of this section is not an exemption from later decertification under the guidelines of § 85–2121.

(f) Installation of any certified part shall not result in the removal or rendering inoperative of any original equipment component other than the component being replaced, require the readjustment of any other component to other than the original manufacturer specifications, cause or contribute to an unreasonable risk to the public health, welfare or safety, or result in any additional range of parameter adjustability or accessibility to adjustment than that of the vehicle manufacturer's parts.

(g) Installation of any certified part shall not alter or render inoperative the on-board diagnostic system incorporated by the original equipment manufacturer. The certified part may integrate with the existing diagnostic system if it does not alter or render inoperative the system. However, use of on-board diagnostics or warning indicators to show part failure is *not* sufficient to classify a part as non-critical emission-related for purposes of certification as provided in paragraph (e)(8)(ii) of this section.

11. Section 85.2115 is amended by revising paragraphs (a)(1)(iii), (a)(1)(viii), and (a)(4) to read as follows:

§ 85.2115 Notification of intent to certify.

(a) * * *

(1) * * *

(iii) A description of the tests and methods utilized to demonstrate compliance with §§ 85.2114(a)(1) and 85.2114(c); except that, if the procedure utilized is recommended in the Appendix, then only a statement to this effect is necessary. If certification is sought in accordance with § 85.2114(a)(2), all durability documentation and results required under § 85.2114(e)(5) through (e)(9) of this section, and the results of all emission tests performed as provided in § 85.2114(b), shall be included. A description of all statistical methods and analyses used to determine the emission-critical parameters of the original equipment parts and compliance of the certified part(s) with those parameters including numbers of parts tested, selection criteria, means, variance, etc.

* * * * *

(viii) The information required pursuant to § 85.2114(b)(7), (e)(5), and (e)(8)(ii) if applicable; and

* * * * *

(4) The notification shall be submitted to: Director, Manufacturer's Operations Division (EN340F), 401 M Street SW., Washington, DC 20460.

* * * * *

12. Section 85.2116 is amended by revising paragraphs (a)(4) and (a)(7) and by adding paragraph (a)(8) to read as follows:

§ 85.2116 Objections to certification.

(a) * * *

(4) The durability requirement of § 85.2114(e) has not been complied with:

* * * * *

(7) Information and/or data required to be in the notification of intent to certify as provided by § 85.2115 have not been provided: or,

(8) Documentation submitted under § 85.2114(e)(5) or (e)(9) was determined inadequate for durability exemption.

* * * * *

13. Section 85.2117 is revised to read as follows:

§ 85.2117 Warranty.

(a) As a condition of certification, the aftermarket part manufacturer shall warrant that if the certified part is properly installed it will not cause a vehicle to exceed Federal emission requirements as adjudged by an emission test approved by EPA under section 207(b)(1) of the Act, and:

(1) Except as provided in paragraph (a)(2) of this section this warranty shall extend for the longer of the remaining useful life of all application vehicles or for the same period specified for an equivalent original equipment component, if any.

(2) The certified aftermarket part shall be warranted for a minimum of 2 years or 24,000 miles whichever comes first, if this period exceeds the remaining useful life defined in paragraph (a)(1) of this section.

(b) For specialty parts, the part manufacturer's minimum obligation under this warranty is to provide reimbursement to the vehicle owner upon receipt of a valid warranty claim for all reasonable expenses incurred as a result of repairs performed to the owner's vehicle for emission failure caused by the use of the certified specialty part.

(c) For replacement parts, the part manufacturer's minimum obligation under this warranty shall be to reimburse vehicle manufacturers for all reasonable expenses incurred as a result of honoring a valid emission performance warranty claim which arose because of the use of the certified replacement part.

(1) The reimbursement process is initiated when the vehicle manufacturer provides to the parts manufacturer a valid emission performance warranty claim establishing why the part was the cause of an emissions failure, and containing a bill for all reasonable expenses incurred to repair any defect or damage caused by the certified replacement part.

(2) The part manufacturer shall respond within 30 days to contest the claim or the claim will be considered valid and payment must be made to the vehicle manufacturer.

(3) If a claim is contested on a timely basis, the involved manufacturers shall have discussions to attempt resolution on at least two occasions, the first to occur within 14 days of reimbursement denial by the part manufacturer.

(4) If a contested claim is not resolved by discussion between the involved manufacturers within 30 days of reimbursement denial, the dispute shall be decided by using independent binding arbitration.

(5) The loser of the arbitration settlement is liable for all direct arbitration costs and the reasonable expenses incurred due to the original repairs involving the part in question.

(6) If either involved manufacturer refuses to participate in the arbitration process, that party loses arbitration.

(7) If a part manufacturer refuses to pay a lost arbitration settlement, the involved part will be decertified as per § 85.2121, provided that if the part manufacturer seeks judicial review of the arbitration decision, decertification will be withheld pending the outcome of judicial review.

(d) Nothing in this section precludes a part manufacturer from expanding its warranty to include reimbursement to any additional parties it desires.

14. Section 85.2119 is amended by revising paragraphs (a) and (b) to read as follows:

§ 85.2119 Labeling requirements.

(a) Except for those components specified in paragraph (b) of this section, each part certified pursuant to these regulations shall have "Certified to EPA Standards" and the name of the aftermarket part manufacturer or other party designated to determine the validity of warranty claims placed on the part. The name of the aftermarket part manufacturer or other party (as referred to above) must be made durable and readable for the defined useful life of the part.

(b) In lieu of the information contained in paragraph (a) of this section, the part may contain unique identification markings that can be used to refer to the information required in paragraph (a) of this section. A description of the marking and notification that such marking is intended in lieu of the information required above must be made to the Agency in the Notification of Intent to Certify.

* * * * *

15. Section 85.2121 is amended by adding paragraphs (a)(1)(ii)(C) and (a)(1)(vii) to read as follows:

§ 85.2121 Decertification.

(a) * * *

(1) * * *

(ii) * * *

(C) The procedures used for part aging for durability demonstration were not in substantial compliance with the durability cycle required by § 85.2114(e).

* * * * *

(vii) Documentation required to support the type of durability demonstration used for a part under § 85.2114(e):

(A) Were not submitted for the part, or

(B) Were insufficient to justify a claim of durability exemption status.

* * * * *

[FR Doc. 87-134 Filed 1-8-87; 8:45 am]

BILLING CODE 6560-50-M

Federal Register

Friday
January 9, 1987

Part III

National Archives and Records Administration

36 CFR Part 1232

Audiovisual Records Management; Final Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1232

Audiovisual Records Management

AGENCY: National Archives and Records Administration (NARA).

ACTION: Final rule.

SUMMARY: This rule revises agency program responsibilities for audiovisual records management, providing more specific standards and instructions to Federal agencies on the creation, maintenance, use, and disposition of audiovisual records. The rule is intended to correct problems found by NARA during records management surveys and during the accessioning of audiovisual records into the National Archives.

EFFECTIVE DATE: This regulation is effective January 9, 1987. The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of January 9, 1987.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION: NARA issued a notice of proposed rulemaking on May 13, 1986 (51 FR 17497) that included proposed regulations on audiovisual records management (36 CFR Part 1232) and other changes to NARA records management regulations (36 CFR Parts 1228, 1236, and 1239). One comment was received in response to the notice of proposed rulemaking which addressed the audiovisual records management regulation. The agency suggested that the term "Unstable Safety Film" used in § 1232.4(b)(2) appeared contradictory and suggested deleting the word "Safety" from the term. We have not adopted that comment since most of the film that exhibits deterioration is prelabeled by the manufacturer as "safety" film.

The audiovisual records management provisions were excluded from the final rule on records management published by NARA on June 30, 1986 (51 FR 23537) because of the need to obtain approval from the Director of the Federal Register of the publications incorporated by reference in Part 1232. The audiovisual records management regulations are the subject of the current final rule. Only minor editorial changes have been made.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1232

Archives and records, Incorporation by reference.

For the reasons set forth in the preamble, Chapter XII of Title 36 of the Code of Federal Regulations is amended as follows:

PART 1232—AUDIOVISUAL RECORDS MANAGEMENT

1. The authority citation for Part 1232 continues to read as follows:

Authority: 44 U.S.C. 2904 and 3101.

2. Section 1232.4 is revised to read as follows:

§ 1232.4 Agency program responsibilities.

(a) Each Federal agency, in providing for effective controls over the creation of records, shall establish an appropriate program for the management of audiovisual records which program shall be governed by the following guidelines:

(1) Prescribe the types of records to be created and maintained so that audiovisual operations and their products are properly documented (guidelines describing the appropriate types of records are in § 1228.184 of this chapter).

(2) For contractor-produced audiovisual records, establish contract specifications which will protect the Government's legal title and control over all such audiovisual media and related documentation.

(3) Keep inventories indicating the location of all generations of audiovisual records, whether in agency storage, a Federal records center, or in a commercial facility such as a laboratory or library distribution center.

(4) Schedule disposition of all audiovisual records as soon as practicable after creation, following the instruction in GRS 21, Audiovisual Records, or a specific agency records schedule approved by the Archivist of the United States. The scheduling of permanent records must take into account the different record elements identified in § 1228.184, and must always include related finding aids.

(5) Review agency audiovisual recordkeeping practices for possible improvement.

(b) Each Federal agency, in establishing a program for proper storage, maintenance, and use of audiovisual records, shall implement the following standards in its practices:

(1) *Nitrate film:* Remove nitrocellulose-base motion pictures, still pictures, and aerial film from records storage areas and place them in vaults meeting the standards prescribed in NFPA 40–1982, Standard for the Storage and Handling of Cellulose Nitrate Motion Picture Film, which is incorporated by reference. Because of their age and inherent instability, immediately offer nitrate films to NARA so that they may be reviewed for disposal or copied and destroyed, as appropriate. NFPA 40–1982 is available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. This standard is also available for inspection at the Office of the Federal Register, Room 8301, 1100 L Street NW, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(2) *Unstable safety film:* Identify permanent or unscheduled audiovisual records composed of diacetate or other early forms of acetate film that are starting to deteriorate and offer them to NARA so that they can be copied. Although not hazardous like nitrate film, acetate film will deteriorate over time.

(3) *Storage conditions:*

(i) Provide audiovisual records storage facilities secure from unauthorized access and make them safe from fire, water, flood, chemical or gas damage, and from other harmful conditions. See NFPA 232–1986, Standard for the Protection of Records issued by the National Fire Protection Association, which is incorporated by reference. The standard is available from the National Fire Protection Association, Batterymarch Park, Quincy, MA 02269. This standard is also available for inspection at the Office of the Federal Register, Room 8301, 1100 L Street NW, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(ii) Maintain good ambient storage conditions for audiovisual records. Generally, the temperature should not exceed 70 degrees F and relative humidity should be maintained in the range of 40–60%. Avoid fluctuating temperatures and humidities. Cooler temperatures and lower relative humidities are recommended for the

storage of color films, and, for that reason, NARA will make a limited amount of temporary space available for the cold storage of Federal civilian agencies' color originals, negatives, and masters, provided the records are scheduled as permanent and are inactive.

(iii) For the storage of permanent or unscheduled records, utilize audiovisual storage containers or enclosures made of noncorroding metal, inert plastics, paper products and other safe materials recommended and specified in ANSI standards: PH1.43–1985, For Photography (Film)—Processed Safety Film—Storage; PH1.48–1982, For Photography (Film and Slides)—Black-and-White Photographic Paper Prints—Practice for Storage; and ANSI/ASC PH1.53–1984, For Photography (Processing)—Processed Films, Plates, and Papers—Filing Enclosures and Containers for Storage. These standards, which are incorporated by reference, are available from ANSI, Inc., 1430 Broadway, New York, NY 10018. These standards are also available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street NW, Washington, DC. This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(iv) Maintain originals and use copies (e.g., negatives and prints) separately, whenever practicable.

(4) *Maintenance and operations.*

(i) Because of their extreme vulnerability to damage, handle audiovisual records in accordance with commonly accepted industry practices. For further information, consult ANSI, Inc., 1430 Broadway, New York, NY 10018 and the Society of Motion Picture and Television Engineers, Inc., 862 Scarsdale Avenue, Scarsdale, NY 10583. Use only personnel trained to perform their audiovisual duties and responsibilities.

(ii) Maintain continuous custody of permanent or unscheduled audiovisual records. Make loans of such records outside of the agency only if a record copy is maintained in the agency's custody at all times.

(iii) Take all steps necessary to prevent accidental or deliberate alteration or erasure of audiovisual records.

(iv) Do not erase information recorded on permanent or unscheduled magnetic sound or video media.

(v) If different versions of audiovisual productions (e.g., short and long versions or foreign-language versions) are prepared, keep an unaltered copy of each version for record purposes.

(vi) Maintain the association between audiovisual records and the finding aids for them, such as captions and published and unpublished catalogs.

(5) *Formats.*

(i) When ordering photographic materials for permanent or unscheduled records, ensure that still picture negatives and motion picture preprints (negatives, masters, etc.) are composed of cellulose triacetate or polyester bases and are processed in accordance with industry standards as specified in ANSI/ASC PH1.28–1984, For Photography (Film)—Archival Records, Silver-Gelatin Type, on Cellulose Ester Base, or ANSI/ASC PH1.41–1984, For Photography (Film)—Archival Records, Silver-Gelatin Type, on Polyester Base, which are incorporated by reference. It is particularly important to limit residual sodium thiosulphate on newly processed photographic film, black and white or color, to the range of .002 to .004 grams per meter. Request laboratories to process film in accordance with this standard. Excessive hypo will shorten the longevity of film and accelerate color fading. If using reversal type processing, request full photographic reversal; i.e., develop, bleach, expose, develop, fix, and wash. The standards cited in this paragraph are available from ANSI, Inc., 1430 Broadway, New York, NY 10018. These standards are also available for inspection at the Office of the Federal Register, Room 8301, 1100 L Street NW, Washington, DC. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR Part 51. These materials are incorporated by reference as they exist on the date of approval and a notice of any change in these materials will be published in the **Federal Register.**

(ii) Do not use motion pictures in a final "A & B" format (two precisely matched reels designed to be printed together) for the reproduction of excerpts or stock footage.

(iii) Use only industrial or professional format video tapes (e.g., 1-inch, ¾-inch) for record copies of permanent or unscheduled recordings. Limit the use of consumer formats (e.g., VHS, Beta) to distribution or reference copies or to subjects scheduled for disposal.

(iv) Record permanent or unscheduled audio recordings on ¼-inch open-reel tapes at 3¾ or 7½ inches per second, full track, using professional unrecorded polyester splice-free tape stock. Audio cassettes are not sufficiently durable to be used for permanent records.

(c) The disposition of audiovisual records shall be carried out in the same manner as that prescribed for other types of records in Part 1228 of this chapter. For further instructions on the disposition of audiovisual records see § 1228.184 of this chapter, Audiovisual Records.

Dated: December 11, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 87–415 Filed 1–8–87; 8:45 am]

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federal register

Friday
January 9, 1987

Part IV

Department of the Interior

Bureau of Land Management

Publication of Order in Accordance With Interior Board of Land Appeals Direction; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-620-87-4111-02-2410]

Publication of Order in Accordance With IBLA Direction

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of recent IBLA order to all persons having an interest in certain appeals filed by associations cited as Satellite.

SUMMARY: By order of December 18, 1986, the Interior Board of Land Appeals dismissed a number of appeals that had been filed by associations cited as Satellite. The appeals requested review of decisions rendered by the Bureau of Land Management rejecting applications for oil and gas leases on federal lands or cancelling such leases because of various violations of the Department of the Interior's regulations governing participation in and receipt of oil and gas leases under the simultaneous oil and gas leasing program. The Bureau of Land Management was directed in the order to publish the order to ensure proper notice to all persons having an interest in the appellant associations. This Notice carries out the direction in the order.

FOR FURTHER INFORMATION CONTACT: The appropriate Bureau of Land Management State Office for any case as cited in the order:

Evelyn Axelson, Colorado State Office (943), 2850 Youngfield Street, Lakewood, Colorado 80215, Telephone (303) 236–1772

Pearl Tillman, Eastern States Office (971), 350 South Pickett Street, Alexandria, Virginia 22304, Telephone (703) 274–0162

Cynthia Embretson, Montana State Office (922), 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107, Telephone (406) 657–6566

Martha Rivera, New Mexico State Office (943C), Montoya Federal Building, P.O. Box 1449, Santa Fe, New Mexico 87501, Telephone (505) 988–6036

Robert Lopez, Utah State Office (942), 324 South State Street, Salt Lake City, Utah 84111, Telephone (801) 524–3237

Andrew Tarshis, Wyoming State Office (923), 2515 Warren Avenue, P.O. Box 1828, Cheyenne, Wyoming 82003, Telephone (307) 772–2297.

SUPPLEMENTARY INFORMATION: An errata sheet was issued by IBLA on December 22, 1986, correcting the order of December 18, 1986. The order that follows in its entirety includes the corrections.

Dated: January 5, 1987.

David C. O'Neal,

Deputy Director.

OFFICE OF HEARINGS AND APPEALS

Interior Board of Land Appeals

4015 Wilson Boulevard

Arlington, VA 22203

[IBLA 86-438, etc.[1]; Satellite 8211101, etc.; W 83528, etc.]

Oil and Gas Appeals Dismissed; Order

December 18, 1986.

These appeals by associations denominated as Satellite seek review of decisions rendered by the Bureau of Land Management (BLM) rejecting applications for oil and gas leases on federal lands or cancelling such leases because of various violations of the Department's regulations governing participation in and receipt of oil and gas leases under the simultaneous oil and gas leasing program. Numerous extensions of time have been granted these appellants to file a statement of reasons in support of their appeals in response to timely requests therefor.[2] The time has now passed under the third extension of time granted appellants for submission of a statement of reasons and no statement of reasons or a timely request for another extension has been filed in any of these cases.

An appeal to the Board is subject to summary dismissal for failure to file a statement of reasons within the time required. 43 CFR 4.402. It is in the public interest to bring adjudication involving oil and gas leasing of the public lands to an end in a timely manner so as not to preclude other legitimate use of the lands. *See Geosearch, Inc.* v. *Hodel,* 801 F.2d 1250, 1252, (10th Cir. 1986), interpreting the judicial review limitations of 30 U.S.C. sec. 226–2 (1982). In addition, section 102(a)(5) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701(a)(5) (1982), declares that it is the policy of the Congress that the Secretary "structure adjudication procedures to assure * * * expeditious decisionmaking." In light of the foregoing, it is the regular practice of the Board to dismiss appeals where no statement of reasons is filed.

We note that most of the issues raised in these appeals were recently adjudicated by the United States District Court for the District of Columbia in *Satellite 8301123, et al.* v. *Hodel,* No. 86–0456, decided November 21, 1986. The Court affirmed the Board's decision, reported at 89 IBLA 388 (1985), which upheld BLM's rejection of oil and gas lease applications for reasons similar to those advanced by BLM in the present cases.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43, CFR 4.1, the subject appeals are dismissed.[3]

To insure notice of this order to all persons having an interest in the appellant associations, BLM is directed to obtain publication of this order in the Federal Register at the earliest practicable time.

Wm. Philip Horton,

Chief Administrative Judge.

I concur:

Bruce R. Harris,

Administrative Judge.

BILLING CODE 4310-84-M

[1] See Appendix for a list of all IBLA numbers, names of appellants, State BLM serial numbers, and subject matter.

[2] Previous extensions were to July 21, 1986; October 6, 1986; and December 5, 1986.

[3] By order dated December 15, 1986, the Board granted an additional extension of time for the filing of a statement of reasons in the following Satellite appeals, in response to timely filed request therefor. IBLA 86–552 (Satellite 8309175); IBLA 86–584 (Satellite 8408339); IBLA 86–825 and 86–826 (Satellite 8309193); IBLA 86–967 (Satellite 8307138) and IBLA 86–996 (Satellite 8309175). Thus, the foregoing appeals are not included in this order of dismissal.

APPENDIX

86-438	SATELLITE 8211101	W 83528	LEASE CANCELLED
86-439	SATELLITE 8211105	W 83548	LEASE CANCELLED
86-440	SATELLITE 8211102	W 83606	LEASE CANCELLED
86-441	SATELLITE 8301126	W 84047	LEASE CANCELLED
86-442	SATELLITE 8301115	W 84074	LEASE CANCELLED
86-443	SATELLITE 8301103	W 84080	LEASE CANCELLED
86-444	SATELLITE 8301114	W 84188	LEASE CANCELLED
86-445	SATELLITE 8301115	W 84189	LEASE CANCELLED
86-446	SATELLITE 8301105	W 84238	LEASE CANCELLED
86-447	SATELLITE 8301108	W 84250	LEASE CANCELLED
86-448	SATELLITE 8301110	W 84266	LEASE CANCELLED
86-449	SATELLITE 8301111	W 84288	LEASE CANCELLED
86-450	SATELLITE 8301113	W 84327	LEASE CANCELLED
86-451	SATELLITE 8301108	W 84395	LEASE CANCELLED
86-452	SATELLITE 8301114	W 84532	LEASE CANCELLED
86-453	SATELLITE 8303109	W 84821	LEASE CANCELLED
86-454	SATELLITE 8303117	W 84824	LEASE CANCELLED
86-455	SATELLITE 8303122	W 84832	LEASE CANCELLED
86-456	SATELLITE 8303131	W 84842	LEASE CANCELLED
86-457	SATELLITE 8303101	W 84858	LEASE CANCELLED
86-458	SATELLITE 8303102	W 84889	LEASE CANCELLED
86-459	SATELLITE 8303105	W 84968	LEASE CANCELLED
86-460	SATELLITE 8303156	W 84998	LEASE CANCELLED
86-461	SATELLITE 8303139	W 85011	LEASE CANCELLED
86-462	SATELLITE 8303129	W 85045	LEASE CANCELLED
86-463	SATELLITE 8303130	W 85094	LEASE CANCELLED
86-464	SATELLITE 8303110	W 85122	LEASE CANCELLED
86-465	SATELLITE 8303131	W 85153	LEASE CANCELLED
86-466	SATELLITE 8303153	W 85179	LEASE CANCELLED
86-467	SATELLITE 8303157	W 85223	LEASE CANCELLED
86-468	SATELLITE 8303158	W 85229	LEASE CANCELLED
86-469	SATELLITE 8305124	W 85468	LEASE CANCELLED
86-470	SATELLITE 8305112	W 85487	LEASE CANCELLED
86-471	SATELLITE 8305113	W 85488	LEASE CANCELLED
86-472	SATELLITE 8305103	W 85506	LEASE CANCELLED
86-473	SATELLITE 8305107	W 85516	LEASE CANCELLED
86-474	SATELLITE 8305108	W 85517	LEASE CANCELLED
86-475	SATELLITE 8305114	W 85531	LEASE CANCELLED
86-476	SATELLITE 8305115	W 85532	LEASE CANCELLED
86-477	SATELLITE 8305103	W 85565	LEASE CANCELLED
86-478	SATELLITE 8305105	W 85567	LEASE CANCELLED
86-479	SATELLITE 8305144	W 85632	LEASE CANCELLED
86-480	SATELLITE 8305149	W 85637	LEASE CANCELLED
86-481	SATELLITE 8305160	W 85751	LEASE CANCELLED
86-482	SATELLITE 8305138	W 85754	LEASE CANCELLED
86-483	SATELLITE 8305163	W 85780	LEASE CANCELLED
86-484	SATELLITE 8305169	W 85818	LEASE CANCELLED
86-485	SATELLITE 8305167	W 85845	LEASE CANCELLED
86-486	SATELLITE 8305165	W 85846	LEASE CANCELLED
86-487	SATELLITE 8305160	W 85873	LEASE CANCELLED
86-488	SATELLITE 8305171	W 85980	LEASE CANCELLED
86-489	SATELLITE 8307233	W 86599	LEASE CANCELLED
86-490	SATELLITE 8307103	W 86600	LEASE CANCELLED
86-491	SATELLITE 8307111	W 86702	LEASE CANCELLED
86-492	SATELLITE 8307112	W 86703	LEASE CANCELLED
86-493	SATELLITE 8307142	W 86817	LEASE CANCELLED
86-494	SATELLITE 8307239	W 86825	LEASE CANCELLED
86-495	SATELLITE 8307127	W 86829	LEASE CANCELLED
86-496	SATELLITE 8307240	W 86855	LEASE CANCELLED
86-497	SATELLITE 8307148	W 86885	LEASE CANCELLED
86-498	SATELLITE 8303130	W 85046	OFFER REJECTED
86-499	SATELLITE 8309104	W 88227	OFFER REJECTED
86-500	SATELLITE 8309257	W 88232	OFFER REJECTED
86-501	SATELLITE 8309176	W 88246	OFFER REJECTED
86-502	SATELLITE 8309149	W 88277	OFFER REJECTED
86-503	SATELLITE 8309203	W 88295	OFFER REJECTED
86-504	SATELLITE 8309176	W 88371	OFFER REJECTED
86-505	SATELLITE 8309187	W 88381	OFFER REJECTED
86-506	SATELLITE 8309199	W 88390	OFFER REJECTED
86-507	SATELLITE 8309219	W 88407	OFFER REJECTED
86-508	SATELLITE 8309211	W 88469	OFFER REJECTED
86-509	SATELLITE 8309265	W 88566	OFFER REJECTED
86-510	SATELLITE 8309196	W 88572	OFFER REJECTED
86-511	SATELLITE 8309215	W 88573	OFFER REJECTED
86-512	SATELLITE 8408105	W 90552	OFFER REJECTED
86-513	SATELLITE 8408110	W 90564	OFFER REJECTED
86-514	SATELLITE 8408151	W 90565	OFFER REJECTED
86-515	SATELLITE 8408215	W 90593	OFFER REJECTED
86-516	SATELLITE 8408234	W 90642	OFFER REJECTED
86-517	SATELLITE 8408238	W 90646	OFFER REJECTED
86-518	SATELLITE 8408117	W 90671	OFFER REJECTED
86-519	SATELLITE 8408234	W 90692	OFFER REJECTED
86-520	SATELLITE 8408303	W 90726	OFFER REJECTED
86-521	SATELLITE 8408343	W 90728	OFFER REJECTED
86-522	SATELLITE 8408159	W 90737	OFFER REJECTED
86-523	SATELLITE 8410221	W 91256	OFFER REJECTED
86-524	SATELLITE 8410227	W 91257	OFFER REJECTED

86-525	SATELLITE 8410256	W 91343	OFFER REJECTED
86-526	SATELLITE 8412128	W 92274	OFFER REJECTED
86-527	SATELLITE 8412126	W 92459	OFFER REJECTED
86-528	SATELLITE 8412113	W 92682	OFFER REJECTED
86-529	SATELLITE 8408246	W 93131	OFFER REJECTED
86-530	SATELLITE 8309210	W 93147	OFFER REJECTED
86-531	SATELLITE 8408256	W 93217	OFFER REJECTED
86-533	SATELLITE 8410227	W 93280	OFFER REJECTED
86-534	SATELLITE 8408287	W 93284	OFFER REJECTED
86-535	SATELLITE 8410201	W 93295	OFFER REJECTED
86-536	SATELLITE 8410215	W 93313	OFFER REJECTED
86-537	SATELLITE 8410205	W 93326	OFFER REJECTED
86-538	SATELLITE 8410205	W 93327	OFFER REJECTED
86-539	SATELLITE 8410223	W 93387	OFFER REJECTED
86-540	SATELLITE 8309149	W 93419	OFFER REJECTED
86-541	SATELLITE 8408250	W 93427	OFFER REJECTED
86-542	SATELLITE 8410251	W 93434	OFFER REJECTED
86-543	SATELLITE 8410259	W 93439	OFFER REJECTED
86-544	SATELLITE 8410208	W 93479	OFFER REJECTED
86-545	SATELLITE 8408250	W 93485	OFFER REJECTED
86-546	SATELLITE 8410257	W 93500	OFFER REJECTED
86-547	SATELLITE 8410257	W 93528	OFFER REJECTED
86-548	SATELLITE 8408276	W 93556	OFFER REJECTED
86-549	SATELLITE 8504107	W 94730	OFFER REJECTED
86-550	SATELLITE 8504107	W 94763	OFFER REJECTED
86-551	SATELLITE 8504101	W 94766	OFFER REJECTED
86-553	SATELLITE 8504102	W 94796	OFFER REJECTED
86-554	SATELLITE 8504102	W 94822	OFFER REJECTED
86-555	SATELLITE 8504103	W 94826	OFFER REJECTED
86-556	SATELLITE 8504102	W 94854	OFFER REJECTED
86-557	SATELLITE 8504106	W 94862	OFFER REJECTED
86-558	SATELLITE 8408136	W 94868	OFFER REJECTED
86-559	SATELLITE 8408196	W 94878	OFFER REJECTED
86-560	SATELLITE 8309125	W 94882	OFFER REJECTED
86-561	SATELLITE 8309137	W 94967	OFFER REJECTED
86-562	SATELLITE 8408101	W 94994	OFFER REJECTED
86-563	SATELLITE 8309216	W 95158	OFFER REJECTED
86-564	SATELLITE 8309102	W 95162	OFFER REJECTED
86-565	SATELLITE 8410220	W 95610	OFFER REJECTED
86-566	SATELLITE 8410215	W 95882	OFFER REJECTED
86-567	SATELLITE 8410211	W 95884	OFFER REJECTED
86-568	SATELLITE 8410206	W 95930	OFFER REJECTED
86-569	SATELLITE 8502111	W 95996	OFFER REJECTED
86-570	SATELLITE 8502109	W 96015	OFFER REJECTED
86-571	SATELLITE 8502101	W 96045	OFFER REJECTED
86-572	SATELLITE 8309235	W 96054	OFFER REJECTED
86-573	SATELLITE 8410255	W 97185	OFFER REJECTED
86-574	SATELLITE 8410255	W 97202	OFFER REJECTED
86-576	SATELLITE 8412113	NM 61328	OFFER REJECTED
86-577	SATELLITE 8412123	NM 61357	OFFER REJECTED
86-578	SATELLITE 8408241	NM 61899	OFFER REJECTED
86-579	SATELLITE 8408305	NM 61942	OFFER REJECTED
86-580	SATELLITE 8408343	NM 62038	OFFER REJECTED
86-581	SATELLITE 8502104	NM 62039	OFFER REJECTED
86-582	SATELLITE 8408333	NM 62064	OFFER REJECTED
86-583	SATELLITE 8408231	NM 62146	OFFER REJECTED
86-585	SATELLITE 8408305	NM 62149	OFFER REJECTED
86-586	SATELLITE 8309265	NM 62155	OFFER REJECTED
86-587	SATELLITE 8408340	NM 62163	OFFER REJECTED
86-588	SATELLITE 8408329	NM 62193	OFFER REJECTED
86-589	SATELLITE 8408304	NM 62241	OFFER REJECTED
86-590	SATELLITE 8408167	NM 62931	OFFER REJECTED
86-592	SATELLITE 8502108	NM 64312	OFFER REJECTED

86-649	SATELLITE 8301101	U 52506	LEASE CANCELLED
86-650	SATELLITE 8301102	U 52508	LEASE CANCELLED
86-651	SATELLITE 8301103	U 52510	LEASE CANCELLED
86-652	SATELLITE 8301105	U 52511	LEASE CANCELLED
86-653	SATELLITE 8301108	U 52514	LEASE CANCELLED
86-654	SATELLITE 8301109	U 52515	LEASE CANCELLED
86-655	SATELLITE 8301111	U 52517	LEASE CANCELLED
86-656	SATELLITE 8301115	U 52526	LEASE CANCELLED
86-657	SATELLITE 8301116	U 52527	LEASE CANCELLED
86-658	SATELLITE 8301117	U 52539	LEASE CANCELLED
86-659	SATELLITE 8301112	U 52602	LEASE CANCELLED
86-660	SATELLITE 8301115	U 52607	LEASE CANCELLED
86-661	SATELLITE 8301122	U 52621	LEASE CANCELLED
86-662	SATELLITE 8301101	U 52622	LEASE CANCELLED
86-663	SATELLITE 8301103	U 52627	LEASE CANCELLED
86-664	SATELLITE 8301110	U 52645	LEASE CANCELLED
86-665	SATELLITE 8303151	U 52948	LEASE CANCELLED
86-666	SATELLITE 8303158	U 52962	LEASE CANCELLED
86-667	SATELLITE 8303160	U 52967	LEASE CANCELLED
86-668	SATELLITE 8303160	U 52984	LEASE CANCELLED
86-669	SATELLITE 8303156	U 53015	LEASE CANCELLED
86-670	SATELLITE 8305185	U 53186	LEASE CANCELLED
86-671	SATELLITE 8305186	U 53187	LEASE CANCELLED
86-672	SATELLITE 8305187	U 53189	LEASE CANCELLED
86-673	SATELLITE 8305190	U 53226	LEASE CANCELLED
86-674	SATELLITE 8305192	U 53229	LEASE CANCELLED
86-675	SATELLITE 8305193	U 53233	LEASE CANCELLED
86-676	SATELLITE 8305194	U 53234	LEASE CANCELLED
86-677	SATELLITE 8305195	U 53238	LEASE CANCELLED
86-678	SATELLITE 8305197	U 53242	LEASE CANCELLED
86-679	SATELLITE 8305178	U 53252	LEASE CANCELLED
86-680	SATELLITE 8305181	U 53262	LEASE CANCELLED
86-681	SATELLITE 8305182	U 53266	LEASE CANCELLED
86-682	SATELLITE 8305183	U 53268	LEASE CANCELLED
86-683	SATELLITE 8305185	U 53270	LEASE CANCELLED
86-684	SATELLITE 8305186	U 53272	LEASE CANCELLED
86-685	SATELLITE 8305187	U 53273	LEASE CANCELLED
86-686	SATELLITE 8305191	U 53285	LEASE CANCELLED
86-687	SATELLITE 8305192	U 53286	LEASE CANCELLED
86-688	SATELLITE 8305199	U 53294	LEASE CANCELLED
86-689	SATELLITE 8305177	U 53309	LEASE CANCELLED
86-690	SATELLITE 8305180	U 53312	LEASE CANCELLED
86-691	SATELLITE 8305184	U 53320	LEASE CANCELLED
86-692	SATELLITE 8305189	U 53329	LEASE CANCELLED
86-693	SATELLITE 8305186	U 53362	LEASE CANCELLED
86-694	SATELLITE 8305185	U 53367	LEASE CANCELLED
86-695	SATELLITE 8307211	U 53454	LEASE CANCELLED
86-696	SATELLITE 8307220	U 53464	LEASE CANCELLED
86-697	SATELLITE 8307221	U 53465	LEASE CANCELLED
86-698	SATELLITE 8307222	U 53466	LEASE CANCELLED
86-699	SATELLITE 8307224	U 53468	LEASE CANCELLED
86-700	SATELLITE 8307214	U 53476	LEASE CANCELLED
86-701	SATELLITE 8307211	U 53491	LEASE CANCELLED
86-702	SATELLITE 8307215	U 53497	LEASE CANCELLED
86-703	SATELLITE 8307219	U 53501	LEASE CANCELLED
86-704	SATELLITE 8307220	U 53502	LEASE CANCELLED
86-705	SATELLITE 8307221	U 53503	LEASE CANCELLED
86-706	SATELLITE 8307223	U 53506	LEASE CANCELLED
86-707	SATELLITE 8307224	U 53507	LEASE CANCELLED
86-708	SATELLITE 8307225	U 53509	LEASE CANCELLED
86-709	SATELLITE 8307211	U 53511	LEASE CANCELLED
86-710	SATELLITE 8307212	U 53513	LEASE CANCELLED
86-711	SATELLITE 8307216	U 53518	LEASE CANCELLED
86-712	SATELLITE 8307219	U 53521	LEASE CANCELLED
86-713	SATELLITE 8307220	U 53522	LEASE CANCELLED
86-714	SATELLITE 8307221	U 53525	LEASE CANCELLED
86-715	SATELLITE 8307222	U 53526	LEASE CANCELLED
86-716	SATELLITE 8307224	U 53532	LEASE CANCELLED
86-717	SATELLITE 8307211	U 53535	LEASE CANCELLED
86-718	SATELLITE 8307212	U 53536	LEASE CANCELLED
86-719	SATELLITE 8307214	U 53541	LEASE CANCELLED
86-720	SATELLITE 8307215	U 53542	LEASE CANCELLED
86-721	SATELLITE 8307221	U 53548	LEASE CANCELLED
86-722	SATELLITE 8307222	U 53549	LEASE CANCELLED
86-723	SATELLITE 8307212	U 53554	LEASE CANCELLED
86-724	SATELLITE 8307227	U 53578	LEASE CANCELLED
86-725	SATELLITE 8307231	U 53581	LEASE CANCELLED
86-726	SATELLITE 8307226	U 53608	LEASE CANCELLED
86-727	SATELLITE 8307217	U 53640	LEASE CANCELLED
86-728	SATELLITE 8307215	U 53658	LEASE CANCELLED
86-729	SATELLITE 8307219	U 53662	LEASE CANCELLED
86-730	SATELLITE 8309230	U 54490	LEASE CANCELLED
86-731	SATELLITE 8307213	U 53474	OFFER REJECTED
86-732	SATELLITE 8307220	U 53547	OFFER REJECTED
86-733	SATELLITE 8307224	U 53551	OFFER REJECTED
86-734	SATELLITE 8307211	U 53553	OFFER REJECTED
86-735	SATELLITE 8307227	U 53617	OFFER REJECTED
86-736	SATELLITE 8412118	U 56357	OFFER REJECTED
86-737	SATELLITE 8412123	U 56477	OFFER REJECTED
86-738	SATELLITE 8410255	U 56749	OFFER REJECTED
86-739	SATELLITE 8410260	U 56843	OFFER REJECTED
86-740	SATELLITE 8309152	U 57836	OFFER REJECTED

86-741	SATELLITE 8211102	NM 55805	LEASE CANCELLED
86-742	SATELLITE 8211106	NM 55875	LEASE CANCELLED
86-743	SATELLITE 8301106	NM 56299	LEASE CANCELLED
86-744	SATELLITE 8301123	NM 56319	LEASE CANCELLED
86-745	SATELLITE 8301119	NM 56323	OFFER REJECTED
86-746	SATELLITE 8301110	NM 56397	OFFER REJECTED
86-747	SATELLITE 8303108	NM 56626	OFFER REJECTED
86-748	SATELLITE 8303110	NM 56648	OFFER REJECTED
86-749	SATELLITE 8303122	NM 56672	OFFER REJECTED
86-750	SATELLITE 8303123	NM 56673	OFFER REJECTED
86-751	SATELLITE 8303124	NM 56680	OFFER REJECTED
86-752	SATELLITE 8303101	NM 56686	OFFER REJECTED
86-753	SATELLITE 8303102	NM 56687	OFFER REJECTED
86-754	SATELLITE 8303104	NM 56691	OFFER REJECTED
86-755	SATELLITE 8303103	NM 56717	OFFER REJECTED
86-756	SATELLITE 8303155	NM 56768	OFFER REJECTED
86-757	SATELLITE 8305102	NM 57134	OFFER REJECTED
86-758	SATELLITE 8305102	NM 57136	OFFER REJECTED
86-759	SATELLITE 8305104	NM 57143	OFFER REJECTED
86-760	SATELLITE 8305110	NM 57144	OFFER REJECTED
86-761	SATELLITE 8305105	NM 57145	OFFER REJECTED
86-762	SATELLITE 8305111	NM 57147	OFFER REJECTED
86-763	SATELLITE 8305112	NM 57148	OFFER REJECTED
86-764	SATELLITE 8305125	NM 57150	OFFER REJECTED
86-765	SATELLITE 8305109	NM 57155	OFFER REJECTED
86-766	SATELLITE 8305110	NM 57156	OFFER REJECTED
86-767	SATELLITE 8305112	NM 57161	OFFER REJECTED
86-768	SATELLITE 8305115	NM 57166	OFFER REJECTED
86-769	SATELLITE 8305117	NM 57168	OFFER REJECTED
86-770	SATELLITE 8305119	NM 57171	OFFER REJECTED
86-771	SATELLITE 8305120	NM 57172	OFFER REJECTED
86-772	SATELLITE 8305121	NM 57174	OFFER REJECTED
86-773	SATELLITE 8305123	NM 57175	OFFER REJECTED
86-774	SATELLITE 8305124	NM 57176	OFFER REJECTED
86-775	SATELLITE 8305113	NM 57181	OFFER REJECTED
86-776	SATELLITE 8305103	NM 57182	OFFER REJECTED
86-777	SATELLITE 8305104	NM 57183	OFFER REJECTED
86-778	SATELLITE 8305105	NM 57184	OFFER REJECTED
86-779	SATELLITE 8305109	NM 57190	OFFER REJECTED
86-780	SATELLITE 8305110	NM 57191	OFFER REJECTED
86-781	SATELLITE 8305111	NM 57192	OFFER REJECTED
86-782	SATELLITE 8305112	NM 57193	OFFER REJECTED
86-783	SATELLITE 8305113	NM 57194	OFFER REJECTED
86-784	SATELLITE 8305116	NM 57199	OFFER REJECTED
86-785	SATELLITE 8305117	NM 57200	OFFER REJECTED
86-786	SATELLITE 8305118	NM 57203	OFFER REJECTED
86-787	SATELLITE 8305119	NM 57205	OFFER REJECTED
86-788	SATELLITE 8305122	NM 57210	OFFER REJECTED
86-789	SATELLITE 8305123	NM 57211	OFFER REJECTED
86-790	SATELLITE 8305105	NM 57291	OFFER REJECTED
86-791	SATELLITE 8305120	NM 57308 OK	OFFER REJECTED
86-792	SATELLITE 8307161	NM 57410	OFFER REJECTED
86-793	SATELLITE 8307162	NM 57411	OFFER REJECTED
86-794	SATELLITE 8307170	NM 57420	OFFER REJECTED
86-795	SATELLITE 8307163	NM 57428	OFFER REJECTED
86-796	SATELLITE 8307172	NM 57439	OFFER REJECTED
86-797	SATELLITE 8307174	NM 57441	OFFER REJECTED
86-798	SATELLITE 8307161	NM 57443	OFFER REJECTED
86-799	SATELLITE 8307164	NM 57446	OFFER REJECTED
86-800	SATELLITE 8307168	NM 57450	OFFER REJECTED
86-801	SATELLITE 8307172	NM 57454	OFFER REJECTED
86-802	SATELLITE 8307173	NM 57455	OFFER REJECTED
86-803	SATELLITE 8307174	NM 57456	OFFER REJECTED
86-804	SATELLITE 8307172	NM 57460	OFFER REJECTED
86-805	SATELLITE 8307173	NM 57461	OFFER REJECTED
86-806	SATELLITE 8307174	NM 57462	OFFER REJECTED
86-807	SATELLITE 8307175	NM 57464	OFFER REJECTED
86-808	SATELLITE 8307172	NM 57474	OFFER REJECTED
86-809	SATELLITE 8307174	NM 57478	OFFER REJECTED
86-810	SATELLITE 8307175	NM 57480	OFFER REJECTED
86-811	SATELLITE 8307172	NM 57482	OFFER REJECTED
86-812	SATELLITE 8307174	NM 57484	OFFER REJECTED
86-813	SATELLITE 8309176	NM 58667	OFFER REJECTED
86-814	SATELLITE 8309176	NM 58669	OFFER REJECTED
86-815	SATELLITE 8309177	NM 58671	OFFER REJECTED
86-816	SATELLITE 8309178	NM 58673	OFFER REJECTED
86-817	SATELLITE 8309179	NM 58684	OFFER REJECTED
86-818	SATELLITE 8309182	NM 58692	OFFER REJECTED
86-819	SATELLITE 8309182	NM 58694	OFFER REJECTED
86-820	SATELLITE 8309189	NM 58718	OFFER REJECTED
86-821	SATELLITE 8309190	NM 58719	OFFER REJECTED
86-822	SATELLITE 8309191	NM 58723	OFFER REJECTED
86-823	SATELLITE 8309191	NM 58725	OFFER REJECTED
86-824	SATELLITE 8309192	NM 58728	OFFER REJECTED

86-827	SATELLITE 8309194	NM 58732	OFFER REJECTED
86-828	SATELLITE 8309194	NM 58734	OFFER REJECTED
86-829	SATELLITE 8309195	NM 58736	OFFER REJECTED
86-830	SATELLITE 8309196	NM 58745	OFFER REJECTED
86-831	SATELLITE 8309197	NM 58750	OFFER REJECTED
86-832	SATELLITE 8309198	NM 58754	OFFER REJECTED
86-833	SATELLITE 8309199	NM 58755	OFFER REJECTED
86-834	SATELLITE 8309199	NM 58756	OFFER REJECTED
86-835	SATELLITE 8309199	NM 58757	OFFER REJECTED
86-836	SATELLITE 8309200	NM 58759	OFFER REJECTED
86-837	SATELLITE 8309201	NM 58761	OFFER REJECTED
86-838	SATELLITE 8309201	NM 58763	OFFER REJECTED
86-839	SATELLITE 8309202	NM 58767	OFFER REJECTED
86-840	SATELLITE 8309202	NM 58768	OFFER REJECTED
86-841	SATELLITE 8309202	NM 58769	OFFER REJECTED
86-842	SATELLITE 8309203	NM 58771	OFFER REJECTED
86-843	SATELLITE 8309203	NM 58772	OFFER REJECTED
86-844	SATELLITE 8309205	NM 58778	OFFER REJECTED
86-845	SATELLITE 8309206	NM 58781	OFFER REJECTED
86-846	SATELLITE 8309219	NM-A 58841	OFFER REJECTED
86-862	SATELLITE 8211104	M 57267	LEASE CANCELLED
86-863	SATELLITE 8211101	M 57279	LEASE CANCELLED
86-864	SATELLITE 8211102	M 57297	LEASE CANCELLED
86-865	SATELLITE 8211104	M 57319	LEASE CANCELLED
86-866	SATELLITE 8211103	M 57324	LEASE CANCELLED
86-867	SATELLITE 8301105	M 57805	LEASE CANCELLED
86-868	SATELLITE 8301108	M 57811	LEASE CANCELLED
86-869	SATELLITE 8301109	M 57812	LEASE CANCELLED
86-870	SATELLITE 8301122	M 57831	LEASE CANCELLED
86-871	SATELLITE 8301107	M 57842	LEASE CANCELLED
86-872	SATELLITE 8301107	M 57868	LEASE CANCELLED
86-873	SATELLITE 8301110	M 57872	LEASE CANCELLED
86-874	SATELLITE 8301117	M 57881	LEASE CANCELLED
86-875	SATELLITE 8301119	M 57884	LEASE CANCELLED
86-876	SATELLITE 8301120	M 57885	LEASE CANCELLED
86-877	SATELLITE 8301108	M 57898 (SD)	LEASE CANCELLED
86-878	SATELLITE 8301114	M 57904 Acq.	LEASE CANCELLED
86-879	SATELLITE 8301103	M 57916 Acq.	LEASE CANCELLED
86-880	SATELLITE 8301108	M 57921 (ND) Acq.	LEASE CANCELLED
86-881	SATELLITE 8301111	M 57924 (SD) Acq.	LEASE CANCELLED
86-882	SATELLITE 8301112	M 57925 (SD) Acq.	LEASE CANCELLED
86-883	SATELLITE 8305186	M 58727	LEASE CANCELLED
86-884	SATELLITE 8305188	M 58729	LEASE CANCELLED
86-885	SATELLITE 8305197	M 58738	LEASE CANCELLED
86-886	SATELLITE 8305186	M 58742	LEASE CANCELLED
86-887	SATELLITE 8305190	M 58746	LEASE CANCELLED
86-888	SATELLITE 8305198	M 58754	LEASE CANCELLED
86-889	SATELLITE 8305188	M 58771	LEASE CANCELLED
86-890	SATELLITE 8305200	M 58785	LEASE CANCELLED
86-891	SATELLITE 8305176	M 58786	LEASE CANCELLED
86-892	SATELLITE 8305178	M 58788	LEASE CANCELLED
86-893	SATELLITE 8305184	M 58794	LEASE CANCELLED
86-894	SATELLITE 8305186	M 58796	LEASE CANCELLED
86-895	SATELLITE 8305194	M 58804	LEASE CANCELLED
86-896	SATELLITE 8305205	M 58848	LEASE CANCELLED
86-897	SATELLITE 8305189	M 58864	LEASE CANCELLED
86-898	SATELLITE 8305185	M 58885	LEASE CANCELLED
86-899	SATELLITE 8305188	M 58888	LEASE CANCELLED
86-900	SATELLITE 8305202	M 58895 (ND)	LEASE CANCELLED
86-901	SATELLITE 8305206	M 58925 Acq.	LEASE CANCELLED
86-902	SATELLITE 8305206	M 58926 Acq.	LEASE CANCELLED
86-903	SATELLITE 8305207	M 58931 Acq.	LEASE CANCELLED
86-904	SATELLITE 8305204	M 58967 Acq.	LEASE CANCELLED

86-906	SATELLITE 8305179	M 59018 (ND) Acq.	LEASE CANCELLED
86-907	SATELLITE 8305183	M 59019 (ND) Acq.	LEASE CANCELLED
86-908	SATELLITE 8307115	M 59190	LEASE CANCELLED
86-909	SATELLITE 8307102	M 59211	LEASE CANCELLED
86-910	SATELLITE 8307188	M 59340	LEASE CANCELLED
86-911	SATELLITE 8307188	M 59350	LEASE CANCELLED
86-912	SATELLITE 8307203	M 59447 (SD)	LEASE CANCELLED
86-913	SATELLITE 8307209	M 59468 Acq.	LEASE CANCELLED
86-914	SATELLITE 8211103	M 59495 Acq.	LEASE CANCELLED
86-915	SATELLITE 8307126	M 59501 Acq.	LEASE CANCELLED
86-916	SATELLITE 8307103	M 59176	OFFER REJECTED
86-917	SATELLITE 8307188	M 59326	OFFER REJECTED
86-918	SATELLITE 8303138	M 59512 (ND) Acq.	OFFER REJECTED
86-937	SATELLITE 8303135	M 58136	LEASE CANCELLED
86-938	SATELLITE 8303123	M 58176	LEASE CANCELLED
86-939	SATELLITE 8303127	M 58182	LEASE CANCELLED
86-940	SATELLITE 8303150	M 58280	LEASE CANCELLED
86-941	SATELLITE 8303125	M 58310	LEASE CANCELLED
86-942	SATELLITE 8303120	M 58359	LEASE CANCELLED
86-943	SATELLITE 8303137	M 58446 Acq.	LEASE CANCELLED
86-944	SATELLITE 8303148	M 58459 Acq.	LEASE CANCELLED
86-945	SATELLITE 8303113	M 58484 Acq.	LEASE CANCELLED
86-946	SATELLITE 8303131	M 58511 Acq.	LEASE CANCELLED
86-947	SATELLITE 8305194	M 58750	LEASE CANCELLED
86-948	SATELLITE 8305195	M 58751	LEASE CANCELLED
86-949	SATELLITE 8305195	M 58778	LEASE CANCELLED
86-950	SATELLITE 8305197	M 58780	LEASE CANCELLED
86-951	SATELLITE 8305190	M 58800	LEASE CANCELLED
86-952	SATELLITE 8305184	M 58819	LEASE CANCELLED
86-953	SATELLITE 8305189	M 58825	LEASE CANCELLED
86-954	SATELLITE 8305191	M 58827	LEASE CANCELLED
86-955	SATELLITE 8305204	M 58918 (SD)	LEASE CANCELLED
86-956	SATELLITE 8305205	M 58923 Acq.	LEASE CANCELLED
86-957	SATELLITE 8305207	M 58928 Acq.	LEASE CANCELLED
86-958	SATELLITE 8305202	M 58956 Acq.	LEASE CANCELLED
86-959	SATELLITE 8305205	M 58971 (ND)Acq	LEASE CANCELLED
86-960	SATELLITE 8305208	M 58986 (ND)Acq	LEASE CANCELLED
86-961	SATELLITE 8305208	M 58987 (ND)Acq	LEASE CANCELLED
86-962	SATELLITE 8307118	M 59193	LEASE CANCELLED
86-963	SATELLITE 8307137	M 59200	LEASE CANCELLED
86-964	SATELLITE 8307139	M 59204	LEASE CANCELLED
86-965	SATELLITE 8307145	M 59215	LEASE CANCELLED
86-966	SATELLITE 8307135	M 59225	LEASE CANCELLED
86-968	SATELLITE 8307181	M 59280	LEASE CANCELLED
86-969	SATELLITE 8307190	M 59297	LEASE CANCELLED
86-970	SATELLITE 8307182	M 59301	LEASE CANCELLED
86-971	SATELLITE 8307190	M 59309	LEASE CANCELLED
86-972	SATELLITE 8307189	M 59329	LEASE CANCELLED
86-973	SATELLITE 8307182	M 59344	LEASE CANCELLED
86-974	SATELLITE 8307186	M 59348	LEASE CANCELLED
86-975	SATELLITE 8307177	M 59376	LEASE CANCELLED
86-976	SATELLITE 8307178	M 59381	LEASE CANCELLED
86-977	SATELLITE 8307105	M 59382	LEASE CANCELLED
86-978	SATELLITE 8307119	M 59413	LEASE CANCELLED
86-979	SATELLITE 8307156	M 59421 (ND)	LEASE CANCELLED

86-980	SATELLITE 8307177	M 59425 (SD)	LEASE CANCELLED
86-981	SATELLITE 8307179	M 59433 (SD)	LEASE CANCELLED
86-982	SATELLITE 8307201	M 59435 (SD)	LEASE CANCELLED
86-983	SATELLITE 8307208	M 59442 (SD)	LEASE CANCELLED
86-984	SATELLITE 8307210	M 59457 Acq.	LEASE CANCELLED
86-985	SATELLITE 8307204	M 59461 Acq.	LEASE CANCELLED
86-986	SATELLITE 8307164	M 59473 Acq.	LEASE CANCELLED
86-987	SATELLITE 8307170	M 59478 Acq.	LEASE CANCELLED
86-988	SATELLITE 8307164	M 59483 Acq.	LEASE CANCELLED
86-989	SATELLITE 8307167	M 59486 Acq.	LEASE CANCELLED
86-990	SATELLITE 8307178	M 59492 Acq.	LEASE CANCELLED
86-991	SATELLITE 8307180	M 59494 Acq.	LEASE CANCELLED
86-992	SATELLITE 8307207	M 59529 (SD) Acq.	LEASE CANCELLED
86-993	SATELLITE 8309107	M 60399	LEASE CANCELLED
86-994	SATELLITE 8309114	M 60420	LEASE CANCELLED
86-997	SATELLITE 8309106	M 60396	OFFER REJECTED
86-998	SATELLITE 8309115	M 60423	OFFER REJECTED
86-999	SATELLITE 8309117	M 60428	OFFER REJECTED
86-1000	SATELLITE 8309120	M 60438	OFFER REJECTED
86-1001	SATELLITE 8309130	M 60468	OFFER REJECTED
86-1002	SATELLITE 8309135	M 60481	OFFER REJECTED
86-1003	SATELLITE 8309158	M 60562	OFFER REJECTED
86-1004	SATELLITE 8408311	M 61375	OFFER REJECTED
86-1005	SATELLITE 8408111	M 61399	OFFER REJECTED
86-1006	SATELLITE 8408288	M 61409	OFFER REJECTED
86-1007	SATELLITE 8408312	M 61410	OFFER REJECTED
86-1008	SATELLITE 8408250	M 61644	OFFER REJECTED
86-1009	SATELLITE 8410258	M 64392	OFFER REJECTED
86-1010	SATELLITE 8408170	M 66141	OFFER REJECTED
86-1011	SATELLITE 8408195	M 66145	OFFER REJECTED
86-1012	SATELLITE 8408165	M 66148	OFFER REJECTED
86-1013	SATELLITE 8408195	M 66228	OFFER REJECTED
86-1014	SATELLITE 8309147	M 66269	OFFER REJECTED
86-1015	SATELLITE 8309188	M 66388 (ND) Acq.	OFFER REJECTED
86-1016	SATELLITE 8309262	M 66404 (ND) Acq.	OFFER REJECTED
86-1017	SATELLITE 8410241	M 66676	OFFER REJECTED
86-1018	SATELLITE 8410258	M 66686	OFFER REJECTED
86-1019	SATELLITE 8410258	M 66688	OFFER REJECTED
86-1020	SATELLITE 8410241	M 66720	OFFER REJECTED
86-1021	SATELLITE 8410243	M 66722	OFFER REJECTED
86-1022	SATELLITE 8502112	M 66811	OFFER REJECTED
86-1023	SATELLITE 8502112	M 66842	OFFER REJECTED
86-1024	SATELLITE 8410243	M 66877 (SD)	OFFER REJECTED
86-1025	SATELLITE 8410242	M 66918 (ND) Acq.	OFFER REJECTED
86-1026	SATELLITE 8410242	M 66922 (ND) Acq.	OFFER REJECTED
86-1027	SATELLITE 8410242	M 66923 (ND) Acq.	OFFER REJECTED
86-1028	SATELLITE 8502107	M 66939 (SD) Acq.	OFFER REJECTED
86-1029	SATELLITE 8502107	M 66940 (SD) Acq.	OFFER REJECTED

86-1086	SATELLITE 8307225	U 53534	OFFER REJECTED
86-1087	SATELLITE 8301118	M 57823	LEASE CANCELLED
86-1088	SATELLITE 8303118	M 58120	LEASE CANCELLED
86-1089	SATELLITE 8303129	M 58130	LEASE CANCELLED
86-1090	SATELLITE 8303136	M 58321	LEASE CANCELLED
86-1091	SATELLITE 8303123	M 58364	LEASE CANCELLED
86-1092	SATELLITE 8303144	M 58390	LEASE CANCELLED
86-1093	SATELLITE 8303133	M 58441 Acq.	LEASE CANCELLED
86-1094	SATELLITE 8305187	M 58768	LEASE CANCELLED
86-1095	SATELLITE 8305206	M 58927 Acq.	LEASE CANCELLED
86-1096	SATELLITE 8307116	M 59191	LEASE CANCELLED
86-1097	SATELLITE 8307122	M 59197	LEASE CANCELLED
86-1098	SATELLITE 8307137	M 59227	LEASE CANCELLED
86-1099	SATELLITE 8307142	M 59234	LEASE CANCELLED
86-1100	SATELLITE 8307150	M 59244	LEASE CANCELLED
86-1101	SATELLITE 8307181	M 59269	LEASE CANCELLED
86-1102	SATELLITE 8307183	M 59283	LEASE CANCELLED
86-1103	SATELLITE 8307186	M 59289	LEASE CANCELLED
86-1104	SATELLITE 8307187	M 59290	LEASE CANCELLED
86-1105	SATELLITE 8307185	M 59318	LEASE CANCELLED
86-1106	SATELLITE 8307104	M 59380	LEASE CANCELLED
86-1107	SATELLITE 8307106	M 59386	LEASE CANCELLED
86-1108	SATELLITE 8307123	M 59394	LEASE CANCELLED
86-1109	SATELLITE 8307135	M 59397	LEASE CANCELLED
86-1110	SATELLITE 8307113	M 59407	LEASE CANCELLED
86-1111	SATELLITE 8307180	M 59418 (ND)	LEASE CANCELLED
86-1112	SATELLITE 8307203	M 59437 (SD)	LEASE CANCELLED
86-1113	SATELLITE 8307165	M 59474 Acq.	LEASE CANCELLED
86-1114	SATELLITE 8307162	M 59481 Acq.	LEASE CANCELLED
86-1115	SATELLITE 8309164	M 60580	LEASE CANCELLED
86-1116	SATELLITE 8309165	M 60584	LEASE CANCELLED
86-1117	SATELLITE 8408228	M 66170	OFFER REJECTED
86-1137	SATELLITE 8305196	M 58752	OFFER REJECTED
86-1138	SATELLITE 8301101	M 57888 (ND)	OVERRIDING ROYALTY CANCELLED
86-1139	SATELLITE 8303143	M 58205	OVERRIDING ROYALTY CANCELLED
86-1140	SATELLITE 8303144	M 58206	OVERRIDING ROYALTY CANCELLED
86-1141	SATELLITE 8305198	M 58781	OVERRIDING ROYALTY CANCELLED
86-1142	SATELLITE 8307236	M 59363	OVERRIDING ROYALTY CANCELLED
86-1143	SATELLITE 8307188	M 59364	OVERRIDING ROYALTY CANCELLED
86-1144	SATELLITE 8307113	M 59390	OVERRIDING ROYALTY CANCELLED
86-1145	SATELLITE 8307137	M 59396	OVERRIDING ROYALTY CANCELLED
86-1146	SATELLITE 8309157	M 60558	OVERRIDING ROYALTY CANCELLED
86-1147	SATELLITE 8303152	U 52953	LEASE CANCELLED

86-1189	SATELLITE 8301103	M 57834	LEASE CANCELLED
86-1190	SATELLITE 8301106	M 57896 (SD)	LEASE CANCELLED
86-1191	SATELLITE 8305187	M 58728	LEASE CANCELLED
86-1192	SATELLITE 8305188	M 58744	LEASE CANCELLED
86-1193	SATELLITE 8305189	M 58745	LEASE CANCELLED
86-1194	SATELLITE 8305199	M 58755	LEASE CANCELLED
86-1195	SATELLITE 8305181	M 58791	LEASE CANCELLED
86-1196	SATELLITE 8305182	M 58792	LEASE CANCELLED
86-1197	SATELLITE 8305191	M 58801	LEASE CANCELLED
86-1198	SATELLITE 8305209	M 58852	LEASE CANCELLED
86-1199	SATELLITE 8305210	M 58853	LEASE CANCELLED
86-1200	SATELLITE 8305190	M 58865	LEASE CANCELLED
86-1201	SATELLITE 8305201	M 58890 (ND)	LEASE CANCELLED
86-1202	SATELLITE 8305205	M 58921 Acq.	LEASE CANCELLED
86-1203	SATELLITE 8305209	M 58944 Acq.	LEASE CANCELLED
86-1204	SATELLITE 8309113	M 60416	LEASE CANCELLED

86-1205	SATELLITE 8301123	W 84062	ROYALTY CANCELLED
86-1206	SATELLITE 8303150	W 84954	ROYALTY CANCELLED
86-1207	SATELLITE 8303145	W 85009	ROYALTY CANCELLED
86-1208	SATELLITE 8303146	W 85089	ROYALTY CANCELLED
86-1209	SATELLITE 8305114	W 85440	ROYALTY CANCELLED
86-1210	SATELLITE 8305114	W 85518	ROYALTY CANCELLED
86-1211	SATELLITE 8305117	W 85537	ROYALTY CANCELLED
86-1212	SATELLITE 8301106	W 85538	ROYALTY CANCELLED
86-1213	SATELLITE 8305139	W 85755	ROYALTY CANCELLED
86-1214	SATELLITE 8305170	W 85794	ROYALTY CANCELLED
86-1215	SATELLITE 8307113	W 86643	ROYALTY CANCELLED
86-1216	SATELLITE 8307156	W 86718	ROYALTY CANCELLED

86-1245	SATELLITE 8305201	M 58892 (ND)	LEASE CANCELLED
86-1246	SATELLITE 8305202	M 58894 (ND)	LEASE CANCELLED
86-1247	SATELLITE 8305209	M 58992 (ND) Acq.	LEASE CANCELLED

86-1248	SATELLITE 8408171	ES 33939 (La.)	OFFER REJECTED
86-1249	SATELLITE 8408182	ES 33940 (La.)	OFFER REJECTED
86-1250	SATELLITE 8408193	ES 34003 (La.)	OFFER REJECTED
86-1251	SATELLITE 8408175	ES 34004 (La.)	OFFER REJECTED
86-1252	SATELLITE 8408168	ES 34032 (Mich.)	OFFER REJECTED
86-1253	SATELLITE 8408189	ES 34045 (Miss.)	OFFER REJECTED
86-1254	SATELLITE 8408175	ES 34056 (Miss.)	OFFER REJECTED
86-1255	SATELLITE 8408175	ES 34060 (Miss.)	OFFER REJECTED
86-1256	SATELLITE 8309147	ES 34738 (La.)	OFFER REJECTED
86-1257	SATELLITE 8309151	ES 34757 (Miss.)	OFFER REJECTED

86-1292	SATELLITE 8301102	C 37235	LEASE CANCELLED
86-1293	SATELLITE 8301109	C 37261	ROYALTY CANCELLED
86-1294	SATELLITE 8303107	C 37546	LEASE CANCELLED
86-1295	SATELLITE 8303109	C 37548	LEASE CANCELLED
86-1296	SATELLITE 8303113	C 37552	LEASE CANCELLED
86-1297	SATELLITE 8303114	C 37555	LEASE CANCELLED
86-1298	SATELLITE 8303116	C 37560	LEASE CANCELLED
86-1299	SATELLITE 8303117	C 37561	LEASE CANCELLED
86-1300	SATELLITE 8305130	C 37881 Acq.	LEASE CANCELLED
86-1301	SATELLITE 8305134	C 37882 Acq.	LEASE CANCELLED
86-1302	SATELLITE 8305138	C 37885 Acq.	LEASE CANCELLED
86-1303	SATELLITE 8305211	C 37886 Acq.	LEASE CANCELLED
86-1304	SATELLITE 8305139	C 37887 Acq.	LEASE CANCELLED
86-1305	SATELLITE 8305142	C 37889 Acq.	LEASE CANCELLED
86-1306	SATELLITE 8305148	C 37893	LEASE CANCELLED
86-1307	SATELLITE 8305211	C 37898	LEASE CANCELLED
86-1308	SATELLITE 8305128	C 37899	LEASE CANCELLED
86-1309	SATELLITE 8305141	C 37925	LEASE CANCELLED
86-1310	SATELLITE 8305143	C 37927	LEASE CANCELLED
86-1311	SATELLITE 8305148	C 37935	LEASE CANCELLED
86-1312	SATELLITE 8305149	C 37936	LEASE CANCELLED
86-1313	SATELLITE 8305211	C 37942	LEASE CANCELLED
86-1314	SATELLITE 8305150	C 37945	LEASE CANCELLED
86-1315	SATELLITE 8305126	C 37946	LEASE CANCELLED
86-1316	SATELLITE 8305141	C 37949	LEASE CANCELLED
86-1317	SATELLITE 8305133	C 37964	LEASE CANCELLED
86-1318	SATELLITE 8305134	C 37971	LEASE CANCELLED
86-1319	SATELLITE 8305135	C 37972	LEASE CANCELLED
86-1320	SATELLITE 8305137	C 37974	LEASE CANCELLED
86-1321	SATELLITE 8305138	C 37977	LEASE CANCELLED
86-1322	SATELLITE 8305146	C 37993	LEASE CANCELLED
86-1323	SATELLITE 8305147	C 37995	LEASE CANCELLED
86-1324	SATELLITE 8305148	C 37997	LEASE CANCELLED
86-1325	SATELLITE 8305128	C 38009	LEASE CANCELLED
86-1326	SATELLITE 8305130	C 38029	LEASE CANCELLED
86-1327	SATELLITE 8305132	C 38030	LEASE CANCELLED
86-1328	SATELLITE 8305148	C 38067	LEASE CANCELLED
86-1329	SATELLITE 8305164	C 38069	LEASE CANCELLED
86-1330	SATELLITE 8305174	C 38071	LEASE CANCELLED
86-1331	SATELLITE 8305129	C 38092	LEASE CANCELLED
86-1332	SATELLITE 8305130	C 38093	LEASE CANCELLED
86-1333	SATELLITE 8305131	C 38094	LEASE CANCELLED
86-1334	SATELLITE 8305132	C 38095	LEASE CANCELLED
86-1335	SATELLITE 8305133	C 38096	LEASE CANCELLED
86-1336	SATELLITE 8307197	C 38167 Acq.	LEASE CANCELLED
86-1337	SATELLITE 8307192	C 38182	LEASE CANCELLED
86-1338	SATELLITE 8307194	C 38195	LEASE CANCELLED
86-1339	SATELLITE 8307193	C 38207	LEASE CANCELLED
86-1340	SATELLITE 8307200	C 38215	LEASE CANCELLED
86-1341	SATELLITE 8307191	C 38216	LEASE CANCELLED
86-1342	SATELLITE 8307194	C 38219	LEASE CANCELLED
86-1343	SATELLITE 8307194	C 38231	LEASE CANCELLED
86-1344	SATELLITE 8307196	C 38233	LEASE CANCELLED
86-1345	SATELLITE 8307199	C 38236	LEASE CANCELLED
86-1346	SATELLITE 8307195	C 38242	LEASE CANCELLED
86-1347	SATELLITE 8307197	C 38244	LEASE CANCELLED
86-1348	SATELLITE 8307206	C 38274	LEASE CANCELLED
86-1349	SATELLITE 8307210	C 38288	ROYALTY CANCELLED
86-1350	SATELLITE 8307207	C 38316	LEASE CANCELLED
86-1351	SATELLITE 8309236	C 38934 Acq.	LEASE CANCELLED
86-1352	SATELLITE 8309237	C 39059	LEASE CANCELLED
86-1353	SATELLITE 8309248	C 39076	LEASE CANCELLED
86-1354	SATELLITE 8305133	C 37879 Acq.	OFFER REJECTED
86-1355	SATELLITE 8305139	C 37923	OFFER REJECTED
86-1356	SATELLITE 8305211	C 37967	OFFER REJECTED
86-1357	SATELLITE 8305136	C 37973	OFFER REJECTED
86-1358	SATELLITE 8305129	C 38020	OFFER REJECTED
86-1359	SATELLITE 8305136	C 38026	OFFER REJECTED
86-1359	SATELLITE 8305140	C 38026	OFFER REJECTED
86-1360	SATELLITE 8305147	C 38065	OFFER REJECTED
86-1361	SATELLITE 8307240	C 38321	OFFER REJECTED
86-1362	SATELLITE 8307201	C 38323	OFFER REJECTED
86-1363	SATELLITE 8408138	C 41521	OFFER REJECTED
86-1364	SATELLITE 8408138	C 41599	OFFER REJECTED
86-1365	SATELLITE 8502106	C 42161	OFFER REJECTED
86-1366	SATELLITE 8502101	C 42216	OFFER REJECTED
86-1367	SATELLITE 8307239	C 38188	LEASE CANCELLED & PROTEST SUSTAINED
86-1388	SATELLITE 8309249	C 39138	OFFER REJECTED

NOTE:

An additional extension of time has also been granted for: IBLA 86-532 (Satellite 8410253); IBLA 86-575 (Satellite 8410253); IBLA 86-591 (Satellite 8408139); IBLA 86-995 (Satellite 8309119) and IBLA 86-1175 (Satellite 8410253). Thus, these appeals are not included in this order of dismissal.

[FR Doc. 87-428 Filed 1-8-87; 8:45 am]

BILLING CODE 4310-84-C

federal register

Friday
January 9, 1987

Part V

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, including section 1014, I herewith report 73 new rescission proposals totaling $5,839,301,314, three new deferrals of budget authority totaling $28,716,462, and three revised deferrals of budget authority now totaling $34,850,024.

The rescissions affect programs in the Departments of Agriculture, Commerce, Defense-Military, Defense-Civil, Education, Energy, Interior, Justice, Labor, and Treasury, the Environmental Protection Agency, the National Aeronautics and Space Administration, the Veterans Administration, the Appalachian Regional Commission, the National Endowment for the Humanities, and the Selective Service System.

The deferrals affect programs in the Departments of Defense-Civil, Energy, Interior, and State.

The details of these rescission proposals and deferrals are contained in the attached report.

Ronald Reagan,

The White House,

January 5, 1987.

BILLING CODE 3110-01-M

1

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Department of Agriculture:	
	Agricultural Research Service:	
R87-1	Buildings and facilities	28,000
	Agricultural Stabilization and Conservation Service:	
R87-2	Rural clean water program	6,000
R87-3	Agricultural conservation program	164,356
R87-4	Water bank program	8,166
R87-5	Emergency conservation program	10,000
	Farmers Home Administration:	
R87-6	Rural water and waste disposal grants	79,500
R87-7	Rural community fire protection grants	2,300
R87-8	Rural housing for domestic farm labor	7,400
R87-9	Mutual and self-help housing	8,000
R87-10	Very low income housing repair grants	9,400
R87-11	Compensation for construction defects	500
R87-12	Rural housing preservation grants	14,400
	Soil Conservation Service:	
R87-13	Watershed and flood prevention operations	96,000
R87-14	Great Plains conservation program	8,000
R87-15	Resource conservation and development	5,000
	Forest Service:	
R87-16	Land acquisition	49,030
	Department of Commerce:	
	Economic Development Administration:	
R87-17	Economic development assistance programs	169,718
	International Trade Administration:	
R87-18	Operations and administration	11,400
	National Oceanic and Atmospheric Administration:	
R87-19	Operations, research, and facilities	58,857
	National Telecommunications and Information Administration:	
R87-20	Public telecommunications facilities, planning, and construction	19,300
	Department of Defense - Military:	
	Procurement:	
R87-21	Procurement of weapons and tracked combat vehicles, Army	15,000
R87-22	Other procurement, Navy	116,000
	Military Construction:	
R87-23	Military construction, Air Force	2,750

2

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Department of Defense - Civil:	
	Corps of Engineers - Civil:	
R87-24	Construction, general.....	7,715
	Department of Education:	
	Office of Elementary and Secondary Education:	
R87-25	Compensatory education for the disadvantaged.....	7,500
R87-26	Impact aid.....	17,500
R87-27	Special programs.....	54,980
	Office of Bilingual Education and Minority Languages Affairs:	
R87-28	Bilingual education.....	45,886
	Office of Special Education and Rehabilitative Services:	
R87-29	Education for the handicapped.....	288,659
R87-30	Rehabilitation services and handicapped research.....	127,455
	Office of Vocational and Adult Education:	
R87-31	Vocational and adult education.....	432,319
	Office of Postsecondary Education:	
R87-32	Student financial assistance.....	1,269,000
R87-33	Higher education.....	203,050
	Office of Educational Research and Improvement:	
R87-34	Libraries.....	34,500
	Department of Energy:	
	Energy Programs:	
R87-35	Energy supply, research and development activities.....	81,800
R87-36	Fossil energy research and development....	44,464
R87-37	Energy conservation.....	87,433
	Department of Health and Human Services:	
	Food and Drug Administration:	
R87-38	Buildings and facilities.....	500
	Health Resources and Services Administration:	
R87-39	Health resources and services.....	161,210
R87-40	Indian health facilities.....	57,100
	National Institutes of Health:	
R87-41	National Library of Medicine.....	5,405
	Office of the Assistant Secretary of Health:	
R87-42	Public health service management.....	5,000
	Departmental Management:	
R87-43	Policy research.....	2,200

3

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Department of Housing and Urban Development:	
	Housing programs:	
R87-44	Annual contributions for assisted housing.	473,313
R87-45	Housing counseling assistance.....	3,500
	Community Planning and Development:	
R87-46	Community development grants.....	375,200
R87-47	Urban development action grants.....	237,500
	Management and administration:	
R87-48	Salaries and expenses.....	19,042
	Department of the Interior:	
	Bureau of Land Management:	
R87-49	Management of lands and resources.....	6,500
R87-50	Construction and access.....	1,600
R87-51	Land acquisition.....	2,700
	Bureau of Mines:	
R87-52	Mines and minerals.....	16,594
	Fish and Wildlife Service:	
R87-53	Resource management.....	20,500
R87-54	Construction.....	23,200
R87-55	Land acquisition.....	26,762
	National Park Service:	
R87-56	Operation of the national park system.....	7,950
R87-57	Construction.....	58,981
R87-58	Land acquisition.....	97,638
R87-59	Historic preservation fund.....	10,000
	Bureau of Indian Affairs:	
R87-60	Construction.....	22,811
	Territorial and International Affairs:	
R87-61	Administration of territories.....	2,500
	Department of Justice:	
	Immigration and Naturalization Service:	
R87-62	Salaries and expenses.....	24,598
	Department of Labor:	
	Employment and Training Administration:	
R87-63	Training and employment services.....	332,000
	Department of the Treasury:	
	Federal Law Enforcement Training Center:	
R87-64	Salaries and expenses.....	8,450
	Bureau of Alcohol, Tobacco, and Firearms:	
R87-65	Salaries and expenses.....	15,000
	United States Customs Service:	
R87-66	Salaries and expenses.....	38,945

4

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Environmental Protection Agency:	
R87-67	Abatement, control and compliance.....	47,500
R87-68	Buildings and facilities.....	2,500
	National Aeronautics and Space Administration:	
R87-69	Research and development.....	25,796
	Veterans Administration:	
R87-70	Medical care.....	75,000
	Other Independent Agencies:	
	Appalachian Regional Commission:	
R87-71	Appalachian regional development commission	31,059
	National Endowment for the Humanities:	
R87-72	National capital arts and cultural affairs	4,000
	Selective Service System:	
R87-73	Salaries and expenses.....	409
	Total, proposed rescissions.....	5,839,301

5

DEFERRAL NO.	ITEM	BUDGET AUTHORITY
	Department of Defense - Civil:	
	Wildlife Conservation, Military Reservations:	
D87-8A	Wildlife conservation.....	1,090
	Department of Energy:	
	Power Marketing Administration:	
D87-10A	Southwestern Power Administration, Operation and maintenance.....	13,660
D87-29	Western Area Power Administration, Construction, rehabilitation, operation, and maintenance.....	4,485
	Departmental Administration:	
D87-30	Departmental administration.....	24,182
	Department of the Interior:	
	Bureau of Land Management:	
D87-31	Payments for Proceeds, Sale of Mineral Leasing Act of 1920, Section 40(d).....	49
	Department of State:	
	Bureau for Refugee Programs:	
D87-14A	United States emergency refugee and migratory assistance fund.....	20,100
	Total, deferrals.....	63,566

6

SUMMARY OF SPECIAL MESSAGES FOR FY 1987

(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Third special message:		
New items	5,839,301	28,716
Revisions to previous special messages.	---	20,131
Effects of third special message	5,839,301	48,847
Amounts from previous special messages that are changed by this message (changes noted above)	---	14,719
Subtotal, rescissions and deferrals	5,839,301	63,566
Amounts from previous special messages that are not changed by this message	---	10,991,591
Total amount proposed to date in all special messages	5,839,301	11,055,157

R87-1

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Buildings and facilities

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $28,000,000 are rescinded.

Rescission Proposal No: R87-1

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture

Bureau: Agricultural Research Service

Appropriation title and symbol:
Buildings and facilities
12X1401

OMB identification code:
12-1401-0-1-352

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority..... $ 37,400,000
(P.L. 99-500 & 99-591)
Other budgetary resources.... $ 70,966,596
Total budgetary resources.... $108,366,596

Amount proposed for rescission..... $ 28,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the acquisition of land, construction, repair, improvement, extension, alterations, and purchases of fixed equipment or facilities of or used by the Agricultural Research Service. Rescission of the following funds is proposed: $27.0 million for construction of a Plant and Animal Science Research Center at the University of Illinois and $1.0 million for planning funds for a new Salinity Laboratory on or near the University of California at Riverside. These projects are low priority, will not contribute significantly to the mission of the Agricultural Research Service and will require additional funds in future years for construction, operations, and administration. The rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The two projects will not be constructed.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
43,405	32,405	11,000	17,000	...	...	...	...

R87-2

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Rural clean water program

Of available funds under this head, $6,000,000 are rescinded.

Rescission Proposal No: R87-2

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture

Bureau: Agriculture Stabilization and Conservation Service

Appropriation title and symbol:

Rural clean water program 1/
12X3337

OMB identification code:

12-3337-0-1-304

Grant program:
[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority.....$ ____
(P.L. _____)

Other budgetary resources....$ 6,000,000

Total budgetary resources....$ 6,000,000

Amount proposed for rescission.....$ 6,000,000

Legal authority (in addition to sec. 1012):

[X] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: Under the experimental Rural Clean Water Program (RCWP), a total of $70 million was appropriated in 1980 and 1981 to develop and test means of controlling agricultural non-point source water pollution in rural areas. Twenty-one projects were approved, for which full funding over the 3- to 10-year life of the project areas was estimated to be $70 million. Due to a decline in the inflation rate from 15 percent to 5 percent, and to a lower level of farmer participation as a result of the depressed farm economy, $64 million was sufficient to complete the 21 RCWP projects. In 1986, the remaining $6 million was reserved to assist Chesapeake Bay clean-up efforts, supplementing other funds provided by the Congress in the Clean Water Act. Since related funds did not become available under the Clean Water Act, RCWP funds will not be needed for this purpose. This reserve is established and the rescission is proposed pursuant to the Antideficiency Act (31 U.S.C. 1512) to achieve savings made possible through greater efficiency of operations.

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar rescission proposal in 1986 (R86-2).

R87-3

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Agricultural conservation program

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $164,356,000 are rescinded.

Rescission Proposal No: R87-3

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Agriculture **Bureau:** Agriculture Stabilization and Conservation Service **Appropriation title and symbol:** Agricultural conservation program 1/ 12X3315	**New budget authority**.....$176,935,000 (P.L. 99-500 & 99-591) **Other budgetary resources**....$ 77,355,117 **Total budgetary resources**....$254,290,117 **Amount proposed for rescission**.....$164,356,000
OMB identification code: 12-3315-0-1-302 **Grant program:** [ ] Yes [X] No	**Legal authority** (in addition to sec. 1012): [ ] Antideficiency Act [ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: The primary objectives of the program are: (1) to help assure a continued supply of food and fiber necessary for a strong and healthy economy and people, (2) to facilitate sound resource management systems through soil and water conservation, (3) to control erosion and sedimentation from agricultural land, (4) to control pollution from animal wastes, (5) to encourage voluntary compliance by agricultural producers with State and Federal requirements to solve point and non-point sources of pollution, (6) to improve water quality, (7) to help achieve national priorities in the National Environmental Policy Act, (8) to help achieve national priorities in the Federal Water Pollution Control Act, and (9) to encourage the energy conservation measures specified in the Energy Security Act of 1980.

The rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985. In addition, Presidential policy calls for privatization when possible. Responsibility for the maintenance of the productivity and profitability of the individual farm is primarily the responsibility of its owner, who has an economic stake in preserving its productivity. This proposed reduction is consistent with the Administration's policy of shifting the responsibility of financing the costs of installing conservation measures back to State, local, and private sources so that Federal financial assistance can be focused on the most seriously eroding areas that need longer term conservation of cropland and meet the

R87-3

strict criteria for entry in a Conservation Reserve Program.

The Conservation Reserve Program authorized by the Ford Security Act of 1985 will be the primary mechanism for Federal conservation cost sharing in 1987 and future years.

Estimated Program Effect: No new activity beyond what is currently under contract will be initiated under this program in fiscal year 1987. Conservation practices for which funds were previously obligated will be completed. Existing long-term agreements will be honored.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
218,806	166,136	52,670	75,000	3,465	3,465	3,465	3,465

1/ This account was the subject of a similar rescission proposal in 1986 (R86-3).

R87-4

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Water bank program

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $8,166,000 are rescinded.

Rescission Proposal No: R87-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Agriculture Stabilization and Conservation Service
Appropriation title and symbol:
Water bank program 1/
12X3320

OMB identification code:
12-3320-0-1-302

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority.....$ 8,371,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 4,679,858
Total budgetary resources....$ 13,050,858

Amount proposed for rescission.....$ 8,166,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: The objectives of the Water Bank Program are to conserve water; preserve, maintain, and improve the Nation's wetlands; increase waterfowl habitat in migratory waterfowl nesting, breeding, and feeding areas in the United States; and secure recreational and environmental benefits for the Nation. The program was authorized by the Water Bank Act, approved December 19, 1970, as amended by Public Law 96-182, approved January 2, 1980. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985. In addition, the major program thrust for waterfowl habitat protection is in the Department of the Interior which has a dedicated source of funding for waterfowl habitat preservation authorized by the Migratory Bird Conservation Act. Finally, the "swampbuster provision" of the Food Security Act of 1985 would deny farm benefits to producers who convert wetlands to crop use in the future, except where the impact of the action is found to be minimal.

Estimated Program Effect: No new contracts will be signed in fiscal year 1987. Expiring agreements will not be renewed and payment rates on 5-year old contracts will not be increased. However, existing agreements through 1996 will be honored.

R87-4

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
9,379	8,291	1,088	838	838	837	837	837

1/ This account was the subject of a similar rescission proposal in 1986 (R86-4).

R87-5

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Emergency conservation program

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $10,000,000 are rescinded.

Rescission Proposal No: R87-5

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Agriculture Stabilization and Conservation Service
Appropriation title and symbol:
Emergency conservation program 1/
12X3316

OMB identification code:
12-3316-0-1-453

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority.....$ 10,000,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 8,348,792
Total budgetary resources....$ 18,348,792

Amount proposed for rescission.....$ 10,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This program was authorized by the Agricultural Credit Act of 1978 (16 U.S.C. 2201-05). It provides funds for sharing the cost of emergency measures to deal with cases of severe damage to farms and rangelands resulting from natural disasters. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration's policy is to shift the responsibility of financing the costs of installing conservation measures back to State, local, and private sources and to focus Federal financial assistance on the most serious eroding areas. Further, losses resulting from natural disasters could be indemnified by insurance carriers.

Estimated Program Effect: Existing contracts will be honored. However, no new cost-sharing assistance will be provided for emergency measures to deal with cases of severe damage to farms by natural disasters.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
15,619	8,119	7,500	2,500	...	...	...	...

R87-6

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural water and waste disposal grants

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $79,500,000 are rescinded.

Rescission Proposal No: R87-6

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Farmers Home Administration

Appropriation title and symbol:
Rural water and waste disposal grants
12X2066

OMB identification code:
12-2066-0-1-452

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority..... $109,395,000
(P.L. 99-500 & 99-591)
Other budgetary resources.... $ 1,589,885

Total budgetary resources.... $110,984,885

Amount proposed for rescission..... $ 79,500,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: These grants are made for the development costs of water and waste disposal projects in rural areas. These projects may include development of storage, treatment, purification, or distribution of domestic water or the collection, treatment, or disposal of waste in rural areas. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration believes that the most efficient way to manage both local housing and community facilities is to rely upon the American private credit market, not Federal loans and grants.

Estimated Program Effect: Rural water and waste disposal grants will be reduced.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
168,098	166,508	1,590	11,925	19,875	22,260	14,310	5,101

R87-7

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural community fire protection grants

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $2,300,000 are rescinded.

Rescission Proposal No: R87-7

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Farmers Home Administration

Appropriation title and symbol:
Rural community fire protection grants
1272067

OMB identification code:
12-2067-0-1-452

Grant program:
[X] Yes [ ] No

Type of account or fund:
[X] Annual
[ ] Multiple-year (expiration date)
[ ] No-Year

New budget authority.....$ 3,091,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$

Total budgetary resources....$ 3,091,000

Amount proposed for rescission.....$ 2,300,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: These grants are made to public bodies to organize, train, and equip local fire-fighting forces, including those of Indian tribes or other native groups, to prevent, control, and suppress fires threatening human lives, crops, livestock, farmsteads or other improvements, pastures, orchards, wildlife, rangelands, woodland, and other resources in rural areas. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration believes that the most efficient way to manage both local housing and community facilities is to rely upon the American private credit market, not Federal loans and grants.

Estimated Program Effect: Rural community fire protection grants will be reduced.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,723	688	1,035	115	920	230	...	...

R87-8

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural housing for domestic farm labor

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $7,400,000 are rescinded.

Rescission Proposal No: R87-8

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Farmers Home Administration

Appropriation title and symbol:
Rural housing for domestic farm labor
12X2004

OMB identification code:
12-2004-0-1-604

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority.....$ 9,513,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 304,000

Total budgetary resources....$ 9,817,000

Amount proposed for rescission.....$ 7,400,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: The Farmers Home Administration is authorized to share with state or other political subdivisions, public or private nonprofit organizations, or nonprofit organizations of farm workers, the cost of providing low-rent housing, basic household furnishings, and related facilities to be used by domestic farm laborers. Such housing may be for year-round or seasonal occupancy and may consist of family unit apartments or dormitory-type units, constructed in an economical manner, and not of elaborate or extravagant design or materials. Grant assistance may not exceed 90 percent of the total development cost. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration believes that the most efficient way to manage both local housing and community facilities is to rely upon the American private credit market, not Federal loans and grants.

Estimated Program Effect: Rural housing for domestic farm labor grants will be reduced. Those low income families in greatest need for improved rural housing may be eligible for assistance under the housing voucher programs of either the Department of Housing and Urban Development or the Farmers Home Administration.

R87-8

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
10,507	10,211	296	1,850	1,702	1,406	1,480	666

R87-9

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Mutual and self-help housing

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $8,000,000 are rescinded.

Rescission Proposal No: R87-9

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Farmers Home Administration

Appropriation title and symbol:
Mutual and self-help housing
12X2006

OMB identification code:
12-2006-0-1-604

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority.....$ 8,000,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 5,404,000

Total budgetary resources....$ 13,404,000

Amount proposed for rescission.....$ 8,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: These grants are made to local organizations to promote the development of mutual or self-help housing programs under which groups of usually six to ten families build their own homes by mutually exchanging labor. Funds may be used to pay the cost of construction supervisors who will work with families to guide them in the construction of their homes and for administrative expenses of the organizations providing the self-help assistance. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration believes that the most efficient way to manage both local housing and community facilities is to rely upon the American private credit market, not Federal loans and grants.

Estimated Program Effect: Mutual and self-help housing grants will be reduced. Those low income families in greatest need for improved rural housing may be eligible for assistance under the housing voucher programs of either the Department of Housing and Urban Development or the Farmers Home Administration.

R87-9

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
6,492	5,852	640	3,200	1,600	560	1,200	800

R87-10

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Very low-income housing repair grants

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $9,400,000 are rescinded.

Rescission Proposal No: R87-10

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Farmers Home Administration

Appropriation title and symbol:
Very low-income housing repair grants
1272064

OMB identification code:
12-2064-0-1-604

Grant program:
[X] Yes [ ] No

Type of account or fund:
[X] Annual
[ ] Multiple-year _____ (expiration date)
[ ] No-Year

New budget authority..... $ 12,500,000
(P.L. 99-500 & 99-591)
Other budgetary resources.... $ _____
Total budgetary resources.... $ 12,500,000

Amount proposed for rescission..... $ 9,400,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: The rural housing repair grant program is carried out by making grants to very low-income elderly owner-occupants to make necessary repairs to improve and modernize their dwellings in order to remove safety and health hazards. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration believes that the most efficient way to manage both local housing and community facilities is to rely upon the American private credit market, not Federal loans and grants.

Estimated Program Effect: Very low-income housing repair grants will be reduced. Those low income families in greatest need for improved rural housing may be eligible for assistance under the housing voucher programs of either the Department of Housing and Urban Development or the Farmers Home Administration.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
13,791	4,861	8,930	470	...	...	...	...

R87-11

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Compensation for construction defects

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $500,000 are rescinded.

Rescission Proposal No: R87-11

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Farmers Home Administration

Appropriation title and symbol:
Compensation for construction defects
1272071

OMB identification code:
12-2071-0-1-371

Grant program:
[X] Yes [ ] No

Type of account or fund:
[X] Annual
[ ] Multiple-year _____ (expiration date)
[ ] No-Year

New budget authority.....$ 713,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ _____
Total budgetary resources....$ 713,000

Amount proposed for rescission.....$ 500,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: The Secretary of Agriculture is authorized to make expenditures to correct structural defects, or to pay claims of owners arising from such defects on newly constructed dwellings purchased with assistance of the Farmers Home Administration. Claims will not be paid until provisions under the builder's warranty have been fully pursued. Requests for compensation for construction defects must be made within eighteen months of loan closing. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration believes that the most efficient way to manage both local housing and community facilities is to rely upon the American private credit market, not Federal loans and grants.

Estimated Program Effect: Payments for claims for compensation for construction defects will be reduced.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
713	213	500	...	...	...	...	...

R87-12

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

Rural housing preservation grants

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $14,400,000 are rescinded.

Rescission Proposal No: R87-12

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Farmers Home Administration

Appropriation title and symbol:
Rural housing preservation grants
1272070

OMB identification code:
12-2070-0-1-604

Grant program:
[X] Yes [ ] No

Type of account or fund:
[X] Annual
[ ] Multiple-year _____ (expiration date)
[ ] No-Year

New budget authority..... $ 19,140,000
(P.L. 99-500 & 99-591)
Other budgetary resources.... $ _____

Total budgetary resources.... $ 19,140,000

Amount proposed for rescission..... $ 14,400,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: These grants are made to eligible nonprofit groups, Indian tribes, and state and local government agencies for the rehabilitation of single family housing, rental and cooperative housing for low and very low income families and to provide assistance payments as provided by section 8 of the Housing Act of 1937 to minimize the displacement of very low income tenants residing in units rehabilitated with assistance under the program. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration believes that the most efficient way to manage both local housing and community facilities is to rely upon the American private credit market, not Federal loans and grants.

Estimated Program Effect: Rural housing preservation grants will be reduced. Those low income families in greatest need of improved rural housing may be eligible for assistance under the housing voucher programs of either the Farmers Home Administration or the Department of Housing and Urban Development.

R87-12

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
23,925	20,325	3,600	10,800	...	...	...	...

R87-13

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Watershed and flood prevention operations

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $87,755,000 are rescinded; and of the remaining available funds, $8,245,000 are rescinded.

Rescission Proposal No: R87-13

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Soil Conservation Service

Appropriation title and symbol:
Watershed and flood prevention operations 1/
12X1072

OMB identification code:
12-1072-0-1-301

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority..... $175,885,000
(P.L. 99-500 & 99-591)
Other budgetary resources.... $ 66,215,080

Total budgetary resources.... $242,136,080

Amount proposed for rescission..... $ 96,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This program provides for cooperation between the Federal Government and States and their political subdivisions in installing works of improvement to reduce damage from floodwater, sediment and erosion; for the conservation, development, utilization, and disposal of water; and for the conservation and proper utilization of land. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. In addition, the Administration's policy is to shift the responsibility of financing the costs of installing conservation measures back to the States, local, and private sources and to focus Federal financing assistance on the most serious eroding areas.

Estimated Program Effect: The watershed structures funded by this program have mainly local benefits, are small and relatively inexpensive, and are well within the financing capabilities of local communities.

R87-13

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
251,782	185,782	66,000	30,000	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-11).

R87-14

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Great Plains conservation program

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $8,000,000 are rescinded.

Rescission Proposal No: R87-14

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Soil Conservation Service

Appropriation title and symbol:
Great Plains conservation program 1/
12X2268

OMB identification code:
12-2268-0-1-302

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority.....$ 20,474,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 75,342

Total budgetary resources....$ 20,549,342

Amount proposed for rescission.....$ 8,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This program provides cost-share and technical services to participating landowners or operators in the Great Plains area in the development and installation of long-term conservation plans and practices for their land under contracts entered into in prior years. It is a voluntary program in 519 designated counties of 10 Great Plains States. Contracts with individual landowners range in time from three to 10 years. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. The Administration's policy is to shift the responsibility of financing the cost of installing conservation measures back to State, local, and private sources and to focus Federal financing asssitance on the most serious eroding areas. The new Conservation Reserve Program authorized by the Ford Security Act of 1985 will be the primary Federal Conservation Program.

Estimated Program Effect: The conservation practices funded by this program have only local benefits, are small and relatively inexpensive, and are well within the financing capabilities of individual landowners.

R87-14

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
21,522	16,522	5,000	3,000	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-12).

R87-15

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Resource conservation and development

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $5,000,000 are rescinded.

Rescission Proposal No: R87-15

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture
Bureau: Soil Conservation Service

Appropriation title and symbol:
Resource conservation and development
12X1010

OMB identification code:
12-1010-0-1-302

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority..... $ 25,020,000
(P.L. 99-500 & 99-591)
Other budgetary resources.... $ 3,114,568

Total budgetary resources.... $ 28,134,568

Amount proposed for rescission..... $ 5,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This program provides for cooperation between the Federal Government, Resource Conservation and Development (RC&D) sponsors, state, and local units of governments, and nonprofit organizations to initiate and direct the resource and conservation planning process, develop and maintain an RC&D area plan, and carry out activities to implement the plan. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985. The Administration's policy is to shift the responsibility of financing the cost of installing local economic development and conservation measures back to State, local, and private sources and to focus Federal financing asssitance on the most serious eroding areas. The new Conservation Reserve Program authorized by the Ford Security Act of 1985 will be the primary Federal Conservation Program.

Estimated Program Effect: No new financial assistance agreements will be signed until after the 45 days for Congressional consideration of this rescission proposal. The conservation practices funded by this program have only local benefits, are small and relatively inexpensive, and are well within the financing capabilities of local sponsors.

R87-15

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
28,150	25,150	3,000	2,000	...	...	...	...

R87-16

DEPARTMENT OF AGRICULTURE

Forest Service

Land acquisition

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $42,430,000 are rescinded, and of the remaining available funds, $6,600,000 are rescinded.

Rescission Proposal No: R87-16

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Agriculture

Bureau: Forest Service

Appropriation title and symbol:
Land acquisition
12X5004

OMB identification code:
12-5004-0-2-303

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $ 52,236,000
(P.L. 99-500 & 99-591)
Other budgetary resources.... $ 46,831,989
Total budgetary resources.... $ 99,067,989

Amount proposed for rescission..... $ 49,030,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the acquisition of private lands and interests for public outdoor recreation purposes. Additional acquisition of private lands by the Federal Government will be postponed in order to: (1) minimize reducing the current taxable land base for state and local government revenue purposes, (2) permit the Forest Service to concentrate its attention and limited resources on maintaining and improving their current extensive land base, and (3) help achieve the deficit reduction goals of the Balanced Budget and Deficit Control Act of 1985.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
41,286	33,403	7,883	25,477	15,670	...	...	...

R87-17

DEPARTMENT OF COMMERCE

Economic Development Administration

Economic development assistance program

Of the funds included under this head in the Department of Commerce Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $116,009,000 are rescinded; in addition, all funds made available by section 101(n) of Public Laws 99-500 and 99-591, authorized by the Follow Through Act, are rescinded.

Of the funds made available by section 108(c) of Public Law 99-190, $8,184,000 are rescinded: Provided, That the remaining amounts remain available until September 30, 1987: Provided further, That the language beginning "to remain available" until the end is deleted; Provided further, That section 108(a) of said statute is repealed.

Of the funds made available under this head in the Supplemental Appropriations Act, 1985 (Public Law 99-88), $20,730,000 are rescinded: Provided, That the remaining amounts remain available until September 30, 1987: Provided further, That the language "to remain available " until the end is deleted.

Rescission Proposal No: R87-17

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce

Bureau: Economic Development Administration

Appropriation title and symbol:

Economic development assistance program 1/
1362050 13X2050

OMB identification code:

13-2050-0-1-452

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority.....$ 189,943,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$ 46,159,000

Total budgetary resources...$ 226,102,159

Amount proposed for rescission.....$ 169,718,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account provides funding for public works projects, planning and technical assistance grants, and research and evaluation for economic development activities, as well as specific Congressionally-mandated projects. Because this program interferes with the workings of the private market, and provides functions that should be performed by State and local governments, the Administration proposes to rescind $140,804,000 of the funds initially made available under the 1987 Continuing Resolution (P.L. 99-590 & 591), $8,184,000 of the funds made available for this program by the 1986 Continuing Resolution (P.L. 99-190), and $20,730,000 of the funds made available under the Supplemental Appropriations Act, 1985.

Estimated Program Effect: The effect will be to transfer responsibility for economic development to State, local and private sources.

R87-17

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
221,752	204,785	16,967	33,934	42,417	42,417	25,450	8,483

1/ This account was the subject of a similar rescission proposal in 1986 (R86-14).

R87-18

DEPARTMENT OF COMMERCE

International Trade Administration

Operations and administration

Of the funds included under this head in the Department of Commerce Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $11,400,000 are rescinded.

Rescission Proposal No: R87-18

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce

Bureau: International Trade Administration

Appropriation title and symbol:

Operations and administration 1/

OMB identification code:

13-1250-0-1-376

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority..... $ 199,518,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 23,390,000

Total budgetary resources... $ 222,908,000

Amount proposed for rescission..... $ 11,400,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds programs intended to promote an improved trade posture for U.S. industry in a manner consistent with national security and foreign and economic policy. The Trade Adjustment Assistance (TAA) program, funded in this account, provides technical assistance and grants to businesses adversely affected by increased imports. The fact that a firm has been harmed by import competition should not in and of itself constitute justification for special Government assistance; rather, U.S. trade laws provide remedies against unfair import competition. This rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The Trade Adjustment Assistance program would be terminated.

R87-18

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
189,336	181,299	8,037	3,363	---	---	---	---

1/ This account was the subject of a similar rescission proposal in 1986 (R86-15)

R87-19

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Operations, research and facilities

Of the funds included under this head in the Department of Commerce Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $58,857,000 are rescinded.

Rescission Proposal No: R87-19

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce

Bureau: National Oceanic and Atmospheric Administration

Appropriation title and symbol:

Operations, research and facilities 1/
13X1450

OMB identification code:

13-1450-0-1-306

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority..... $1,090,380,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 326,472,257

Total budgetary resources... $1,416,852,257

Amount proposed for rescission..... $ 58,857,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds expenses of the Federal government in ocean and coastal programs, marine fishery resource programs, atmospheric programs, and satellite and environmental data and information services. Consistent with the President's policy to eliminate unnecessary and low priority Federal programs, and the requirement to meet the deficit reduction goals established by the Balanced Budget and Emergency Deficit Control Act of 1985, the following are proposed for rescission:

Coastal zone assistance grants ($36,683,000): This program was created to help States manage coastal resources. This program has completed its mission and additional funding is no longer necessary, especially given the Federal budget deficit and the budget surpluses of many States. Over $500 million have been provided for this purpose since 1972 and approved plans now cover 90% of the U.S. coastline.

Sea Grant ($22,174,000): The Sea grant program was created to develop a network of colleges and universities with marine education programs. The program has achieved its goal; twenty-nine institutions have established marine science programs covering all coastal states and Puerto Rico. The program has become primarily an ongoing source of funding for local and regionally oriented research projects and marine services.

R87-19

Estimated Program Effect: These rescissions will not affect essential government services and will enable budget resources to be used for programs that are appropriate Federal responsibilities.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,280,788	1,266,074	14,714	23,543	14,714	5,886	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R87-16)

R87-20

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Public telecommunications facilities, planning and construction

Of the funds included under this head in the Department of Commerce Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $19,300,000 are rescinded.

Rescission Proposal No: R87-20

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Commerce

Bureau: National Telecommunications Information Administration

Appropriation title and symbol:

Public telecommunications, facilities planning and construction 1/
13X0551

OMB identification code:

13-0551-0-1-503

Grant program:

[ ] Yes [ ] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority..... $ 20,500,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 1,016,847

Total budgetary resources... $ 21,516,847

Amount proposed for rescission..... $ 19,300,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: The public telecommunications facilities program provides grants to plan for and construct non-commercial broadcasting facilities in areas not served by public television or radio. Over 95% of the United States currently receives public broadcasting. The proposed rescission will eliminate the funds available for grants from the 1987 appropriation while allowing for the orderly phase out of the program.

Estimated Program Effect: This rescission will not affect essential government services and will enable budget resources to be used for programs that are appropriate Federal responsibilities.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
25,395	24,044	1,351	10,712	5,790	1,447	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-17).

R87-21

DEPARTMENT OF DEFENSE

Procurement

Procurement of weapons and
tracked combat vehicles, Army

Of the funds included under this head in the Department of Defense Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $15,000,000 are rescinded.

Rescission Proposal No: R87-21

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense

Bureau: Procurement

Appropriation title and symbol:

Procurement of weapons and tracked combat vehicles, Army 1/

217/92033

OMB identification code:

21-2033-0-1-051

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[X] Multiple-year Sept. 30, 1989 (expiration date)

[ ] No-Year

New budget authority..... $3,804,300,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $

Total budgetary resources... $3,804,300,000

Amount proposed for rescission ..... $ 15,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other

Justification: This account funds construction, procurement, production and modification of weapons and tracked combat vehicles, equipment, including ordinance, spare parts and accessories; specialized equipment and training devices; and the expansion of public and private plants. The Army selected a producer (Baretta) for the 9mm handgun through a competitive procurement process and awarded a multi-year contract. The Congress included in the Department of Defense Appropriations Act, 1987, a provision that directs the Army to have another competition for 1988 and later production and provided $15 million to cover the competition. Since the contract has already been awarded, there is no need for the expenditure of the $15 million. The provision that directs the competition should be repealed and the $15 million rescinded.

Estimated Program Effect: None.

R87-21

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
3,656,675	3,655,100	1,575	5,385	4,740	1,740	735	735

1/ This account was the subject of a different rescission proposal in 1986 (R86-81).

R87-22

DEPARTMENT OF DEFENSE

Procurement

Other procurement, Navy

Of the funds included under this head in the Department of Defense Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $116,000,000 are rescinded.

Rescission Proposal No: R87-22

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense

Bureau: Procurement

Appropriation title and symbol:

Other procurement, Navy

177/91810

OMB identification code:

17-1810-0-1-051

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[X] Multiple-year Sept.30, 1989 (expiration date)

[ ] No-Year

New budget authority..... $6,033,371,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $

Total budgetary resources... $6,033,371,000

Amount proposed for rescission ..... $ 116,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other

Justification: This account funds procurement, production, and modernization of support equipment and materials not otherwise provided for , Navy ordinance and ammunition, except ordinance for new aircraft, new ships, and ships authorized for conversion. The marginal increase in capability provided by the Mk-92 Coherent Receiver Transmitter (CORT) upgrade does not justify its cost. Other more capable systems are being considered for a possible mid-life conversion in the mid-1990s of the FFG-7 class frigates on which this system would be installed.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
4,963,690	4,950,350	13,340	37,120	32,213	21,727	5,464	...

R87-23

DEPARTMENT OF DEFENSE

Military construction

Military construction, Air Force

Of the funds included under this head in the Military Construction Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $2,750,000 are rescinded.

Rescission Proposal No: R87-23

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense

Bureau: Military Construction

Appropriation title and symbol:

Military construction, Air Force

577/13300

OMB identification code:

57-3300-0-1-051

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[X] Multiple-year Sept. 30, 1991 (expiration date)

[ ] No-Year

New budget authority..... $1,242,530,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 9,000,000

Total budgetary resources... $1,251,530,000

Amount proposed for rescission ..... $ 2,750,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds the acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force. Funding for a gymnasium at Blythville AFB, Arkansas is not a priority project. This rescission proposal is part of the President's overall spending reduction proposals to meet the deficit reduction ceilings established by the Balanced Budget and Emergency Deficit Reduction Act of 1985.

Estimated Program Effect: Cancelling this project will have no significant impact on Air Force programs.

R87-23

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,486,955	1,486,600	355	1,265	535	355	85	55

R87-24

DEPARTMENT OF DEFENSE - CIVIL

CORPS OF ENGINEERS - CIVIL

Construction, General

Of the amounts appropriated under this head in Public Law 99-141, $7,715,000 are rescinded; and in addition, the last proviso under this head in Public Law 99-349 is deleted.

Rescission proposal No: R87-24

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Defense - Civil

Bureau:
Corps of Engineers - Civil

Appropriation title and symbol:
Construction, general
96X3122

OMB identification code:
96-3122-0-1-301

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... $1,126,150,000
(P.L. 99-500 & 99-591)
Other budgetary resources... $ 612,459,894

Total budgetary resources... $1,738,609,894

Amount proposed for rescission..... $ 7,715,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account provides funds for construction and related activity for water resource development projects having navigation, beach erosion control, flood control, water supply, hydroelectric and other attendant benefits to the Nation. The rescission of these funds, along with appropriation language, would eliminate an existing directive to construct seismic modifications to a non-Federal dam. The funding associated with the Cooper River Seismic Modification, S.C., is unnecessary because repair of this privately-owned dam is not a Federal responsibility. Action to correct deficiencies to maintain this project's Federal license should be financed by the dam's owners and recovered through sales of hydropower, as is the case with all other Federally licensed hydropowered facilities. Federal funding of this project would be unfair to the owners of hundreds of other non-Federal dams who have acted responsibly in maintaining the safety of their projects.

Estimated Program Effect: This rescission would appropriately reallocate responsibility for this non-Federal project.

R87-24

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,162,300	1,154,585	7,715	...	...	...	...	...

R87-25

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Compensatory education for the disadvantaged

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, for carrying out section 418a of the Higher Education Act, as amended, $7,500,000 are rescinded.

Rescission Proposal No: R87-25

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Elementary and Secondary Education

Appropriation title and symbol:
Compensatory education for the disadvantaged 1/

917/80900 916/70900
9170900

OMB identification code:
91-0900-0-1-501

Grant program:
[X] Yes [ ] No

Type of account or fund:
[X] Annual
[X] Multiple-year Sept. 30, 1988 (expiration date)
[ ] No-Year

New budget authority..... $3,951,663,000
(P.L. 99-500 & 99-591)
Other budgetary resources... $ 3,671,043
Total budgetary resources... $3,955,334,043

Amount proposed for rescission..... $ 7,500,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Coverage: Appropriation	Account Symbol	Rescission Proposal
Compensatory education for the disadvantaged..	9170900	$7,500,000

Justification: This account funds activities authorized under Chapter 1 of the Education Consolidation and Improvement Act and Section 418A of the Higher Education Act as amended. Funds totaling $6.3 million for the High School Equivalency Program (HEP) and $1.2 million for the College Assistance Migrant program (CAMP) are proposed for rescission. Both programs are expensive relative to the number of students served and other Federal programs provide similar services at lower cost. This rescission will help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: No HEP and no CAMP projects would be funded in fiscal year 1987.

R87-25

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
3,108,981	3,107,931	1,050	4,800	1,650	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-18).

R87-26

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Impact aid

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $17,500,000 are rescinded; of which $4,000,000 are rescinded from funds made available for sections 5 and 14(c) of Public Law 81-815, $9,250,000 are rescinded from funds made available for section 10 of Public Law 81-815, and $4,250,000 are rescinded from funds made available for sections 14(a) and 14(b) of Public Law 81-815.

Rescission Proposal No: R87-26

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Elementary and Secondary Education

Appropriation title and symbol:

Impact aid

9170102
91X0102

OMB identification code:

91-0102-0-1-501

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority.....$ 717,500,000 (P.L. 99-500 & 99-591)

Other budgetary resources...$ 41,480,311

Total budgetary resources...$ 758,980,311

Amount proposed for rescission.....$ 17,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Coverage: Appropriation	Account Symbol	Rescission Proposal
Impact aid.....	91X0102	$17,500,000

Justification: This account funds (1) payments to school districts when enrollments and the availability of revenues from local sources have been adversely affected by Federal activities, (2) assistance to school districts that have suffered damage to their facilities from a major disaster, and (3) construction of school facilities. Of the $22.5 million appropriated in 1987 for construction activities, $17.5 is proposed for rescission. Most of the funds are used for grants to local educational agencies (LEAs) for school construction projects. Eligible LEAs have been adversely affected by a reduced local property tax base as a result of Federal acquisition of property, Federal exemption of property from local taxation, and/or by an increased school population as a result of Federal activities (Sections 5 and 14). The remainder of the funds are used for repairs of buildings originally built with Federal funds and to which the Federal Government still holds title (Section 10). The activities proposed for rescission duplicate or are similar to other Federal, State, or local programs. This rescission is to help achieve the

R87-26

deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: A $4 million reduction in appropriations for sections 5 and 14(c) and a $9.25 million reduction in appropriations for section 10 would eliminate new funding for those sections; however, unobligated funds remain available to support construction projects under those sections. A total of $5 million will remain available to fund projects under Sections 14(a) and 14(b) after a $4.25 million reduction in appropriations.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
804,530	802,780	1,750	4,726	8,576	2,448	...	...

R87-27

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Special programs

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $50,553,000 are rescinded; of which $7,176,000 are rescinded from funds made available for the Follow Through Act, $24,000,000 are rescinded from funds made available for section 403 of the Civil Rights Act of 1964, $3,500,000 are rescinded from funds made available for title IX, part C of the Elementary and Secondary Education Act, $5,000,000 are rescinded from funds made available for section 1524 of the Education Amendments of 1978, $2,000,000 are rescinded from funds made available for section 1525 of the Education Amendments of 1978, $1,700,000 are rescinded from funds made available for Public Law 92-506, and $7,177,000 are rescinded from funds made available for title IX of Public Law 98-558, as amended and superseded by Public Law 99-498.

Of the funds made available under this head in the Department of Education Appropriation Act, 1986, for title VI of the Education for Economic Security Act, $2,391,516 are rescinded.

Excellence in education

Of the funds made available under this head in the Department of Education Appropriation Act, 1985, for title VI of the Education for Economic Security Act, $2,035,720 are rescinded.

Rescission Proposal No: R87-27

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Elementary and Secondary Education

Appropriation title and symbol:

Special programs 1/
917/81000 9171000
91X1000 916/71000
91X1700 91X1800

OMB identification code:

91-1000-0-1-501

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual
[X] Multiple-year Sept. 30, 1988 (expiration date)
[X] No-Year

New budget authority..... $ 934,890,000 (P.L. 99-500 & 99-591)

Other budgetary resources... $ 27,131,172

Total budgetary resources... $ 962,021,172

Amount proposed for rescission 2/..... $ 54,980,236

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act
[ ] Other

Type of budget authority:

[X] Appropriation
[ ] Contract authority
[ ] Other

Coverage: Appropriation	Account Symbol	Rescission Proposal
Special programs	917/81000	$8,877,000
Special programs	9171000	41,676,000
Special programs	91X1000	2,391,516
Excellence in education	91X1800	2,035,720
		$54,980,236

Justification: This account funds the Chapter 2 State block grant and discretionary fund, Drug-free schools and communities, the Science and mathematics education program, the Magnet schools program, and eight other small grant programs. Funds were appropriated for a number of narrow categorical programs authorized under such authorities as the Education Amendments of 1978, the Elementary and Secondary Education Act (ESEA), and the Education for Economic Security Act. In order to eliminate program duplication and to focus support on priority programs, the following funds are proposed for rescission: $24 million for training and advisory services authorized under title IV of the Civil Rights Act of 1964, $3.5 million for the Women's Educational Equity Act (WEEA), $5 million for General Assistance to the Virgin Islands, $2 million for Territorial teacher training, $1.7 million for Ellender fellowships, $7.176 million for the Follow Through Act, and $7.177 million for the Leadership in educational administration (LEAD) program. Funding for all

R87-27

seven programs would be terminated immediately. In addition, $4.4 million of the $5.2 million in unobligated balances available in the Excellence in Education program would be rescinded; the remaining $.8 million would be used for continuation awards. This rescission will help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The following projected activities would be eliminated: 33 WEAA grants, 5,920 Ellender fellowships, 83 Follow Through grants, 51 LEAD contracts, 6 grants-in-aid to the Outlying Areas, 58 Training and Advisory services multi-area awards, and 125 Excellence in Education awards.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
674,560	670,858	3,702	41,089	9,593	596	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-19).

2/ Includes $4,427,236 of unobligated balances available in the 91X1800 and 91X1000 accounts.

R87-28

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Bilingual education

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, for immigrant education under Title VI of the Education Amendments of 1984, $30,000,000 are rescinded.

Immigrant and refugee education

Of the funds made available by Public Laws 99-500 and 99-591, for educational assistance to refugee children under Section 412(d)(1) of the Immigration and Nationality Act, as amended by Public Law 99-605, $15,886,000 are rescinded.

Rescission Proposal No: R87-28

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Bilingual Education and Minority Languages Affairs

Appropriation title and symbol:
Bilingual education 1/
9171300

Immigrant and refugee education
9171600

OMB identification code:
91-1600-0-1-501

Grant program:
[X] Yes [ ] No

Type of account or fund:
[X] Annual
[ ] Multiple-year _____ (expiration date)
[ ] No-Year

New budget authority.....$ 45,886,000
(P.L. 99-500 & 99-591)
Other budgetary resources...$ _____
Total budgetary resources...$ 45,886,000

Amount proposed for rescission.....$ 45,886,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Coverage: Appropriation	Account Symbol	Rescission Proposal
Bilingual education.....	9171300	$30,000,000
Immigrant and refugee education.....	9171600	15,886,000
		$45,886,000

Justification: The Immigrant Education Program provides grants for educational services for recent immigrant children to districts that have at least 500 such children or in which these students represent at least three percent of the enrollment. The Refugee Education Program provides similar grants to school districts with one or more refugee students who have been present for less than three years. Children who are eligible for these services may also qualify for services under other programs if they are educationally disadvantaged or of limited English proficiency. Funds available under Chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 and Title VII of the Elementary and Secondary Education Act are sufficient to provide educational services to eligible and needy immigrant children. This rescission will also help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

R87-28

Estimated Program Effect: An estimated 31 states will not receive grants to help cover the cost of educational services for immigrant students and 47 states will not receive grants for services for refugee students.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
21,608	20,690	918	22,484	20,190	2,294	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-20).

R87-29

DEPARTMENT OF EDUCATION

Special Education and Rehabilitative Services

Education for the handicapped

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, for carrying out the Education of the Handicapped Act, $288,659,000 are rescinded; of which $121,207,000 are rescinded from funds made available for section 611 of the Education of the Handicapped Act, $101,100,000 are rescinded from funds made available for section 619 of that Act, and $50,000,000 are rescinded from funds made available for section 685 of that Act: Provided, That the allocation under section 619 of that Act shall be limited to $300 for each child who received special education and related services.

Rescission Proposal No: R87-29

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Special Education and Rehabilitative Services

Appropriation title and symbol:

Education for the handicapped 1/

917/80300 91X0300
9170300

OMB identification code:

91-0300-0-1-501

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[X] Multiple-year Sept. 30, 1988 (expiration date)

[X] No-Year

New budget authority.....$1,741,900,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$ 131,827,876

Total budgetary resources...$1,873,727,876

Amount proposed for rescission.....$ 288,659,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Coverage: Appropriation	Account Symbol	Rescission Proposal
Education for the handicapped.....	917/80300	$222,307,000
Education for the handicapped.....	9170300	66,352,000
		$288,659,000

Justification: This account funds grants to states and other organizations to assist in providing appropriate public education to handicapped children. As part of the President's program to eliminate unnecessary spending and to direct Federal support to priority programs, the following funds are proposed for rescission: $121.2 million for State Grants, $101.1 million for Preschool Grants, $50.0 million for Grants for Infants and Families, $9.9 million for Special Populations, and $6.5 million for Training and Information. This rescission will also help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The revised amount for State Grant Programs provides an increase to offset the cost of inflation. The Federal per child contribution for an estimated 4,121,000 handicapped children would increase by

R87-29

$13, from $282 to $295, while the Federal percentage of the average per pupil expenditure would be maintained at the 1986 level of 8.4 percent. The unnecessarily high one-time payments (based on estimates of additional children to be served in the future) by the Preschool Grants program will be removed while still allowing $300 for each handicapped child who actually received services. All funding would be rescinded for the Grants for Infants and Families, a new program not targeted on those most in need. New Federal spending cannot be justified when many other Federal, state, local, and private programs make health and social services available to handicapped infants and their families. Fewer awards for new projects would be made in three project-grant programs. Funding for deaf-blind projects is proposed for partial rescission because, under the Education of the Handicapped Act, states are responsible for providing direct services to most of this very small population. Funding for early childhood education grants is proposed for partial rescission because the 1986 amendments eliminated the separate program of State planning, development, and implementation grants. Special education personnel development funding within the training and information activity is proposed for partial rescission because of inadequate evidence that Federal resources affect personnel shortages and because of the availability of other funds for similar purposes.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,439,909	1,428,796	11,113	210,230	53,209	14,107	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-21).

R87-30

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Rehabilitation services and handicapped research

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $127,455,000 are rescinded; of which $22,100,000 are rescinded from funds made available for supported employment State grants under title VII, part C of the Rehabilitation Act, $2,330,000 are rescinded from funds made available for recreation service projects under section 316 of that Act, $1,500,000 are rescinded from funds made available for American Indian service projects under section 130 of that Act, $3,712,000 are rescinded from funds made available for the training program under section 304 of that Act, $1,135,000 are rescinded from funds available for evaluation under section 14 of that Act, and $94,955,000 are rescinded from funds made available for grants to States and $1,723,000 are rescinded from funds made available for the Indian set-aside under part B of title I of that Act: Provided, That notwithstanding the provisions of section 634(a) of that Act, a State need not amend its State plan as required by section 634 in order to be eligible for grants under section 100(b)(1) and 110 (b)(3).

Rescission Proposal No: R87-30

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Special Education and Rehabilitative Services

Appropriation title and symbol:

Rehabilitation services and handicapped research 1/

9170301

OMB identification code:

91-0301-0-1-501

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority..... $1,484,758,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 1,125,000

Total budgetary resources... $1,485,883,000

Amount proposed for rescission..... $ 127,455,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds formula grants to states for vocational rehabilitation services, plus a variety of smaller research, demonstration, and service projects. As part of the President's program to eliminate unnecessary Government spending and to direct Federal support to priority programs, the following funds are proposed for rescission: $96.7 million for State Grants, including $1.7 million for the Indian set-aside, $22.1 million for supported employment State grants, $2.3 million for recreational programs, $1.5 million for American Indian service projects, $3.7 million for training, and $1.1 million for evaluation. This rescission will also help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

The State grant program would be reduced to the 1986 appropriation level plus inflation. Funding for American Indian service projects would be eliminated because it duplicates the newly established State grant set-aside for Indians. The new Indian set-aside, which would have almost tripled funds available without a well established programmatic rationale, would be reduced to the 1986 level plus inflation. The new supported work formula grant program would not be financed. The Department is already spending about $14 million per year through existing programs to assist States in developing supported work demonstration programs States should be given the opportunity to develop the capacity to provide supported work services before being required to establish

R87-30

comprehensive and costly programs. Recreation would not be funded because these programs are more appropriately supported by private charities and municipalities. The training program would be reduced to the 1986 level because data are not available to justify the 1987 increase. Evaluation would be reduced because most programs funded under the Rehabilitation Act have been studied recently, and fewer funds are needed for new and continuing project evaluations.

Estimated Program Effect: State vocational rehabilitation agencies may accept slightly fewer non-severely disabled clients or reduce the level of services available to some clients. Fewer new awards will be made to Indian tribes and for training and evaluation, and no awards will be made for supported work formula grants or recreation programs.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,491,561	1,393,421	98,140	20,394	8,921	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-22).

R87-31

DEPARTMENT OF EDUCATION

Office of Vocational and Adult Education

Vocational and adult education

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, for carrying out the Carl D. Perkins Vocational Education Act, $432,319,000 are rescinded; of which $5,857,500 are rescinded from funds made available for programs authorized by section 103 of that Act, $500,000 are rescinded from funds made available for section 112 of that Act, $383,142,500 are rescinded from funds made available for State grants under title II of that Act, $6,000,000 are rescinded from funds made available for part A of title III of that Act, $31,633,000 are rescinded from funds available for part B of title III of that Act, $1,500,000 are rescinded from funds made available for part B of title IV of that Act, and $3,686,000 are rescinded from funds made available for part E of title IV of that Act: Provided, That of the remaining available funds, not to exceed $29,362,725 shall be available for State administration: Provided further, That notwithstanding the provisions of sections 102 and 202 of that Act, of the funds available, $390,104,775 shall be for programs authorized by title II, part A of that Act, of which $68,268,336 shall be for handicapped individuals, $150,580,443 shall be for disadvantaged individuals, $82,312,108 shall be for adults who are in need of training and retraining, $58,125,611 shall be for individuals who are single parents or homemakers, $23,796,391 shall be for individuals who are participants in programs designed to eliminate sex bias and stereotyping in vocational education and $7,021,886 shall be for criminal offenders who are in correctional institutions: Provided

R87-31

further, That of the funds available from the permanent appropriation under the Smith-Hughes Act (20 U.S.C. 28), $6,897,973 shall be available for programs authorized by title II of the Carl D. Perkins Vocational Education Act, of which not to exceed $482,858 shall be available for State administration; and of the remaining amount, $1,122,645 shall be for handicapped individuals, $2,476,235 shall be for disadvantaged individuals, $1,353,589 shall be for adults who are in need of training and retraining, $955,852 shall be for individuals who are single parents or homemakers, $391,322 shall be for individuals who are participants in programs designed to eliminate sex bias and stereotyping in vocational education, and $115,472 shall be for criminal offenders who are in correctional institutions.

Rescission Proposal No: R87-31

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Vocational and Adult Education

Appropriation title and symbol:

Vocational and adult education 1/

917/80400 91X0400
916/70400

OMB identification code:

91-0400-0-1-501

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual
[X] Multiple-year Sept. 30, 1988 (expiration date)
[X] No-Year

Smith Hughes Act	$ 7,148,159
New budget authority (P.L. 99-500 & 99-591)	$ 980,800,000
Other budgetary resources	$ 31,881,323
Total budgetary resources	$1,019,829,482
Amount proposed for rescission	$ 432,319,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act
[ ] Other

Type of budget authority:

[X] Appropriation
[ ] Contract authority
[ ] Other

Coverage: Appropriation	Account Symbol	Rescission Proposal
Vocational and adult education	917/80400	$432,319,000

Justification: This account funds grants for vocational education, including programs for Indians and native Hawaiians. As part of the President's program to eliminate unnecessary spending and to direct Federal support to priority programs, the following funds are proposed for rescission: $5.9 million from the Indian and Hawaiian natives program, $383.1 million from basic grants, $6.0 million from the community-based organization program, $31.6 million from the consumer and homemaking education program, $.5 million from State council programs, $1.5 million from national program demonstration projects, and $3.7 million from bilingual vocational training programs. Activities authorized by the consumer and homemaking education, community-based organizations, and State councils programs can, at State and local discretion, be carried out with basic grant funds. Other bilingual education programs provide substantial amounts of aid to the same population. This rescission will also help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: States would no longer receive separate categorical grants to support consumer and homemaking activities or for community-based

R87-31

organizations; all basic grant funds for program improvement, innovation and expansion would be eliminated; the number of awards under the Indian and native Hawaiian program would be reduced; funding for State councils would be reduced by 7 percent; and no bilingual vocational training projects would be funded. Within basic grants, States may reserve up to 7 percent for State administration. Title II, part A of the Perkins Act, which authorizes vocational education opportunities for six special populations, will be funded at $396.5 million, allowing funding earmarked for programs for the handicapped, the disadvantaged, adult training and retraining, single parents and homemakers, sex equity, and persons in correctional institutions, to be maintained at approximately the 1986 level.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,054,252	1,045,605	8,647	293,976	108,081	21,615	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-24).

R87-32

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Student financial assistance

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, for subparts 2 and 3 of part A, part C, and part E of title IV of the Higher Education Act, $1,269,000,000 are rescinded.

Rescission Proposal No: R87-32

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Postsecondary Education

Appropriation title and symbol:

Student financial assistance 1/

917/80200
916/70200

OMB identification code:

91-0200-0-1-501

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual
[X] Multiple-year Sept. 30, 1988 (expiration date)
[ ] No-Year

New budget authority..... $5,196,000,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $1,264,043,248

Total budgetary resources... $6,460,043,248

Amount proposed for rescission..... $1,269,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Coverage: Appropriation	Account Symbol	Rescission Proposal
Student financial assistance.....	917/80200	$1,269,000,000

Justification: This account funds several student aid grant, loan and work study programs. As part of the President's program to eliminate unnecessary spending and to direct Federal support to priority programs, rescission is proposed in each of four programs. The affected programs go first to schools or States rather than directly to individuals and are all of lower priority or are unnecessary given other sources of aid funds. Billions of dollars of student aid grant and loan funds would continue to be available to the neediest students. Rescissions are proposed as follows: $592.5 million for work study; $188.0 million for supplemental opportunity grants; $412.5 million for supplemental opportunity grants; and $76.0 million for State student incentive grants. This rescission will also help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The number of awards would be reduced as follows: work study awards - 787 thousand, supplemental grants - 720 thousand, direct student loans - 188 thousand, and State incentive grants - 276 thousand.

R87-32

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
5,243,798	5,086,498	157,300	1,075,910	35,790	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-25).

R87-33

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Higher education

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $203,050,000 are rescinded; of which $94,000,000 are rescinded from funds made available for subpart 4 of part A of title IV of the Higher Education Act of 1965, as amended, $3,000,000 are rescinded from funds made available for section 420A of that Act, $17,500,000 are rescinded from funds made available for part D of title V of that Act, $26,550,000 are rescinded from funds made available for title VI of that Act, $2,000,000 are rescinded from funds available for section 771 of that Act, $14,400,000 are rescinded from funds made available for title VIII of that Act, $20,650,000 are rescinded from funds made available for part B, C, E, and F of title IX of that Act, $6,200,000 are rescinded from funds made available for parts A and C of title X of that Act, $2,000,000 are rescinded from funds made available for part D of title XI of that Act, $500,000 are rescinded from funds made available for section 1204(c) of that Act, $5,500,000 are rescinded from funds made available for section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, $750,000 are rescinded from funds made available for subpart 1 of part H of title XIII of the Education Amendments of 1980, as amended, $4,000,000 are rescinded from funds made available for the Kansas Satellite Center as authorized by H.R. 4244 as passed the Senate on September 30, 1986 and subsequently enacted as Public Law 99-608, $1,000,000 are rescinded from funds

R87-33

made available for carrying out H.R. 3598 as passed the House on November 4, 1981, and $5,000,000 are rescinded from funds made available for the Technology Transfer Institute.

Rescission Proposal No: R87-33

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Postsecondary Education

Appropriation title and symbol:

Higher education 1/

9170201 91X0201
916/70201

OMB identification code:

91-0201-0-1-502

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[X] Multiple-year Sept. 30, 1987 (expiration date)

[X] No-Year

New budget authority.....$ 479,128,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$ 77,308,149

Total budgetary resources...$ 556,436,149

Amount proposed for rescission.....$ 203,050,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Coverage: Appropriation

	Account Symbol	Rescission Proposal
Higher education	9170201	$173,550,000
Higher education	91X0201	29,500,000
		203,050,000

Justification: This account funds aid for institutional development, aid for improving postsecondary education and minority institutions' science programs, interest subsidy grants, and special programs for the disadvantaged. The following programs are proposed for rescissions: $4.7 million for the Fund for the Improvement of Postsecondary Education, $1.5 million for innovative community projects, $32.0 million for international education and foreign language studies, $14.4 million for cooperative education, $1.5 million for law school clinical experience, $0.5 for assistance to Guam, $0.8 million for the Robert A. Taft Institute of Government, $2.0 million for Welch Hall, $2.0 million for the Wagner Institute of Urban Public Policy, $4.0 million for the Kansas Satellite Center, $1.0 million for the Carl Albert Center, $5.0 million for the Technology Transfer Institute, $94.0 million for special programs for the disadvantaged, $15.5 million for congressional teacher scholarships, $17.6 million for graduate fellowships, and $2.0 million for Christa McAuliffe fellowships. The activities proposed for rescission either duplicate or are similar to other Federal, State, or local programs, or are narrow in purpose

R87-33

and nonessential. This rescission will also help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Federal funding would be eliminated for approximately 25 innovative community projects, 93 national resource centers, 1,170 domestic and overseas fellowships and 172 domestic and overseas international education projects, 177 cooperative education grants, 601 veterans' education outreach grants, 3,542 teacher scholarships, 3,385 graduate and legal education fellowships, 6 special purpose grants to individual institutions of higher education, and one grant to Guam. The number of new grants under the Fund for the Improvement of Postsecondary Education would be reduced from 180 to 110 grants. Under special programs for the disadvantaged, continuation upward bound grants would be reduced by 40 percent, the number of new special services grants would be reduced by one-third, and 175 talent search grants, 37 educational opportunity centers, and 7 staff training grants would be eliminated.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
464,140	444,801	19,339	138,685	41,285	3,471	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-26).

R87-34

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Libraries

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $34,500,000 are rescinded; of which $22,500,000 are rescinded from funds made available for title II and $5,000,000 from funds made available for title VI of the Library Services and Construction Act, and of which $1,000,000 are rescinded from funds made available for part B and $6,000,000 from funds made available for part C of title II of the Higher Education Act of 1965, as amended.

Rescission Proposal No: R87-34

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Education

Bureau: Office of Educational Research and Improvement

Appropriation title and symbol:

Libraries 1/

9170104 91X0104

OMB identification code:

91-0104-0-1-503

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority..... $ 132,500,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 13,479,358

Total budgetary resources... $ 145,979,358

Amount proposed for rescission..... $ 34,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Coverage: Appropriation	Account Symbol	Rescission Proposal
Libraries.....	9170104	$12,000,000
Libraries.....	91X0104	22,500,000
		34,500,000

Justification: This account provides grants to States and project grant awards to public library systems, institutions of higher education, major research libraries and for training of paraprofessionals and professionals in the library field. Funds were appropriated for programs authorized under both the Library Service and Construction Act and title II of the Higher Education Act. The following programs are proposed for rescission: $22.5 million for Public Library Construction, $5.0 million for Library Literacy Programs, $1.0 million for Training and Demonstrations, and $6.0 million for Research Libraries. Federal support for library construction is no longer necessary since over 96 percent of the population has access to library services. The other activities receive ample support from other Federal programs and from State and local government and private sources. This rescission will also help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

R87-34

Estimated Program Effect: Federal funding would be eliminated for about 220 public library construction projects, about 250 library literacy projects, about 73 fellowships for librarians, about 3 library research contracts, and assistance to about 46 major research libraries.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
200,245	196,285	3,960	20,850	7,290	2,400	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-28).

R87-35

DEPARTMENT OF ENERGY

Energy Programs

Energy supply, research and development activities

Of the funds included under this head in the Energy and water development Appropriations Act, 1987, as included in Public Laws 99-590 and 99-591, $81,800,000 are rescinded: Provided, That the phrase beginning "and of which $84,100,000" continuing through "Center for Science and Engineering;" is deleted.

Rescission Proposal No: R87-35

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Energy

Bureau: Energy Programs

Appropriation title and symbol:

Energy supply, research and development 1/
89X0224

OMB identification code:

89-0224-0-1-271

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority..... $ 1,347,048,000
(P.L. 99-500 & 99-591)

Other budgetary resources.. $ 1,051,695,853

Total budgetary resources.. $ 2,398,743,853

Amount proposed for rescission..... $ 81,800,000

Legal authority (in addition to sec. 1012):

[X] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: The purpose of Energy supply, research and development activities is to: (1) support long-term research and development on a mix of technologies that have the potential to provide adequate supplies of energy at reasonable cost, and (2) fund other research programs which provide significant benefits to the Government and the public. The proposed rescission consists of Solar Energy research ($9.4 million) Electric Energy Systems research ($3.7 million) and university construction projects ($68.7 million) which include: the Center for New Industrial Materials, Energy Research Complex, Center for Science and Technology, Center for Science and Engineering, Center for Nuclear Imaging Research, St. Christopher's Hospital for Children, Center for Excellence in Education, and Center for Molecular Medicine and Immunology in the Institute of Nuclear Medicine.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
2,002,873	1,975,013	27,860	53,940	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-8).

R87-36

DEPARTMENT OF ENERGY

Energy Programs

Fossil energy research and development

Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $44,464,000 are rescinded.

Rescission Proposal No: R87-36

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Energy

Bureau: Energy Programs

Appropriation title and symbol:

Fossil energy research and development 1/
89X0213

OMB identification code:

89-0213-0-1-271

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority..... $ 295,866,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 37,160,741

Total budgetary resources... $ 333,026,741

Amount proposed for rescission..... $ 44,464,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds research and development activities in coal, petroleum, and unconventional gas. The amount proposed for rescission consists of various projects that are in excess of the funds required to conduct a balanced and appropriated Federal program. Some of these projects support the development of fossil energy technologies beyond the proof-of-concept stage; others are low-priority. The Administration believes that further development of these technologies should be the responsibility of the private sector. The rescission of these funds will help to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: A balanced Federal fossil energy program will continue and the following low-priority programs will not be funded. The projects affected by the rescission are (in thousands of dollars):

o Large scale testing of Glo-Klen technology.....	1,100
o Desulferization by recycling in fixed-bed gasifier.....	580
o Alkali and particulate control.....	1,075
o Turbine combined-cycle particulate/sulfur removal.....	750
o Hydrogen sulfide control.....	700
o Set-asides for Ames National Lab to support Coal Preparation program.....	1,140
o Set-asides for Southern Illinois University for work in support of the Coal Preparation program.....	1,250

R87-36

o Continued low-priority operation of Wilsonville direct-liquification plant	4,150
o Continued low-priority operation of La Porte indirect-liquification plant	2,300
o Westinghouse Phosphoric Acid 7.5 MW fuel-cell	7,600
o Englehard 25 KW Phosphoric Acid fuel cell	1,500
o United Technologies/Toshiba (IFC) product refinement of 11 MW Phosphoric Acid fuel cell	2,000
o United Technologies/Toshiba (IFC) product development of 40 KW on-site Phosphoric Acid fuel cell	2,000
o Underground Coal Gasification field test at Hanna, WY, similar to one already successfully finished	1,000
o Continued unaffordable and lower-priority development of coal-fired Magnetohydrodynamics	10,319
o UNDERC (University of North Dakota Energy Research Center) set-aside for Control Technology and Coal Preparation	850
o UNDERC set-aside for Adv. Research & Technology Development	612
o UNDERC set-aside for Coal Liquification	1,019
o UNDERC set-aside for Combustion Systems	777
o UNDERC set-aside for Heat Engines	66
o UNDERC set-aside for Surface Coal Gasification	1,376
o WRI (Western Research Institute) set-aside for Underground Coal Gasification	548
o WRI set-aside for Advanced Process Technology	116
o WRI set-aside for Enhanced Oil Recovery	248
o WRI set-aside for Oil Shale	1,388
	44,464

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
348,196	334,857	13,339	22,232	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-80).

R87-37

DEPARTMENT OF ENERGY

Energy Programs

Energy conservation

Of the funds made available under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $87,433,329 are rescinded.

Rescission Proposal No: R87-37

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Energy

Bureau: Energy Programs

Appropriation title and symbol:

Energy conservation 1/

89X0215

OMB identification code:

89-0215-0-1-999

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority.....$ 280,129,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$ 38,106,178

Total budgetary resources...$ 318,235,178

Amount proposed for rescission.....$ 87,433,329

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds a variety of energy conservation research and development activities including buildings and community systems, industry, transportation, and multi-sector research. It also funds assistance to State and local governments for the weatherization of schools, hospitals, and low-income dwellings. The 1987 appropriation included $87,433,329 in Congressional add-ons that are in excess of program requirements. These include Transportation energy conservation ($7 million), Industrial energy conservation ($4.5 million), Tufts University research building ($10 million), Schools and hospitals ($1.3 million), and the weatherization assistance program ($64.6 million). The rescission of these funds is proposed to eliminate low priority programs and to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Low priority programs will not be funded.

R87-37

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
448,644	426,457	22,187	51,553	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-77A).

R87-38

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Buildings and facilities

Of the funds included under this head in the Agriculture, Rural Development, and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $500,000 are rescinded.

Rescission Proposal No: R87-38

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services

Bureau: Food and Drug Administration

Appropriation title and symbol:

Buildings and facilities

75X0603

OMB identification code:

75-0603-0-1-554

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority.....$ 1,879,000 (P.L. 99-500 & 99-591)

Other budgetary resources....$ 7,143,000

Total budgetary resources....$ 9,022,000

Amount proposed for rescission.....$ 500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This program funds construction, repairs, improvements, extensions, alterations, and purchase of fixed equipment or facilities used by the Food and Drug Administration. The 1987 appropriation included $500 thousand for construction of a visiting scientists dormitory at the National Center for Toxicological Research at Jefferson, Arkansas. These funds were not requested in the 1987 President's Budget and are unnecessary for program operations.

Estimated Program Effect: Prior year unobligated balances of $7 million are available in 1987 for current projects.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
8,130	7,980	150	350	...	...	...	...

R87-39

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Health resources and services

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $161,210,000 are rescinded.

Rescission Proposal No: R87-39

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services

Bureau: Health Resources and Services Administration

Appropriation title and symbol:

Health resources and services 1/

75X0350 7570350
756/70350

OMB identification code:

75-0350-0-1-550

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[X] Multiple-year Sept.30, 1987 (expiration date)

[X] No-Year

New budget authority.....$1,465,318,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$ 62,278,000

Total budgetary resources...$1,527,596,000

Amount proposed for rescission.....$ 161,210,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation supports health resources and health services categorical programs and the maternal and child health block grant. Federal efforts in support of health professions have resulted in long-term trends of steadily increasing supplies of physicians and nurses and an improvement in the distribution of health care practitioners among the medically under-served areas of the country. At the same time, cumulative Federal contributions to health professions and nursing student loan funds, combined with Health Education Assistance loan guarantees, have established a foundation of Federal health professions student aid. Because of this, programs providing general support to health education to increase the number and improve the distribution of practitioners are no longer needed.

A rescission of the excess funding for the National Health Service Corps is proposed to reflect the actual needs of the program during 1987.

Emergency construction for outpatient facilities is available through disaster relief funds.

The following reductions are requested (in thousands of dollars):

National Health Service Corps.....	15,500
National Health Service Corps scholarships.....	2,300

R87-39

Outpatient facilities construction	5,000
Emergency medical services	2,000
Special initiatives pacific basin	1,500
Native Hawaiian children health care	1,000
Health professions analytical studies	1,575
Exceptional need scholarships	7,000
Public health capitation	5,000
Health administration grants	1,500
Public health traineeships	3,000
Health administration traineeships	500
Preventive medicine residencies	1,600
Family medicine residencies	13,560
General internal medicine and pediatrics	15,500
Family medicine departments	2,000
Physician assistants	4,800
Area health education centers	11,100
Disadvantaged assistance	21,250
Special educational initiatives	10,300
Geriatric training	800
Two-year medical and osteopathic schools	500
Nurse training:	
Advanced nurse education	11,750
Nurse practitioner/midwife	10,200
Special projects	8,300
Professional nurse traineeships	5,750
Nurse anesthetists	800
Special projects for new purposes	675
Faculty fellowships	825
Total savings	161,210

Estimated Program Effect: The above programs providing general support to health professions training and other categorical health service will be reduced or terminated.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
1,500,639	1,420,034	80,605	80,605	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-9).

R87-40

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Indian health facilities

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $30,761,000 are rescinded; and of the remaining available balances, $26,339,000 are rescinded.

Rescission Proposal No: R87-40

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services

Bureau: Health Resources and Services Administration

Appropriation title and symbol:

Indian health facilities 1/

75X0391

OMB identification code:

75-0391-0-1-551

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority.....$ 61,703,000 (P.L. 99-500 & 99-591)

Other budgetary resources...$ 35,158,000

Total budgetary resources...$ 96,861,000

Amount proposed for rescission.....$ 57,100,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This program funds construction, major repair, improvement, and equipment for health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites; purchase and erection of portable buildings, purchases of trailers and provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), and the Indian Self-Determination Act. This proposal would rescind $31 million in appropriations realized in excess of the 1987 President's Budget. These savings are being proposed to achieve the goals of the Balanced Budget Emergency Deficit Control Act of 1985. Reductions are being proposed for the following items (in thousands of dollars):

Hospitals	
New and Replacement	$20,373
Modernization and Repair	5,149
Outpatient Care	10,197
Sanitation facilities	7,239
Personnel quarters	14,142
TOTAL	$57,100

R87-40

Estimated Program Effect: Several projects will be delayed or discontinued for new and replacement hospitals, outpatient facilities, personnel quarters, and sanitation facilities. Prior year unobligated balances of about $8 million would be available for current projects.

Indian drug and alcohol abuse rehabilitation centers would be funded as provided in the 1987 Continued Resolution, and work would begin on the Sacaton Hospital in Alaska. In addition, $11 million would be obligated for sanitation facilities construction during 1987.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
63,534	50,036	13,498	24,752	9,560	9,290	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-30).

R87-41

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine

Of the amounts made available to the National Library of Medicine under Public Law 98-63, $5,405,249 are rescinded.

Rescission Proposal No: R87-41

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health & Human Services

Bureau: National Institutes of Health

Appropriation title and symbol:
National Library of Medicine
75X0807

OMB identification code:
75-0807-0-1-550

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority..... (P.L. 99-500 & 99-591) $ 61,838,000
Other budgetary resources... $ 5,405,249
Total budgetary resources... $ 67,243,249

Amount proposed for rescission..... $ 5,405,249

Legal authority (in addition to sec. 1012):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This proposal is part of a government-wide initiative to insure proper peer review of all scientific and research-related construction and program activities. The funds in this account were first appropriated in 1983, and to date, no implementation funds have been awarded. The approval of this rescission would not result in termination of on-going construction.

Estimated Program Effect: Since no construction has commenced, the effect of this rescission would be minimal.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
61,696	56,291	5,405	...	...	...	...	...

R87-42

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Assistant Secretary of Health

Public health service management

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $5,000,000 are rescinded.

Rescission Proposal No: R87-42

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health and Human Services

Bureau: Office of the Assistant Secretary of Health

Appropriation title and symbol:

Public health service management

7571101

OMB identification code:

75-1101-0-1-550

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority.....$ 117,126,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$ 60,753,000

Total budgetary resources...$ 177,879,000

Amount proposed for rescission.....$ 5,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This program funds health services research, collection of national health statistics, special health initiatives such as minority health, and provides management for Public Health Service line agencies. The proposed rescission is part of a general effort to request rescission of non-peer reviewed projects.

Estimated Program Effect: The rescission will eliminate funds not requested for the Lister Hill Center for Health Policy.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
116,488	111,488	5,000	...	...	...	...	...

R87-43

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Departmental Management

Policy research

Of the funds included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $2,200,000 specified for the Institute on Poverty are rescinded.

Rescission Proposal No: R87-43

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Health & Human Services

Bureau: Departmental Management

Appropriation title and symbol:

Policy research 1/

7570122

OMB identification code:

75-0120-0-1-609

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority..... $ 8,200,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 2,230,000

Total budgetary resources... $ 10,430,000

Amount proposed for rescission..... $ 2,200,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds research grants to support policy development for the Department of Health and Human Services. A rescission of $2,200,000 is proposed to eliminate funds earmarked for the Institute for Research on Poverty because these funds would not be subject to the Department's established competitive research review processes.

Estimated Program Effect: None.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
7,640	6,320	1,320	598	282	...	...	...

1/ This account was the subject of a rescission proposal in 1986 (R86-51).

R87-44

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

Annual contributions for assisted housing

Of the budget authority included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), $238,762,500 are rescinded.

Of the appropriations included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, for rental rehabilitation and development grants pursuant to section 17(a)(1) of the United States Housing Act of 1937, as amended (42 U.S.C. 1437o), $224,550,000 are rescinded; in addition, any amounts which have been or will be recaptured from amounts previously appropriated for development grants under section 17(a)(1)(B) of the United States Housing Act of 1937, as amended shall be rescinded.

Rescission Proposal No: 87-44

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development

Bureau: Housing Programs

Appropriation title and symbol:

Annual contributions for assisted housing 1/
86X0164 867/90164

OMB identification code:

86-0164-0-1-999

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[X] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority..... $7,506,118,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 562,635,661

Total budgetary resources... $8,068,753,661

Amount proposed for rescission..... $ 473,312,500

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Coverage:

Appropriation	Account Symbol	Proposed Rescission
Annual contributions for assisted housing - budget authority.....	86X0164	$238,762,500
Rental housing development grants...	867/90164	99,550,000
Recaptured rental housing development grants.....		10,000,000
Rental rehabilitation grants.....	867/90164	125,000,000
		$473,312,500

Justification: This account funds subsidized housing programs such as Section 8 housing programs (including housing vouchers), and public and Indian housing development. The President's budget proposes to modify the program appropriated in the 1987 HUD-Independent Agencies Appropriations Act by seeking certain reductions in programs considered over-funded or not needed. These are: (1) $238.8 million in funding for 2,500 Section 8 moderate rehabilitation units; even with this rescission, there would still be a total of approximately 5,000 such units funded in 1987, (2) $224.6 million of new budget authority for rental housing assistance: rental housing development grants (HoDAG) ($99.6 million) and the rental rehabilitation program ($125 million), and (3) $10.0 million of HoDAG funds appropriated in previous years that have been or

R87-44

will be recaptured. Given historically high vacancy rates, it is not possible to justify expensive new construction programs. The rental rehabilitation grants program has been reduced $125.0 million in 1987 to establish a program level of $75.0 million, which the Administration believes is sufficient to meet the need for Federal assistance for rehabilitation activity. These proposals will also help to achieve the deficit reduction goals of the Balanced Budget and Deficit Reduction Act of 1985.

Estimated Program Effect: Housing assistance programs will be reduced as noted above.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
9,806,410	9,793,910	12,500	74,800	150,908	7,483	7,617	7,718

1/ This account was the subject of a similar rescission proposal in 1986 (R86-52).

R87-45

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Housing Programs

Housing counseling assistance

All funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, are rescinded.

Rescission Proposal No: 87-45

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development

Bureau: Housing Programs

Appropriation title and symbol:

Housing counseling assistance 1/

8670156

OMB identification code:

86-0156-0-1-506

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[ ] Multiple-year (expiration date)

[ ] No-Year

New budget authority.....$ 3,500,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$

Total budgetary resources...$ 3,500,000

Amount proposed for rescission.....$ 3,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other

Justification: This appropriation provides comprehensive counseling services to eligible homeowners or tenants, including default, pre-purchase and renter counseling. A rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985. A number of studies to determine the effectiveness of housing counseling to reduce defaults and foreclosures of HUD-insured and/or subsidized mortgages have proven inconclusive. Furthermore, communities may choose to use this counseling their Community Development Block Grant funds for counseling assistance.

Estimated Program Effect: Funds from this program will not be provided to support comprehensive counseling assistance. This rescission will result in the termination of the program in 1987.

R87-45

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
3,500	3,500	...	2,980	520	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-54).

R87-46

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development

Community development grants

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $375,200,000 are rescinded.

Rescission Proposal No: R87-46

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development

Bureau: Community Planning and Development

Appropriation title and symbol:

Community development grants 1/

865/70162 866/80162
867/90162

OMB identification code:

86-0162-0-1-451

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual Sept. 30, 1987
Sept. 30, 1988
[X] Multiple-year Sept. 30, 1989
(expiration date)
[ ] No-Year

New budget authority..... $3,000,000,000
(P.L. 99-500 & 99-591)
Other budgetary resources... $ 304,766,641
Total budgetary resources... $3,304,766,641

Amount proposed for rescission..... $ 375,200,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act
[ ] Other

Type of budget authority:

[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This appropriation provides funds for units of general local and state governments to support community development programs. The overall objective is to provide decent housing, a suitable living environment, and expanded economic opportunities, principally for persons of low and moderate income. A rescission is proposed to reduce the program level to $2.6 billion, a level sufficient to provide adequate funding to eligible localities while helping to achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Lower priority program activity may not receive CDBG funds.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
3,292,500	3,284,496	7,504	142,576	198,856	26,264	...	...

1/ This account was the subject of a deferral for a similar purpose in 1986 (D86-48).

R87-47

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Community Planning and Development

Urban development action grants

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $205,400,000 are rescinded; and in addition, of amounts previously appropriated for grants to carry out urban development action grant programs authorized in section 119 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), pursuant to section 103 of that Act, unobligated balances (including amounts deobligated in fiscal year 1987 and thereafter), except such amounts as are required to fund projects which have received preliminary approval in accordance with regulations promulgated by the Department of Housing and Urban Development, are rescinded.

Rescission Proposal No: R87-47

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development

Bureau: Community Planning and Development

Appropriation title and symbol:

Urban development action grants 1/

864/70170 865/80170
866/90170 867/00170

OMB identification code:

86-0170-0-1-451

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual — Sept. 30, 1987 / Sept. 30, 1988 / Sept. 30, 1989
[X] Multiple-year — Sept. 30, 1990 (expiration date)
[ ] No-Year

New budget authority.....$ 225,000,000 (P.L. 99-500 & 99-591)

Other budgetary resources...$ 182,116,960

Total budgetary resources...$ 407,116,960

Amount proposed for rescission.....$ 237,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:

[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This appropriation provides grants to cities and urban counties to stimulate economic development activity. However, the Administration believes that these grants redistribute economic activity rather than create it. Therefore, a rescission is proposed to preserve valuable resources for higher priority programs and to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Fewer grants will be approved in 1987.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
440,000	428,125	11,875	47,500	59,375	59,375	59,375	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-55).

R87-48

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Management and Administration

Salaries and expenses

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $19,042,000 are rescinded; Provided, That the phrase that reads "notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,270 for Public and Indian Housing Programs," is repealed.

Rescission Proposal No: R87-48

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Housing and Urban Development

Bureau: Management and Administration

Appropriation title and symbol:

Salaries and expenses

8670143

OMB identification code:

86-0143-0-1-999

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority..... $ 340,423,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 317,373,000

Total budgetary resources... $ 657,796,000

Amount proposed for rescission..... $ 19,042,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation finances administrative expenses such as salaries, equipment, supplies, travel and rent for the Department. A rescission is proposed to (1) reduce funding and staffing levels to that required to manage and administer the Department's program activity proposed for 1987 and (2) help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The reduced funding will allow for 12,535 staff-years (FTE), an increase of 815 FTE over 1986 and more than adequate to conduct the proposed 1987 program.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
338,870	320,590	18,280	762	...	...	...	...

R87-49

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Management of lands and resources

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $6,500,000 are rescinded.

Rescission Proposal No: R87-49

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Bureau of Land Management

Appropriation title and symbol:

Management of lands and resources

1471109

OMB identification code:

14-1109-0-1-302

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority..... $ 483,610,000
(P.L. 99-500 & 99-591)

Other budgetary resources.... $ _____

Total budgetary resources.... $ 483,610,000

Amount proposed for rescission..... $ 6,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds the expenses of the Bureau of Land Management in the management of public lands and resources including energy and minerals, land and realty, renewable resources, planning, cadastral survey, fire-fighting and rehabilitation, technical services and general administration. A $1 million rescission is proposed for the lands and realty management activities. Remaining funding will allow the Bureau to make considerable progress in meeting its program goals, including the "Townsite" initiative, the submerged lands inventory, and an upgrading of the computer and other equipment related to the Alaska lands record system. A $2 million rescission is proposed for the cadastral survey. This will leave the Alaska program with more than adequate funding to accomplish surveys for site selections and Native allotments. A $3.5 million rescission is proposed for the grasshopper control program, for the control of crickets and grasshoppers on public lands should an economic infestation occur. The Bureau does not anticipate the need for more than $1.5 million remaining after the rescission for infestations during 1987.

Estimated Program Effect: The Bureau will be able to carry out its programs at a somewhat reduced funding level, consistent with the budgetary constraints of the Balanced Budget and Emergency Deficit Control Act of 1985.

R87-49

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
480,604	475,209	5,395	1,105	...	...	...	...

R87-50

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Construction and Access

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $1,600,000 are rescinded.

Rescission Proposal No: R87-50

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Bureau of Land Management

Appropriation title and symbol:
Construction and access
14X1110

OMB identification code:
14-1110-0-1-302

Grant program:
[ ] Yes [X] No

Type of account or fund:
[X] Annual
[ ] Multiple-year (expiration date)
[ ] No-Year

New budget authority.....$ 2,800,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$
Total budgetary resources....$ 2,800,000

Amount proposed for rescission.....$ 1,600,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This account funds the expenses of the Bureau of Land Management for the construction of buildings, recreation facilities, roads and trails and for the acquisition of easements for legal access to public land areas. The Bureau has reduced spending for new construction in recent years and has increased emphasis on maintenance of existing facilities and infrastructure. The Administration proposes to rescind funding for the Kotzebue project. The Bureau is still evaluating the potential benefits and costs of the collocating with the National Park Service and the Fish and Wildlife Service in Kotzebue.

Estimated Program Effect: The facility in Kotzebue would not be rehabilitated and the collocation of the agencies would not occur.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
7,436	6,156	1,280	320	...	...	...	...

R87-51

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Land Acquisition

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $2,700,000 are rescinded.

Rescission Proposal No: R87-51

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Bureau of Land Management

Appropriation title and symbol:
Land acquisition
14X5033

OMB identification code:
14-5033-0-2-302

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority.....$ 3,020,000 (P.L. 99-500 & 99-591)
Other budgetary resources....$ _____
Total budgetary resources....$ 3,020,000

Amount proposed for rescission.....$ 2,700,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the expenses of the Bureau of Land Management for the acquisition of lands or the interests in lands when necessary for public recreation use and other purposes related to management of the public recreation use and other purposes related to management of public lands. In recent years, the Bureau's land acquisition program has been restricted to existing authorized projects for which the Bureau has an ongoing investment commitment. Priority acquisitions are being accomplished through the use of carryover funds and reprogramming of unobligated balances from completed projects. The proposed rescission would continue this policy by not funding non-essential projects to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: The effect of this rescission proposal would be to delete funding of non-essential acquisitions in new project starts, and also to delete funding for less critical acquisition in some ongoing projects.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
3,398	2,588	810	1,890	...	...	...	...

R87-52

DEPARTMENT OF THE INTERIOR

Bureau of Mines

Mines and minerals

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $16,594,000 are rescinded.

Rescission Proposal No: R87-52

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Bureau of Mines

Appropriation title and symbol:
Mines and minerals
14X0959

OMB identification code:
14-0959-0-1-306

Grant program:
[ ] Yes [X] No

Type of account or fund:
[X] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority.....$ 138,162,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 19,645,000
Total budgetary resources....$ 157,807,000

Amount proposed for rescission.....$ 16,594,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the expenses of the Bureau of Mines including minerals research, minerals information and analysis, and mineral institutes activities. A rescission is proposed to eliminate lower priority mining and minerals research, minerals investigations in Alaska, and excess funding for the Mineral Institutes program. This proposal is part of the President's comprehensive plan for reductions in spending to meet the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Lower priority mining and minerals research in the above areas will be reduced.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
137,206	124,936	12,270	4,324	...	...	...	...

R87-53

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Resource management

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $20,500,000 are rescinded.

Rescission Proposal No: R87-53

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Fish and Wildlife Service

Appropriation title and symbol:
Resource management
1471611

OMB identification code:
14-1611-0-1-303

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority.....$ 314,692,000 (P.L. 99-500 & 99-591)
Other budgetary resources....$ 26,289,000
Total budgetary resources....$ 340,981,000

Amount proposed for rescission.....$ 20,500,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This account funds the basic operations of the Fish and Wildlife Service including management of national wildlife refuges, fish hatchery operations, and research. The 1987 Budget proposed adequate funding to meet Federal fish and wildlife responsibilities. The 1987 appropriation of $314,692,000 exceeded the Budget proposal by $29.6 million or over a 10 percent increase.

This rescission proposal would reduce operations to a level commensurate with programmatic need given limited budgetary resources. While many of the Congressional add-ons may fund worthwhile programs, these can be left unfunded without significant effect on our natural resources, Low priority activities are proposed for termination, at least until such time as the fiscal situation improves. The rescission is proposed to help achieve the deficit reduction goals of the Balance Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Non-essential operational activities will be curtailed or cancelled with negligible effect on our fish and wildlife resources.

R87-53

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
305,000	287,575	17,425	3,075	...	...	...	...

R87-54

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Construction and anadromous fish

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $23,200,000 are rescinded.

Rescission Proposal No: R87-54

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Fish and Wildlife Service

Appropriation title and symbol:

Construction and anadromous fish

14X1612

OMB identification code:

14-1612-0-1-303

Grant program:

[X] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority.....$ 26,513,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 33,400,369

Total budgetary resources....$ 59,913,369

Amount proposed for rescission.....$ 23,200,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds construction projects at national wildlife refuges, federal fishery facilities, and research laboratories; dam safety projects; and State grants for anadromous fish conservation. The 1987 Budget proposed funds only for high priority health and safety construction projects and for planning and support for projects underway. The 1987 Appropriations totaled $26,513,000, which is $23,400,000 above the Budget request.

A rescission of $23,200,000 is proposed to withdraw funds added to the proposed budget for construction of low priority facilities such as new refuge visitor centers, new research labs, fish hatchery construction, and several ongoing projects that can be deferred without adverse effects. While some of the projects may be worthwhile in some respects, they are not essential to Federal responsibilities regarding fish and wildlife management. They can be left unfunded until the fiscal situation improves or funding alternatives are identified. The rescission is proposed to help achieve the deficit reduction goals of the Balance Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Negligible effect on our overall Federal fish and wildlife responsibilities.

R87-54

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
27,779	22,907	4,872	12,528	...	...	...	...

R87-55

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Land acquisition

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $26,762,000 are rescinded.

Rescission Proposal No: R87-55

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to SEction 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Fish and Wildlife Service

Appropriation title and symbol:

Land acquisition 1/

14X5020

OMB identification code:

14-5020-0-2-303

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority..... $ 46,425,000
(P.L. 99-500 & 99-591)

Other budgetary resources.... $ 33,258,894

Total budgetary resources.... $ 75,683,894

Amount proposed for rescission..... $ 26,762,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds acquisitions of fish and wildlife habitat. It is the Administration's policy to give priority to the maintenance of existing refuges. The 1987 Budget proposed no new funding for acquisition of land. It provided management funds to continue the acquisition program with carryover balances and to pursue non-acquisition alternatives. The 1987 appropriations totaled $42,425,000, an amount exceeding the Budget proposal by $40,925,000.

This rescission proposal would withdraw funds for low priority land acquisition projects added in 1987. Acquisition management funding and funds for obligations already incurred would be provided for with remaining balances. Until the fiscal situation improves, low priority acquisitions can be left unfunded without adverse effects on natural resources. The rescission is proposed to help achieve the deficit reduction goals of the Balance Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Non-essential Federal acquisitions will be postponed or cancelled.

R87-55

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
44,780	28,723	16,057	8,029	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-57).

R87-56

DEPARTMENT OF THE INTERIOR

National Park Service

Operation of the national park system

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $7,950,000 are rescinded.

Rescission Proposal No: R87-56

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: National Park Service

Appropriation title and symbol:

Operation of the national park system
14X1036 1471036

OMB identification code:

14-1036-0-1-303

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority.....$ 673,771,000 (P.L. 99-500 & 99-591)

Other budgetary resources....$ _____

Total budgetary resources....$ 673,771,000

Amount proposed for rescission.....$ 7,950,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds the operation and maintenance of the National Park System which includes over 300 parks, monuments, historic sites and preserves comprising almost 80 million acres of land.

The proposed rescission would eliminate funding for an historic site in Scranton, Pennsylvania known as Steamtown. This site includes land, roundhouse switchyard, associated buildings, track, and equipment. Railroad specialists from the Smithsonian, the B & O Museum in Baltimore, and the St. Louis Museum have questioned the desirability of designating Steamtown as a national historic site to commemorate railroads and have questioned the historical significance of the Steamtown collection. The rescission is proposed to allow the National Park Service to conduct a study of the proposed area which should be completed in 1987 prior to substantial outlay of funds.

Estimated Program Effect: Activities to establish a national historic site in Steamtown would not begin until after completion of a study which demonstrates that such a site us appropriate and an implementation plan is developed.

R87-56

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
672,393	670,443	1,950	2,000	2,000	2,000	...	...

R87-57

DEPARTMENT OF THE INTERIOR

National Park Service

Construction

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $58,981,000 are rescinded.

Rescission Proposal No: R87-57

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: National Park Service

Appropriation title and symbol:
Construction 1/
14X1039

OMB identification code:
14-1039-0-1-303

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year (expiration date)
[X] No-Year

New budget authority.....$ 88,095,000
(P.L. 99-500 & 99-591)
Other budgetary resources....$ 108,441,359
Total budgetary resources....$ 196,536,359
Amount proposed for rescission.....$ 58,981,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds construction projects in national parks including emergency repair projects and planning. The 1987 Budget requested appropriations for planning and construction projects necessary to avoid irreversible damage to resources or facilities and to address urgent health and safety problems, and to plan for scheduled projects, including those underway, and for emergency projects that might arise.

This rescission is proposed to eliminate funds added to the request beyond critical needs. These projects can be eliminated without creating adverse effects on resources or health and safety problems. While the added projects may be worthwhile in some respects, they are not essential. The savings will also help achieve the goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Lower priority planning and construction projects will be postponed or cancelled.

R87-57

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
94,000	85,900	8,100	15,400	17,100	13,200	5,181	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-58).

R87-58

DEPARTMENT OF THE INTERIOR

National Park Service

Land acquisition and State assistance

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $64,450,000 are rescinded; and of the remaining available funds, $3,188,000 are rescinded; and in addition, available funds of the contract authority provided for fiscal year 1987 by 16 U.S.C. 460L-10a are rescinded.

Rescission Proposal No: R87-58

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: National Park Service

Appropriation title and symbol:

Land acquisition and State assistance 1/
14X5035

OMB identification code:

14-5035-0-2-303

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual 2/

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority..... $ 117,817,000
(P.L. 99-500, 99-591 & 16 USC 460L-10a)

Other budgetary resources.... $ 60,991,716

Total budgetary resources.... 178,808,716

Amount proposed for rescission..... $ 97,638,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[X] Contract authority 2/

[ ] Other _____

Justification: This appropriation provides (1) funds to acquire land for inclusion in the National Park system, and (2) grants to States for outdoor recreation purposes. Under existing law (16 U.S.C. 460L-10a), $30 million in contract authority is made available each fiscal year for use as an anti-cost escalation measure in purchasing authorized Federal recreation land. This authority was last used in 1969 and 1970, and there are no plans to use it in the future. The contract authority lapsed in fiscal years 1971-1981 and was rescinded by Congressional action from fiscal years 1982-1986. Consequently, the $30 million in 1987 contract authority is again proposed for rescission. The Administration is also requesting that Congress permanently terminate the availability of this contract authority.

It is further proposed that $64,450,000 of the $87,220,000 appropriated for 1987 and $3,188,000 from prior years be rescinded. The Federal government already owns over 730 million acres of land - an area 25 times the size of Pennsylvania. In addition, States, counties, and municipalities own a substantial acreage. This huge amount of public land - more than one-third of the Nation's total land area is generally available for public recreation use. None of the projects that would be postponed or cancelled are essential. It is important that non-essential expenditures be restricted to meet the requirements of the Balanced Budget and Emergency Deficit Control Act of 1985.

R87-58

Estimated Program Effect: (1) Lower priority acquisition projects will not be undertaken, (2) grants for States will not be provided, and (3) contract authority will not be utilized.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
200,000	178,280	21,720	13,540	14,500	8,000	6,500	1,650

1/ This account was the subject of a similar rescission proposal in 1986 (R86-59).

2/ A portion of the funding proposed for rescission is non-grant contract authority available only during 1987.

R87-59

DEPARTMENT OF THE INTERIOR

National Park Service

Historic preservation fund

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $15,000,000 are rescinded.

Rescission Proposal No: R87-59

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: National Park Service

Appropriation title and symbol:
Historic preservation fund 1/
147/85140

OMB identification code:
14-5140-0-2-303

Grant program:
[X] Yes [ ] No

Type of account or fund:
[ ] Annual
[X] Multiple-year Sept. 30, 1988 (expiration date)
[ ] No-Year

New budget authority.....$ 24,250,000 (P.L. 99-500 & 99-591)
Other budgetary resources....$
Total budgetary resources....$ 24,250,000

Amount proposed for rescission.....$ 15,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: This program funds State historic preservation grants and the National Trust for Historic Preservation. The proposal would reduce funding for historic preservation from the $24,250,000 appropriated by $15 million. It is the Administration's policy that historic preservation at the State level is a state responsibility. The Federal historic preservation grants are used by many states to finance historic preservation organizations. States should determine the appropriate level of funding for these activities based on state priorities. The proposed rescission is part of the President's overall spending reduction effort to meet the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: States will assume the responsibility for the funding of the historic preservation programs.

R87-59

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
25,467	21,867	3,600	5,550	5,850	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-60).

R87-60

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Construction

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $22,811,000 are rescinded.

Rescission Proposal No: R87-60

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Bureau of Indian Affairs

Appropriation title and symbol:

Construction

14X2301

OMB identification code:

14-2301-0-1-452

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority..... $ 88,601,000
(P.L. 99-500 & 99-591)

Other budgetary resources.... $ 67,801,724

Total budgetary resources.... $ 156,402,724

Amount proposed for rescission..... $ 22,811,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds construction of Bureau of Indian Affairs facilities, Indian housing, and Indian irrigation projects. The proposed rescission includes $7.5 million for juvenile detention centers, $6.311 million for the housing improvement program, $5 million for Indian irrigation projects, $2.5 million for the Gila Bend River Farms/Sacaton Ranch Irrigation Project, and $1.5 million for the Fort McDowell Irrigation Rehabilitation Project. The need for juvenile detention centers has not been established and neither planning nor design has been accomplished. Construction of new Indian housing is primarily the responsibility of the Department of Housing and Urban Development, which has a backlog of new units already funded. New irrigation project work can be postponed and is a low Bureau priority. The proposed rescission is part of the President's comprehensive plan for reductions in spending to meet the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Juvenile detention centers would not be constructed; housing program activities would be limited to rehabilitation of existing Indian housing; Block 7 of the Navajo Indian Irrigation Project would not be started; laser land-leveling work would not be accomplished on the Gila Farms/Sacaton Ranch Irrigation Project; and delivery and on-farm canals would not be constructed to irrigate lands on the Fort McDowell Irrigation Rehabilitation Project.

R87-60

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
104,877	98,034	6,843	11,405	4,563	...	...	...

R87-61

DEPARTMENT OF THE INTERIOR

Territorial and International Affairs

Administration of territories

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $2,500,000 are rescinded.

Rescission Proposal No: R87-61

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department the Interior

Bureau: Territorial and International Affairs

Appropriation title and symbol:

Administration of territories

14X0412

OMB identification code:

14-0412-0-2-806

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority..... $ 78,224,000
(P.L. 99-500 & 99-591)

Other budgetary resources.... $ 1,829,375

Total budgetary resources.... $ 80,053,375

Amount proposed for rescission..... $ 2,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account funds operational support for the U.S. territories and the Office of Territorial and International Affairs, construction grants to improve territorial infrastructure, and technical assistance activities. The 1987 Budget requested technical assistance funding consistent with previous requests and territorial needs. The 1987 appropriation more than doubled the requested amount from $2,200,000 to $4,700,000.

This rescission proposal will reduce technical assistance grants for the U.S. territories, the Trust Territory, and the Freely Associated States to the 1987 requested level of $2.2 million. Low priority assistance can be deferred until the Federal fiscal situation improves without adverse effects on the territories. The rescission is proposed to help achieve the deficit reduction goals of the Balance Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: None.

R87-61

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
81,450	79,450	2,000	500	...	...	...	...

R87-62

IMMIGRATION AND NATURALIZATION SERVICE

Salaries and Expenses

Of the funds included under this head in the Department of Justice Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $24,598,000 are rescinded.

Rescission Proposal No: R87-62

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Justice

Bureau: Immigration and Naturalization Service

Appropriation title and symbol:
Salaries and expenses
1571217

OMB identification code:
15-1217-0-1-751

Grant program:
[ ] Yes [X] No

Type of account or fund:
[X] Annual
[ ] Multiple-year _____ (expiration date)
[ ] No-Year

New budget authority..... $ 592,600,000 (P.L. 99-500 & 99-591)
Other budgetary resources... $ 77,054,000
Total budgetary resources... $ 669,654,000
Amount proposed for rescission..... $ 24,598,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: The Immigration and Naturalization Service is responsible for administering laws relating to the admission, exclusion, deportation, and naturalization of aliens. The 1987 Appropriations Act provides for the establishment of an "Immigration User Fee Account." This will allow the Immigration and Naturalization Service to charge for the inspection of certain passengers arriving in the United States aboard commercial aircraft or vessels. This Act also authorizes the Secretary of Treasury to refund the amounts paid for certain expenses incurred in providing inspections and other identified services out of the "Immigration User Fee Account". The proposed rescission reflects those resources currently included in the 1987 appropriation that fund items which will be funded through the user fee account effective December 1, 1986.

Estimated Program Effect: Because the Immigration User Fee Account merely switches the source of funding for certain functions there will be no adverse impact on INS as a result of this rescission.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
567,386	544,633	22,753	1,845	...	...	...	...

R87-63

DEPARTMENT OF LABOR

Employment and Training Administration

Training and employment services

Of the amounts included under this head in the conference version of H.R. 5233, Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1987, and made available by Public Laws 99-500 and 99-591, $332,000,000 are rescinded: Provided, That amounts made available in Public Laws 99-500 and 99-591 for Employment and Training Assistance for Dislocated Workers shall be available only for activities authorized by section 301(c) of the Job Training Partnership Act.

Rescission Proposal No: R87-63

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Labor

Bureau: Employment & Training Administration

Appropriation title and symbol:

Training and employment services 1/

1670174

OMB identification code:

16-0174-0-1-504

Grant program:

[X] Yes [ ] No

Type of account or fund:

[X] Annual

[ ] Multiple-year (expiration date)

[ ] No-Year

New budget authority..... $3,685,913,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 1,262,000

Total budgetary resources... $3,687,175,000

Amount proposed for rescission..... $ 332,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This account finances programs authorized under the Job Training Partnership Act (JTPA) and certain activities authorized by the Trade Act of 1974. This rescission proposal affects the three major grant programs under JTPA as follows: block grant to States for training ($57 million), summer youth employment and training program ($100 million), and JTPA title III dislocated worker assistance ($175 million). These reductions are proposed because of large unexpended balances in all three programs and because program changes proposed for the summer youth employment and dislocated worker assistance programs will permit more efficient targeting of resources to those in need of services. The rescission returns the block grant and summer jobs programs to their 1986 post-sequester levels and reduces the dislocated worker program to $25 million. The amount for dislocated worker assistance is sufficient to finance services for the period July 1, 1987 through September 30, 1987, and will be allocated at the Secretary of Labor's discretion permitting targeting of these resources to areas with the most severe problems preparatory to implementation of a replacement program.

Estimated Program Effect: The rescission will have minimal effect on enrollment levels in all three grant programs since large amounts of unspent funds in each program are expected to be carried forward into 1987.

R87-63

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
3,559,842	3,555,886	3,956	197,450	111,954	18,640	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-63).

R87-64

DEPARTMENT OF THE TREASURY

Federal Law Enforcement Training Center

Salaries and expenses

Of the funds included under this head in the Treasury Department Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $8,450,000 are rescinded.

Rescission Proposal No: R87-64

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Treasury

Bureau: Federal Law Enforcement Training Center

Appropriation title and symbol:

Salaries and expenses 1/

2070104

OMB identification code:

20-0104-0-1-751

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year (expiration date)

[ ] No-Year

New budget authority..... $ 29,499,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 6,323,000

Total budgetary resources... $ 35,822,000

Amount proposed for rescission..... $ 8,450,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation provides funds to operate training activities at the Federal Law Enforcement Training Center. The proposed rescission would reduce funding for the direct costs of basic training activities at the center. Given current student attendance projections for 1987, the additional funding for anti-terrorism training is not necessary as that training is currently included within the basic training curriculum. Non-essential funding is being proposed for rescission as part of the Administration's spending reduction efforts to reach the deficit reduction goals established by the Balanced Budget and Emergency Deficit Reduction Control Act of 1985.

Estimated Program Effect: Should actual student participation levels exceed current projections, user agencies will be expected to fund those basic training costs not funded by the Center.

R87-64

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
32,284	23,834	8,450	...	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-69).

R87-65

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

Salaries and expenses

Of the funds included under this head in the Treasury Department Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $15,000,000 are rescinded.

Rescission Proposal No: R87-65

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Treasury

Bureau: Bureau of Alcohol, Tobacco and Firearms

Appropriation title and symbol:

Salaries and expenses

2071000

OMB identification code:

20-1000-0-1-751

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority..... $ 193,463,000
(P.L. 99-500 & 99-591)

Other budgetary resources... $ 1,698,000

Total budgetary resources... $ 195,161,000

Amount proposed for rescission..... $ 15,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: The Bureau of Alcohol, Tobacco and Firearms is responsible for the enforcement of the laws designed to eliminate certain illicit activities and to regulate lawful activities relating to distilled spirits, beer, wine, and non-beverage products, tobacco, firearms, and explosives. The proposed rescission would reduce funding for staffing increases related to certain compliance activities, interstate cigarette tax evasion investigations and firearms enforcement activities. Non-essential funding is being proposed for rescission as part of the Administration's spending reduction efforts to reach the deficit reduction goals established by the Balanced Budget and Emergency Deficit Reduction Control Act of 1985.

Estimated Program Effect: Activities would be reduced to levels proposed in the President's 1987 Budget. Revenue collection and alcohol market integrity programs, along with firearms enforcement activities, would focus on high-priority areas. Cigarette tax evasion investigations would be assumed by the states.

R87-65

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
189,594	174,594	15,000	...	...	...	...	...

R87-66

DEPARTMENT OF THE TREASURY

United States Customs Service

Salaries and expenses

Of the funds included under this head in the Treasury Department Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $38,945,000 are rescinded.

Rescission Proposal No: R87-66

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of the Treasury

Bureau: U.S. Customs Service

Appropriation title and symbol:

Salaries and expenses 1/

2070602

OMB identification code:

20-0602-0-1-751

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority.....$ 830,120,000 (P.L. 99-500 & 99-591)

Other budgetary resources...$ 130,656,000

Total budgetary resources...$ 960,776,000

Amount proposed for rescission.....$ 38,945,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation provides funding for inspection and enforcement activities of the Customs Service. Within the past several years, Customs has expanded its acquisition of technological equipment and automated devices. This emphasis on automation has allowed Customs to implement more selective procedures in both enforcement and inspections activities. This selectivity lessens the need for the increased Customs staffing levels provided by Congress. Non-essential funding is being proposed for rescission as part of the Administration's spending reduction efforts to reach the deficit reduction goals established by the Balanced Budget and Emergency Deficit Reduction Control Act of 1985.

Estimated Program Effect: Lower priority activities within Customs inspection and enforcement programs would not be fully funded.

R87-66

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
969,479	931,313	38,166	779	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-70).

R87-67

ENVIRONMENTAL PROTECTION AGENCY

Abatement, control, and compliance

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $47,500,000 are rescinded.

Rescission Proposal No: 87-67

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Environmental Protection Agency

Bureau:

Appropriation title and symbol:

Abatement, control, and compliance

687/80108

OMB identification code:

68-0108-0-1-304

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual

[X] Multiple-year Sept. 30, 1988 (expiration date)

[ ] No-Year

New budget authority.....$ 582,685,000 (P.L. 99-500 & 99-591)

Other budgetary resources...$

Total budgetary resources...$ 582,685,000

Amount proposed for rescission.....$ 47,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other

Justification: This appropriation includes funds for contracts, grants, and cooperative agreements for pollution abatement, control, and compliance activities. Grants to state environmental agencies fund implementation of Federal environmental laws. The reduction for asbestos-in-schools grants/loans is proposed because prior year appropriations have greatly reduced the problem. Further, many states already have their own programs and sufficient means to complete their actions and will act now rather than wait for Federal funding.

Estimated Program Effect: None

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
571,981	557,256	14,725	23,750	4,750	2,850	1,425	...

R87-68

ENVIRONMENTAL PROTECTION AGENCY

Buildings and facilities

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $2,500,000 are rescinded.

Rescission Proposal No: R87-68

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Environmental Protection Agency

Bureau:

Appropriation title and symbol:

Buildings and facilities

68X0110

OMB identification code:

68-0110-0-1-304

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year (expiration date)

[X] No-Year

New budget authority.....$ 7,500,000
(P.L. 99-500 & 99-591)

Other budgetary resources...$ 9,000,000

Total budgetary resources...$ 16,500,000

Amount proposed for rescission.....$ 2,500,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other

Justification: This appropriation provides for the construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities that are owned or used by the Environmental Protection Agency (EPA). This proposal would rescind $2.0 million for construction of a new laboratory at the University of Las Vegas which would have no subsequent purpose relating to EPA. It would also rescind $0.5 million for low priority remodeling of a facility at Edison, N.J.

Estimated Program Effect: Unnecessary construction and remodeling will be avoided.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
4,994	4,769	225	855	1,065	350	5	...

R87-69

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Research and development

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $25,796,000 are rescinded.

Rescission Proposal No: R87-69

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: National Aeronautics and and Space Administration

Bureau:

Appropriation title and symbol:

Research and development 1/

807/80108

OMB identification code:

80-0108-0-1-999

Grant program:

[ ] Yes [X] No

Type of account or fund:

[ ] Annual

[X] Multiple-year Sept. 30, 1988 (expiration date)

[ ] No-Year

New budget authority..... $3,127,700,000 (P.L. 99-500 & 99-591)

Other budgetary resources... $ 919,200,000

Total budgetary resources... $4,046,900,000

Amount proposed for rescission..... $ 25,796,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation provides for research and development activities of the National Aeronautics and Space Administration. This proposal would rescind funds for the Advanced Communications Technology Satellite (ACTS) flight demonstration of advanced communications technology. This is part of the Administration's effort to avoid possible competition with the private sector and to minimize Government subsidies for activities more appropriately and effectively undertaken by the private sector.

Estimated Program Effect: ACTS will be terminated.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
2,836,573	2,824,573	12,000	11,000	2,796	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-72).

R87-70

VETERANS ADMINISTRATION

Medical care

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $75,000,000 are rescinded.

Rescission Proposal No: R87-70

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Veterans Administration

Bureau:

Appropriation title and symbol:

Medical care

3670160

OMB identification code:

36-0160-0-1-703

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority..... $9,422,212,000
(P.L. 99-500, 99-570 & 99-591)

Other budgetary resources... $ 60,000,000

Total budgetary resources... $9,482,212,000

Amount proposed for rescission..... $ 75,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation funds medical care services for about 3 million veterans each year, most of whom are not service disabled. P.L. 99-272, enacted in April 1986, established a means test for the provision of medical care to non-service disabled veterans. Under the terms of the means test, higher income veterans (i.e., those with one dependent and an annual income of $25,000 or more) who agree to make a co-payment may be provided with care only to the extent that resources and facilities are otherwise available. That is, VA-financed medical care for these veterans is completely discretionary and subject to available funds.

This proposal would eliminate funding that would otherwise be used during the last five months of 1987 for hospital, outpatient, VA nursing and community nursing services paid for by the VA for the care of these higher income, non-service disabled veterans. The illnesses of these veterans are unrelated to their military service and, based on their income, they are financially able to provide for their own health care. Implementation of this policy will allow the VA to center its efforts on the service-disabled and those least able to finance the cost of their own health care.

Estimated Program Effect: Based on the information available since P.L. 99-272 was enacted, about 2.4 percent of the 3 million veterans (about 72,000) now being served by the VA have annual income levels in excess of the means test level of $25,000 ($20,000 for a veteran with no dependents). Beginning with

R87-70

enactment of this proposal, the funding associated with their care would no longer be available. Nothing in this proposal, however, would preclude the VA from continuing to furnish care to these veterans if, on a location-by-location basis, funding remained available to do so.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
9,500,505	9,426,450	74,055	945	...	...	...	...

R87-71

APPALACHIAN REGIONAL COMMISSION

Appalachian regional development programs

Of the funds included under this head in the Energy and Water Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $31,059,000 are rescinded.

Rescission Proposal No: R87-71

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Appalachian Regional Commission

Bureau:

Appropriation title and symbol:

Appalachian regional development programs 1/
46X0200

OMB identification code:

46-0200-0-1-452

Grant program:

[X] Yes [ ] No

Type of account or fund:

[ ] Annual

[ ] Multiple-year _____ (expiration date)

[X] No-Year

New budget authority..... $ 105,100,000
(P.L. 99-500 & 99-591)

Other budgetary resources.... $ 34,852,283

Total budgetary resources.... $ 139,852,283

Amount proposed for rescission..... $ 31,059,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation provides funds for the Appalachian Regional Commission's highway, area development, research, and local development district support activities. Because the Commission duplicates the functions of the Department of Transportation in the case of the highway program, and funds activities that are primarily the responsibility of State and local governments through the remaining development programs, a rescission is proposed for the unobligated balances of the Appalachian Regional Commission grant program. This proposal is part of the Administration's spending reduction efforts to meet the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: This rescission would reduce funds available in the Appalachian Development Highway System by $3.5 million, the jobs and private investment program by $21.8 million, the distressed counties program by $4.5 million, and local development district and technical assistance programs by $1.3 million. The effect will be to transfer responsibility for economic development to State, local and private sources.

R87-71

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
142,200	140,095	2,105	9,144	9,317	5,280	4,038	1,175

1/ This account was the subject of a similar rescission proposal in 1986 (R86-74).

R87-72

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Humanities

National capital arts and cultural affairs

Of the funds included under this head in the Department of the Interior and Related Agencies Appropriations Act, 1987, as included in Public Laws 99-500 and 99-591, $4,000,000 are rescinded.

Rescission Proposal No: R87-72

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: National Foundation on the Arts and the Humanities

Bureau: National Endowment for the Humanities

Appropriation title and symbol:

National capital arts and cultural affairs 1/
5970201

OMB identification code:

59-0200-0-1-503

Grant program:

[ ] Yes [X] No

Type of account or fund:

[X] Annual

[ ] Multiple-year _____ (expiration date)

[ ] No-Year

New budget authority.....$ 4,000,000 (P.L. 99-500 & 99-591)

Other budgetary resources....$ _____

Total budgetary resources....$ 4,000,000

Amount proposed for rescission.....$ 4,000,000

Legal authority (in addition to sec. 1012):

[ ] Antideficiency Act

[ ] Other _____

Type of budget authority:

[X] Appropriation

[ ] Contract authority

[ ] Other _____

Justification: This appropriation supports non-competitive grants restricted to large Washington, D.C. cultural organizations. These organizations are eligible to apply for competitive awards from existing programs of the National Endowment for Arts, the National Endowment for the Humanities, and the Institute of Museum Services. A separate, non-competitive subsidy program for Washington, D.C. organizations is not warranted. This rescission is proposed to help achieve the deficit reduction goals of the Balanced Budget and Emergency Deficit Control Act of 1985.

Estimated Program Effect: Non-competitive grants would not be made to approximately 12 to 15 large Washington, D.C. cultural organizations.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
4,000	...	4,000	...	...	...	...	...

1/ This account was the subject of a similar rescission proposal in 1986 (R86-76).

R87-73

SELECTIVE SERVICE SYSTEM

Salaries and expenses

Of the funds included under this head in the conference version of H.R. 5313, Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1987, and made available by Public Laws 99-500 and 99-591, $409,000 are rescinded.

Rescission Proposal No: R87-73

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Selective Service System	**New budget authority.....$** 26,128,000 (P.L. 99-500 & 99-591)
Bureau:	**Other budgetary resources....$** 20,000
Appropriation title and symbol:	**Total budgetary resources....$** 26,148,000
Salaries and expenses 9070400	**Amount proposed for rescission.....$** 409,000
OMB identification code:	**Legal authority** (in addition to sec. 1012):
90-0400-0-1-054	[ ] Antideficiency Act
Grant program:	[ ] Other
[ ] Yes [X] No	
Type of account or fund:	**Type of budget authority:**
[X] Annual	[X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[ ] No-Year	[ ] Other

Justification: The Selective Service System registers men as they reach the age of 18, conducts a non-registrant identification program to insure compliance with the law, and maintains a data base of registrant records in order to ensure a standby capability for military service. Decreases in the pension accrual rates for reserve and active duty military personnel will result in a significant windfall for the Selective Service System. The proposal would reduce the funding of the Selective Service to the level necessary to finance its ongoing operations, less absorption of the pay raise and Federal Employee Retirement System contribution.

Estimated Program Effect: There will be no decrease the effectiveness of the operations of the Selective Service System.

Outlay Effect (in thousands of dollars):

1987 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1987	1988	1989	1990	1991	1992
28,938	28,529	409	...	...	...	...	...

D87-8A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D87-8A transmitted to Congress on September 26, 1986.

This revision to a deferral of the Department of Defense - Civil, Wildlife conservation account increases the amount previously reported from $1,065,200 to $1,090,024. This net increase of $24,824 results from the deferral of additional balances carried over from 1986.

Deferral No: D87-8A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Defense - Civil
Bureau: Wildlife Conservation, Military Reservations
Appropriation title and symbol:
Wildlife Conservation, Army 21X5095
Wildlife Conservation, Navy 17X5095
Wildlife Conservation, Air Force 57X5095

OMB identification code:
97-5095-0-2-303
Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority.....*$ 1,970,000
(P.L. 16 U.S.C. 670F)
Other budgetary resources..*$ 1,460,024
Total budgetary resources..*$ 3,430,024

Amount to be deferred:
Part of year.....$ _____
Entire year.....*$ 1,090,024

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Coverage: 1/

Appropriation	Account Symbol	OMB Identification Code	Amount Deferred
*Wildlife Conservation, Army.....	21X5095	21-5095-0-2-303	$744,024
Wildlife Conservation, Navy.....	17X5095	17-5095-0-2-303	140,000
Wildlife Conservation, Air Force....	57X5095	57-5095-0-2-303	206,000
			1,090,024

Justification: These are permanent appropriations of receipts generated from hunting and fishing fees in accordance with the purpose of the law -- to carry out a program of natural resource conservation. These funds are being deferred because: (1) installations may be accumulating funds over a period of time to fund a major project, (2) the installation may be designing and obtaining approval for the project, and (3) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. Funds collected in a prior year are deferred in order to be available to finance the program during summer and fall months or in subsequent years. Additional amounts will be

D87-8A

apportioned if program requirements are identified. This deferral is made under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ These accounts were the subject of a similar deferral in 1986 (D86-5A).

* Revised from previous report.

D87-10A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D87-10 transmitted to Congress on September 26, 1986.

This revision to a deferral of the Department of Energy's account for Operation and maintenance, Southwestern Power Administration, increases the amount previously reported from $7,554,000 to $13,660,000. This net increase of $6,106,000 results from savings due to lower costs of purchasing power.

Deferral No: D87-10A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of Energy	**New budget authority.....*$** 25,337,000 (P.L. 99-500 & 99-591)
Bureau: Power Marketing Administration	**Other budgetary resources..*$** 27,644,918
Appropriation title and symbol: Southwestern Power Administration, Operation and maintenance 1/ 89X0303	**Total budgetary resources..*$** 52,981,918
	Amount to be deferred: Part of year.....$ ____ Entire year.....*$ 13,660,000
OMB identification code: 89-0303-0-1-271	**Legal authority** (in addition to sec. 1013): [X] Antideficiency Act
Grant program: [ ] Yes [X] No	[ ] Other ____
Type of account or fund: [ ] Annual; [ ] Multiple-year ____ (expiration date); [X] No-Year	**Type of budget authority:** [X] Appropriation; [ ] Contract authority; [ ] Other ____

***Justification:** This account funds the activities of the Southwestern Power Administration (SWPA), an agency that markets wholesale hydroelectric power produced at Corps of Engineers dams in six southwestern states. SWPA activities also include construction, operation and maintenance of approximately 1,660 miles of transmission lines over which power is distributed to customers. In 1986, available funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it. As a result, the level of unobligated funds carried into 1987 for purchasing power was higher than assumed when the 1987 Budget was prepared. The law requires SWPA to deliver power to its customers at the lowest cost consistent with sound business practice and to recover all costs from its customers. Therefore, surplus funds can be used only when consistent with SWPA's program needs. There currently is no plan to use these funds in 1987, although the funds will be made available if a critical need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

D87-10A

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1986 (D86-13A).

* Revised from previous report.

Deferral No: D87-29

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy

Bureau:
Power Marketing Administration

Appropriation title and symbol:
Western Area Power Administration, Construction, rehabilitation, operation and maintenance 1/
89X5068

OMB identification code:
89-5068-0-2-271

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority.....$ 236,846,000
(P.L. 99-500 & 99-591)
Other budgetary resources...$ 77,117,736

Total budgetary resources...$ 313,963,736

Amount to be deferred:
Part of year.....$ _____
Entire year.....$ 4,485,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account funds the activities of the Western Area Power Administration (WAPA), an agency that markets wholesale hydroelectric power produced at projects principally operated by the Bureau of Reclamation and the Corps of Engineers in 15 western states. WAPA activities also include construction, operation and maintenance of approximately 16,000 miles of transmission lines over which power is distributed to customers. In 1986, available funds were in excess of amounts required to purchase power and pay non-Federal utilities to deliver it. As a result, the level of unobligated funds carried into 1987 for purchasing power was higher than assumed when the 1987 Budget was prepared. The law requires WAPA to deliver power to its customers at the lowest cost consistent with sound business practice and to recover all costs from its customers. Therefore, surplus funds can be used only when consistent with WAPA's program needs. There currently is no plan to use these funds in 1987, although the funds will be made available if a critical need arises. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

D87-29

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1986 (D86-14A).

Deferral No: D87-30

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of Energy

Bureau:
Departmental Administration

Appropriation title and symbol:
Departmental administration 1/

89X0228

OMB identification code:
89-0228-0-1-276

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority.....$ 395,558,000
(P.L. 99-500 & 99-591)
Other budgetary resources...$ 60,026,008
Total budgetary resources...$ 455,584,008

Amount to be deferred:
Part of year.....$ _____
Entire year.....$ 24,182,000

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: This account includes funds for a wide array of policy development and analysis activities, institutional and public liaison functions, and other program support requirements necessary to insure effective operation and management. The Department of Energy is authorized to perform reimbursable work for non-Federal entities prior to receiving payment. The Cost of work program finances these activities prior to receipt of the reimbursements (pursuant to section 161, Public Law 83-703). In 1986, the demand for the Cost of work program was well below budget estimates. This decrease in demand created unobligated balances at the beginning of 1987 in excess of anticipated levels. Funds will be made available when the demand for the Cost of work program increases above budgeted levels. This action is taken pursuant to the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of two different deferrals in 1986 (D86-15 and D86-63).

Deferral No: D87-31

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY:
Department of the Interior

Bureau:
Bureau of Land Management

Appropriation title and symbol:
Payments for Proceeds, Sale of Mineral Leasing Act of 1920 Section 40(d) 1/
14X5662

OMB identification code:
14-5662-0-1-301

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[ ] Multiple-year _____ (expiration date)
[X] No-Year

New budget authority.....$ _____

Other budgetary resources....$ 49,462

Total budgetary resources....$ 49,462

Amount to be deferred:
Part of year.....$ _____
Entire year.....$ 49,462

Legal authority (in addition to sec. 1013):
[X] Antideficiency Act
[ ] Other _____

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other _____

Justification: Section 40(d) of the Mineral Leasing Act of 1920 (30 U.S.C. 229(a)) provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department from the proceeds from sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about $3,000 per year, but no receipts were received in 1986 due to a slowdown in drilling caused by lower oil prices. None of these receipts have been obligated over the past 12 years and none are planned for obligation in fiscal year 1987 because the total available is too small to be put to practical use for the purpose designated by law. This deferral action is taken pursuant to the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1986 (D86-66).

D87-14A

Supplementary Report

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D87-14A transmitted to Congress on September 26, 1986.

This revision to a deferral of the Department of State's Emergency refugee and migration assistance fund increases the amount previously reported from $6,100,000 to $20,100,000. This net increase of $14,000,000 results from the deferral of 1987 appropriations pending Presidential designation of the refugees to be assisted.

Deferral No: D87-14A

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

AGENCY: Department of State **Bureau:** Bureau for Refugee Programs **Appropriation title and symbol:** United States emergency refugee and migration assistance fund 1/ 11X0040 **OMB identification code:** 11-0040-0-1-151 **Grant program:** [ ] Yes [X] No	**New budget authority.....*$** 14,000,000 (P.L. 99-500 & 99-591) **Other budgetary resources...$** 6,100,000 **Total budgetary resources..*$** 20,100,000 **Amount to be deferred:** Part of year.....$ Entire year.....*$ 20,100,000 **Legal authority** (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-Year	**Type of budget authority:** [X] Appropriation [ ] Contract authority [ ] Other

Justification: Section 501(a) of the Foreign Relations Authorization Act, 1976 (Public Law 94-141) and Section 414(b)(1) of the Refugee Act of 1980 (Public Law 96-212) amended Section 2(c) of the Migration and Refugee Assistance Act of 1962 (22 U.S.C. 2601) by authorizing a fund not to exceed $50,000,000 to enable the President to provide emergency assistance for unexpected urgent refugee and migration needs.

Executive Order No. 11922 of June 16, 1976, allocated all funds appropriated to the President for the Emergency Fund to the Secretary of State but reserved for the President the determination of assistance to be furnished and the designation of refugees to be assisted by the Fund.

*The Emergency Fund contains an estimated $6,100,000 in unobligated balances from prior-year authority. In addition, $14,000,000 has been made available in 1987. These funds have been deferred pending Presidential decisions required by Executive Order No. 11922 and to achieve the most economical use of appropriations. Funds will be released as the President determines assistance to be furnished and designates refugees to be assisted by the Fund. This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 1512).

Estimated Program Effect: None

D87-14A

Outlay Effect: None

1/ This account was the subject of a similar deferral in 1986 (D86-19).

* Revised from previous report.

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Reader Aids

Federal Register

Vol. 52, No. 6

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PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws 523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-5240
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JANUARY

1-228.....2
229-388.....5
389-516.....6
517-660.....7
661-754.....8
755-1178.....9

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
12462 (Amended by EO 12579).....515
12496 (Superseded by EO 12578).....505
12578.....505
12579.....515
Proclamations:
5595.....229
5596.....755
Administrative Orders:
Memorandums:
December 30, 1986.....231, 233
Jan. 2, 1987.....389

5 CFR

534.....1
890.....2

7 CFR

2.....235
907.....240, 757
910.....241, 757
911.....758
1036.....241
1944.....243
1951.....243
Proposed Rules:
301.....291
318.....292
319.....685
925.....432
944.....432
1240.....797
1930.....296

8 CFR

103.....3, 661

9 CFR

307.....3
318.....5
350.....3
351.....3
354.....3
355.....3
362.....3
381.....3

10 CFR

9.....759
61.....397
503.....658
Proposed Rules:
50.....543

11 CFR

100.....760
102.....760
103.....760
104.....760
110.....760

12 CFR

Proposed Rules:
225.....543
563.....80

13 CFR

121.....397

14 CFR

21.....656
23.....656
39.....517-523
71.....524, 525, 775
97.....661
Proposed Rules:
39.....435, 551-557
71.....81, 297, 558-560

15 CFR

22.....6
372.....663
376.....776
386.....663
399.....405, 665

16 CFR

13.....253, 254, 656
1034.....405
1750.....405

17 CFR

1.....777
33.....777

18 CFR

2.....9
37.....11
388.....779
Proposed Rules:
11.....82

19 CFR

4.....254
24.....255

20 CFR

364.....526

21 CFR

74.....902
81.....902
82.....902
176.....527
178.....406
520.....666
558.....530, 780
Proposed Rules:
874.....656

878.....656
886.....656

23 CFR

Proposed Rules:
658.....298

25 CFR

256.....38
272.....38

26 CFR

1.....39, 40, 409
602.....40
Proposed Rules:
1.....83, 438, 802
7.....802
20.....802
25.....802
53.....802
56.....802

27 CFR

19.....530, 667
25.....530, 667
240.....530, 667
250.....530, 667
251.....530
270.....530, 667
275.....530, 667
285.....530, 667

28 CFR

51.....486

29 CFR

1601.....42
2644.....256
Proposed Rules:
2520.....84

30 CFR

925.....534
Proposed Rules:
218.....687
935.....561

31 CFR

5.....43-51
51.....414

32 CFR

Proposed Rules:
230.....90
286.....802
856.....803

33 CFR

117.....670
165.....670
Proposed Rules:
110.....90
161.....806

36 CFR

702.....671
1232.....948

38 CFR

Proposed Rules:
13.....300

39 CFR

10.....673
Proposed Rules:
960.....301

40 CFR

52.....53, 54
80.....257
81.....54
Proposed Rules:
52.....91
65.....562
85.....924
180.....563
228.....438
704.....107
721.....107

41 CFR

101-40.....387
201-24.....656

42 CFR

60.....730

43 CFR

3400.....415
3470.....415
Proposed Rules:
426.....304

44 CFR

Proposed Rules:
6.....304
61.....112
67.....690

45 CFR

30.....260
201.....273
304.....273
801.....416
Proposed Rules:
1180.....691

46 CFR

Proposed Rules:
580.....809

47 CFR

1.....273
2.....417
15.....417
22.....417
25.....417
65.....273
73.....57, 58, 275-277
90.....417
97.....277, 278
Proposed Rules:
73.....113-115, 305

48 CFR

208.....781
525.....58, 278
552.....278
810.....280
836.....280
852.....280
Proposed Rules:
52.....226
215.....809

49 CFR

193.....674
544.....59
1312.....536
Proposed Rules:
1312.....564

50 CFR

17.....283, 675, 679, 781
611.....417, 422, 785
642.....288
655.....537
663.....682, 790
672.....422, 785
675.....422, 785
Proposed Rules:
17.....306
23.....309
611.....198
672.....198
675.....198
681.....442

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**