9-16-88
Vol. 53 No. 180
Pages 35987-36228

federal register

Friday
September 16, 1988

Briefings on How To Use the Federal Register—
For information on briefings in Chicago, IL, see announcement on the inside cover of this issue.

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive orders and Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $340.00 per year, or $170.00 for 6 months in paper form, or $188.00 per year, or $94.00 for 6 months in microfiche form, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 53 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	202–783–3238
Magnetic tapes	275–3328
Problems with public subscriptions	275–3054

Single copies/back copies:

Paper or fiche	783–3238
Magnetic tapes	275–3328
Problems with public single copies	275–3050

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	523–5240
Magnetic tapes	275–3328
Problems with Federal agency subscriptions	523–5240

For other telephone numbers, see the Reader Aids section at the end of this issue.

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 3 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.

CHICAGO, IL

WHEN: September 19; at 9:15 a.m.
WHERE: Room 3320,
Federal Building,
230 S. Dearborn St.,
Chicago, IL
RESERVATIONS: Call the Federal Information Center,
Chicago 312–353–5692

Contents

Federal Register
Vol. 53, No. 180
Friday, September 16, 1988

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

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.

Federal Register
Vol. 53, No. 180
Friday, September 16, 1988

Presidential Documents

Title 3—

The President

Proclamation 5859 of September 13, 1988

National Hispanic Heritage Week, 1988

By the President of the United States of America

A Proclamation

Across the centuries and all around our land, people of Hispanic descent from Europe and throughout the Americas have written countless chapters in the unique saga of the United States. Let us pause during National Hispanic Heritage Week, 1988, to reflect on the many and varied cultural heritages of Hispanic Americans and on the continuing and growing part these citizens play in affirming America's heritage of faith, freedom, brotherhood, and opportunity, and in creating that heritage anew.

Hispanic Americans give many gifts to our Nation, such as perpetuating the traditions of their ancestral homelands and offering a great array of talents and insights as they achieve and excel in every area of endeavor. But perhaps their most notable gift is their testimony about the power of the American dream to inspire miracles. The accomplishments of Hispanic Americans through the years remind all of us that in America we are blessed with the freedom to live, work, and worship in peace and to build a better life for ourselves and our children. Generations of proud, hardworking, enterprising Hispanic Americans have strengthened our communities and fought for our country. They have believed in America's miraculous promise and have helped preserve that promise for the future.

This is good reason during National Hispanic Heritage Week for every citizen who loves our Nation to salute Hispanic Americans. We should do so in gratitude for their love of this country and for the many ways they have expressed that love in accordance with the creed, "Creemos en milagros—we believe in miracles."

In recognition of the outstanding achievements of Hispanic Americans, the Congress, by Joint Resolution approved September 17, 1968 (Public Law 90–498), has authorized and requested the President to issue annually a proclamation designating the week including September 15 and 16 as "National Hispanic Heritage Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 11, 1988, as National Hispanic Heritage Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of September, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

[FR Doc. 88-21295
Filed 9-14-88; 2:31 pm]
Billing code 3195-01-M

Editorial note: For the President's remarks of Sept. 13 on signing Proclamation 5859, see the *Weekly Compilation of Presidential Documents* (vol. 24, no. 37).

Presidential Documents

Proclamation 5860 of September 13, 1988

National Outpatient Ambulatory Surgery Week, 1988

By the President of the United States of America

A Proclamation

National Outpatient Ambulatory Surgery Week, 1988, reminds us that more and more surgeries are being done on an outpatient basis in either hospital outpatient departments or separate ambulatory surgery centers. Almost 87 percent of hospitals offered ambulatory surgery in 1986, compared with 65 percent in 1980. Advances in medical technology and care are among the factors causing the American people and health care professionals alike to consider outpatient surgery as often less expensive, more convenient, and less time-consuming than inpatient surgery with hospital stays.

Outpatient surgery is also found to reduce hospital costs and to provide good health care—and professionals believe that its combination of superior health care and little disruption to patients' daily lives does speed recovery. As America's scientific and medical research efforts continue to foster improvements in medical techniques and equipment, the public can surely benefit from further awareness of outpatient surgery. That is the purpose National Outpatient Ambulatory Surgery Week seeks to fulfill, and the reason all of us should heed its message.

The Congress, by House Joint Resolution 583, has designated the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning September 11, 1988, as National Outpatient Ambulatory Surgery Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities.

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

Ronald Reagan

[FR Doc. 88-21296
Filed 9-14-88; 2:32 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 53, No. 180
Friday, September 16, 1988

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Medically Underserved Areas for 1989

AGENCY: Office of Personnel Management.

ACTION: Notice of medically underserved areas for 1989.

SUMMARY: The Office of Personnel Management has completed its annual determination of the states that qualify as Medically Underserved Areas under the Federal Employees Health Benefits (FEHB) Program for calendar year 1989. This determination is necessary to comply with a provision of FEHB law, which mandates special consideration for enrollees of certain FEHB plans who received covered health services in states with critical shortages of primary care physicians.

EFFECTIVE DATE: January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Eleanor P. Goodwin, Chief, Insurance Policy Division, Office of Retirement and Insurance Policy, Retirement and Insurance Group, OPM, Room 4351, 1900 E Street NW., Washington, DC 20415, telephone (202) 632–4634.

SUPPLEMENTARY INFORMATION: FEHB law (5 U.S.C. 8902(m)(2)) mandates special consideration for enrollees of certain FEHB plans who receive covered health services in states with critical shortages of primary care physicians. Such states are designated as Medically Underserved Areas for purposes of the FEHB program and the law requires payment to all qualified providers in these states.

FEHB regulations (5 CFR 890.701, as published in the **Federal Register** on July 28, 1988 (53 FR 28366)), require OPM to make an annual determination of the states that qualify as Medically Underserved Areas for the next calendar year by comparing the latest Department of Health and Human Services state-by-state population counts on primary medical care manpower shortage areas with U.S. Census figures on state resident population. Accordingly, for calendar year 1989, OPM has determined that the following states are Medically Underserved Areas under the FEHB Program: Alabama, Louisiana, Mississippi, New Mexico, North Dakota, South Dakota, West Virginia.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 88–21217 Filed 9–15–88; 8:45 am]
BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 631]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 631 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 286,500 cartons during the period September 18 through September 24, 1988. 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 631 (§ 910.931) is effective for the period September 18 through September 24, 1988.

FOR FURTHER INFORMATION CONTACT: Raymond C. Martin, Section Head, Volume Control Programs, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; 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 own 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 (the "Act," 7 U.S.C. 601–674), as amended. 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 1988–89. The committee met publicly on September 13, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and unanimously recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports that the demand is steady.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** 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, in order 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, Lemons.

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

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

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

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

2. Section 910.931 is added to read as follows:

Note: This section will not appear in the Code of Federal Regulations.

§ 910.931 Lemon Regulation 631.

The quantity of lemons grown in California and Arizona which may be handled during the period September 18, 1988, through September 24, 1988, is established at 286,500 cartons.

Dated: September 14, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–21289 Filed 9–15–88; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 926

California Tokay Grapes; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule regarding California Tokay grapes will authorize expenses and establish an assessment rate under Marketing Order 926 for the 1988–89 fiscal period. Authorization of this budget will allow the Tokay Industry Committee to incur expenses reasonable and necessary to administer the program. Funds for this program will be derived from assessments on handlers.

EFFECTIVE DATES: April 1, 1988 through March 31, 1989.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Johnson, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456, telephone 202–447–5331.

SUPPLEMENTARY INFORMATION:

This final rule is issued under Marketing Order No. 926 [7 CFR Part 926], regulating the handling of Tokay grapes grown in San Joaquin County, California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended [7 U.S.C. 601–674], hereinafter referred to as the Act.

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 (AMS) has considered the economic impact of this final rule on small entities.

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

There are 9 handlers of California Tokay grapes under this marketing order, and approximately 390 California Tokay grape producers. 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 $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

The marketing order requires that the assessment rate for a particular fiscal year shall apply to all assessable grapes handled from the beginning of such year. An annual budget of expenses is prepared by the committee and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of grapes. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

The assessment rate recommended by the committee is derived by dividing anticipated expenses by expected shipments of grapes. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committee's expected expenses. A recommended budget and rate of assessment is usually acted upon by the committee before the season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approval must be expedited so that the committee will have funds to pay its expenses.

The Tokay Industry Committee met on July 25, 1988, and unanimously recommended a 1988–89 budget of $73,125 and an assessment rate of $0.175 per 23-pound lug. Last season's budget was $55,050 with an assessment rate of $0.16. Major expense items are market development, $44,200 (as compared to $26,125 for 1987–88) and administrative expenses, $28,925. The assessment rate, when applied to anticipated shipments of 400,000 lugs will yield $70,000 in assessment revenue. This amount along with interest income and reserve funds will be adequate to cover budgeted expenses.

While this action will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

A proposed rule was published in the **Federal Register** [53 FR 31704, August 19, 1988]. That document contained a proposal to add § 926.227 to establish expenses and an assessment rate for the Tokay Industry Committee. That rule provided that interested persons could file comments through August 29, 1988. No comments were received.

It is found that the specified expenses are reasonable and likely to be incurred and that such expenses will tend to effectuate the declared policy of the Act.

The action should be expedited because the committee needs to have sufficient funds to pay its expenses which are incurred on a continuous basis. In addition, handlers are aware of this action which was recommended by the committee at a public meeting. Therefore, the Secretary also finds that good cause exists for not postponing the effective date of this action until 30 days

after publication in the Federal Register [5 U.S.C. 553].

List of Subjects in 7 CFR Part 926

Marketing agreements and orders, Tokay grapes (California).

For the reasons set forth in the preamble, 7 CFR Part 926 is amended as follows:

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

1. The authority citation for 7 CFR Part 926 continues to read as follows:

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

2. Section 926.227 is added to read as follows:

Note: This section prescribes the annual assessment rate and will not be published in the Code of Federal Regulations.

§ 926.227 Expenses and assessment rate.

Expenses of $73,125 by the Tokay Industry Committee are authorized and an assessment rate of $0.175 per 23-pound lug of grapes is established for the fiscal year ending March 31, 1989. Unexpended funds may be carried over as a reserve.

Dated: September 12, 1988.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–21142 Filed 9–15–88; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 987

[Docket No. AMS–FV–88–049]

Domestic Dates Produced or Packed in Riverside County, California; Final Rule Disallowing Handlers to Dispose of Utility Dates in Human Consumption Outlets, and Conforming Changes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the minimum quality of dates for export to Mexico, for use in date products for human consumption, and for donations to needy persons. Under the new regulations, dates exported to Mexico will have to meet U.S. Grade C requirements, dates used for products will have to meet modified U.S. Grade C requirements, and donated dates will have to be at least product date quality. The current authority allowing utility dates to be used in these outlets has been in effect since the early 1970's. The industry reports that there are sufficient supplies of better quality dates for use in these outlets. This final rule returns the quality level to that in effect prior to the early 1970's.

EFFECTIVE DATE: October 1, 1988.

FOR FURTHER INFORMATION CONTACT: Patrick A. Packnett, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone 202–475–3862.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Order 987 (7 CFR Part 987), regulating the handling of domestic dates produced or packed in Riverside County, California. This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This 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 (AMS) has considered the economic impact of this final rule on small entities.

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

There are approximately 26 handlers of dates subject to regulation under this marketing order, and there are approximately 135 producers of this commodity in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural services firms are defined as those whose gross annual revenues are less than $3,500,000. The majority of handlers and producers of dates produced or packed in California may be classified as small entities.

Notice of this action was published in the Federal Register on July 15, 1988 (53 FR 26784). The comment period ended August 15, 1988. No comments were received.

This final rule changes § 987.112a of Subpart—Administrative Rules (7 CFR 987.101–987.172) to discontinue authority specified therein allowing handlers to ship dates inspected and certified as utility dates to Mexico, and to dispose of such dates for use or use them in certain products for human consumption. Section 987.152(b)(2) of that subpart also is changed disallowing donations of such dates to needy persons. These changes will raise the minimum quality requirements for these outlets from utility quality to U.S. Grade C or modifications thereof. The changes in § 987.161 and § 987.164 of the same supart are conforming changes in recognition of the changes in § 987.112a. These changes are based upon a unanimous recommendation of the California Date Administrative Committee, which works with the Department in administering the marketing order program.

When the marketing order for dates was amended in 1978 (7 CFR Part 987, 43 FR 4249, February 1, 1978), the term "substandard dates" was changed to "utility dates." However, not all references to substandard dates were changed in the Code of Federal Regulations, including § 987.56. For the purposes of this rulemaking, all references in the order to "substandard dates" should be interpreted to mean "utility dates."

Section 987.56 specifies outlets for utility dates and cull dates. Such dates may be disposed of without inspection, but only in feed, non-table syrup, alcohol, or brandy outlets, or in such other outlets for non-human food products as the committee, with the approval of the Secretary, may specify. That section also provides that whenever the committee concludes and the Secretary finds that the use of utility dates of any variety in certain products for human consumption would tend to effectuate the declared policy of the Act, the Secretary shall specify such products, and dates of such variety that are inspected and certified as utility dates may be disposed of for use, or used, in such products. Similar procedures also are specified for the disposition of utility dates through any export outlet.

Utility dates are dates which fail to meet the minimum quality requirements for marketable dates primarily because of an excess of defects such as off-color, deformity, scarring, or broken skin. These defects detract from the dates' appearance but not their edibility. Because of this, such dates are acceptable in some seasons for donations, use in products or export outlets, as for example, when supplies of marketable dates are less than market needs.

A typical date crop consists of about 38 percent modified U.S. Grade B (for

packaged domestic market use), 20 percent export grade (somewhat better than U.S. Grade C), 35 percent product quality (U.S. Grade C), 5 percent utility, and 2 percent culls (which are not marketable for human consumption because they are unwholesome).

In the early 1970's, a strong demand existed for dates and date products domestically and in Mexico, but the supply of marketable dates to meet these and other market needs was insufficient. To augment supplies, the committee recommended that lower quality utility dates be permitted to be used for date products for human consumption and for export to Mexico. Based on the evidence presented, the Department implemented that recommendation. The California date industry enjoyed relatively strong market conditions throughout the 1970's and early 1980's. However, the demand for dates started to weaken in 1984. The industry currently has an abundant supply of product quality dates, and expects to start the 1988–89 marketing season on October 1 with a more-than-two-year supply.

Accordingly, the committee recommended that the use of utility dates in human consumption outlets be ended, effective September 30, 1988, the end of the crop year. This action will return the quality standard to the level for human consumption outlets which existed prior to the relaxation in the early 1970's, and thereby require that better quality dates be made available for products for human consumption, for export to Mexico, and for needy person donations. The committee expects this, together with its ongoing market promotion program instituted two seasons ago, to stimulate buyer interest and improve market conditions. Utility dates usually comprise such a very small part of the date crop that no shortage of dates will result from this change.

Dates inspected and certified as utility dates prior to October 1, 1988, the effective date of this action, will be eligible for needy person donations, disposal in product outlets, and for export to Mexico. On or after October 1, 1988, utility dates must be disposed of in feed, non-table syrup, alcohol, or brandy outlets, or in such other outlets for non-human food products as the committee, with the approval of the Secretary, may specify. To be eligible as product dates, dates will have to meet at least modified U.S. Grade C requirements, and for export to Mexico at least the requirements of U.S. Grade C. Dates for donations will have to be at least product date quality, but not package date quality.

To implement the committee's recommendation, the first sentence in § 987.112a(d)(3) will specify that dates of any variety identified as "Export-Mexico," and inspected and certified as at least meeting the requirements of U.S. Grade C, may be exported to Mexico. This change raises the minimum quality for export to Mexico from utility quality to U.S. Grade C. In addition, paragraph (f) of this section, specifying that utility dates may be disposed of by handlers in the same outlets and subject to the same requirements prescribed in paragraph (e) for product dates, or may be exported to Mexico, will be removed. This change raises the minimum requirements for product dates from utility quality to U.S. Grade C, and continues the exception that mashing and mechanical injury not affecting eating quality will not be considered in determining the defect factor.

In § 987.152(b)(2), the minimum quality of donated dates will be increased from utility to at least the requirements for product dates. The committee believes this action is necessary to make better quality dates available for this purpose. For the last two seasons, no dates have been donated under this program.

In addition, conforming changes are made in § 987.161, regarding handler carryover, and § 987.164, regarding reports of shipments. References in the sections to utility dates will be removed in conformity with the regulation changes discontinuing the use of such dates in human consumption outlets.

Based on available information, the Administrator of AMS has determined that the issuance of this final rule will not have a significant economic impact on a substantial number of small entities. It is the Department's view that discontinuing the use of utility dates for export to Mexico, or disposal as products for human consumption, or for manufacture into such products, will benefit the date industry by improving market conditions and fostering increased date sales with little impact on handler or grower costs. The expected market improvements contemplated by this action, and benefits resulting from them, will offset any additional costs incurred. The Department has no information to conclude that discontinuing the use of utility dates for donation would adversely affect handler or grower costs.

After consideration of the information and recommendation submitted by the committee, it is found that this action will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553). It is important that the changes hereinafter set forth be in effect on October 1, 1988, the beginning of the 1988–89 crop year. September 30, 1988, the end of the 1987–88 crop is a logical date for ending the use of utility dates for human consumption product outlets for needy person donations or for export to Mexico. In addition, no comments were received concerning the proposed rule. The information collection requirements contained in this rule have been previously approved by the Office of Management and Budget and assigned OMB No. 0581–0077.

List of Subjects in 7 CFR Part 987

Marketing agreements and orders, Dates, California.

For the reasons set forth in the preamble, 7 CFR Part 987 is amended as follows (The following changes will be published in the Code of Federal Regulations.

PART 987—DOMESTIC DATES PRODUCED OR PACKED IN RIVERSIDE COUNTY, CALIFORNIA

1. The authority citation for 7 CFR Part 987 continues to read as follows:

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

2. In § 987.112a, the first sentence of paragraph (d)(3) is revised, paragraph (f) is removed, and paragraphs (g) and (h) are redesignated as paragraphs (f) and (g), respectively, to read as follows:

§ 987.112a Grade, size, and container requirements for each outlet category.

* * * * *

(d) * * *

(3) Dates of any variety identified as "Export-Mexico" and inspected and certified as at least meeting the requirements of U.S. Grade C may be exported only to Mexico. * * *

* * * * *

§ 987.152 [Amended]

3. In the first sentence of § 987.152(b)(2), the words "Utility or" are removed.

§ 987.161 [Amended]

4. In the second sentence of § 987.161, the words "and utility dates" are removed from paragraph (c).

5. In § 987.164, the section heading and the first sentence are revised to read as follows:

§ 987.164 Shipments of product dates and disposition of restricted dates in approved product outlets.

Each handler shall file with the Committee a completed CDAC Form No. 8 showing the shipment of each lot of product dates or the disposition of restricted dates in approved product outlets. * * *

Dated: September 13, 1988.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-21218 Filed 9-15-88; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 1065

[DA-88-116]

Milk in the Nebraska-Western Iowa Marketing Area; Temporary Revision of Supply Plant Shipping Percentage and Diversion Limitation Percentage

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rules.

SUMMARY: This action temporarily reduces for the months of September 1988 through March 1989 the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status under the Nebraska-Western Iowa order. The limits on the proportion of a handler's milk supply not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order would also be revised temporarily, from 40 percent to 60 percent, for the same period. The revision is made in response to a request by a cooperative which operates pool supply plants and represents a significant number of producers whose milk is pooled under the order for the purpose of maintaining the pool status of producers historically associated with the Nebraska-Western Iowa order.

EFFECTIVE DATE: September 16, 1988.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-7183.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Temporary Revision of Supply Plant Shipping Percentage and Diversion Limitation Percentage: Issued August 8, 1988; published August 11, 1988 (53 FR 30289).

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

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

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the provisions of §§ 1065.7(b)(3) and 1065.13(d)(4) of the Nebraska-Western Iowa order.

Notice of proposed rulemaking was published in the **Federal Register** (53 FR 30289) concerning a proposed reduction in the percentage of supply plant receipts that must be transferred or diverted to pool distributing plants in order for the supply plant to maintain pool status, and a proposed relaxation of the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to nonpool manufacturing plants and still be priced under the order. The temporary reduction would be effective for the months of September 1988 through March 1989. The public was afforded the opportunity to comment on the proposed notice by submitting written data, views and arguments by August 26, 1988.

Statement of Consideration

After consideration of all relevant material, data, views and arguments filed and other available information, it is hereby found and determined that the supply plant shipping percentage set forth in § 1065.7(b) should be reduced by 10 percentage points from the present 40 percent to 30 percent for the months of September 1988 through March 1989. For the same period, the diversion limits on producer milk should be increased by 20 percentage points, from 40 percent to 60 percent.

Pursuant to the provisions of § 1065.7(b)(3) of the Nebraska-Western Iowa milk order, the Director of the Dairy Division may increase or decrease the supply plant shipping percentage as set forth in § 1065.7(b) by up to 20 percentage points during any month. Similarly, § 1065.13(d) allows the Director of the Dairy Division to increase or decrease the diversion limitation percentages by up to 20 percentate points in any month. Such changes may be made to encourage additional milk shipments needed to assure an adequate supply of milk to fluid handlers, or to prevent uneconomic shipments of milk merely for the purpose of assuring that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

The supply plant shipping percentage of the Nebraska-Western Iowa milk order was reduced temporarily from 40 to 30 percent for the months of September 1986 through March 1987 and for the months of September 1987 through March 1988. In addition, the order's diversion limits were revised temporarily from 50 to 60 percent for the months of May through August 1986, from 40 to 60 percent for the months of September through December 1986, from 40 to 55 percent for the months of January through March 1987, from 50 to 60 percent for the months of July and August 1987, from 40 to 55 percent for the months of September 1987 through March 1988, and from 50 to 65 percent for the months of April through August 1988.

Associated Milk Producers, Inc. (AMPI), a cooperative association operating supply plants historically pooled under the Nebraska-Western Iowa order and representing producers supplying a significant portion of the producer milk pooled under the order, requested that for the months of September 1988 through March 1989, the supply plant shipping percentage requirment be reduced by 10 percentage points and the diversion limit on producer milk be increased by 20 percentage points.

The cooperative stated that producer milk pooled under the Nebraska-Western Iowa order during the first six months of 1988 was 13.4 percent above the same period of 1987, while Class I sales for the same time period were virtually identical.

Given the present combination of production increases combined with static Class I sales, AMPI estimated that the percentage of producer milk used in Class I during the months of September 1988 through March 1989 is unlikely to be more than 34 percent. AMPI stated that a 35-percent level of Class I utilization would make it difficult to justify a requirement that 60 percent of producer milk be moved to pool plants. According to the cooperative, such a requirement would involve delivering

milk to pool plants, then pumping it back out into trucks that would haul it to nonpool plants where the milk could be used.

Because of the expected relationship between milk production and the Class I needs of the market, AMPI stated that 60 percent would be a more appropriate limit on diversions of producer milk to nonpool plants than 40 percent, and that 30 percent would be a more appropriate shipping requirement for pool supply plants than 40 percent. According to the cooperative, the temporary revisions will allows AMPI to avoid engaging in uneconomic and inefficient milk movements in order to maintain the pool status of the milk of its members who have historically supplied the fluid needs of the Nebraska-Western Iowa marketing area.

AMPI's request was supported by the National Farmers Organization (NFO), a cooperative association that also represents producers supplying milk to the market. NFO referred to the market's production and Class I sales data in concluding that not only AMPI, but also other handlers or cooperatives who have producers pooled on the market, may be required to make uneconomic and inefficient milk movements in order to maintain the pool status of producer milk historically associated with the order.

No comments opposing either of the proposed revisions of the Nebraska-Western Iowa order's supply plant shipping requirement of its diversion limits were received.

Without the temporary revisions, milk would have to be moved unnecessarily and uneconomically from farms to pool plants and from supply plants to distributing plants for the sole purpose of maintaining the pool status of producers historically pooled under the Nebraska-Western Iowa order. In addition to such movements of milk being inefficient and uneconomic, the additional pumping to which the milk would be subject would be detrimental to the quality of the milk. It is concluded that the reduction of the supply plant shipping percentage by 10 percentage points and the relaxation of the producer milk diversion limit by 20 points will prevent uneconomic movements of milk to pool distributing plants merely for the purpose of qualifying it as producer milk under the order.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area for the months of September 1988 through March 1989;

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

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication of this notice in the **Federal Register.**

List of Subjects in 7 CFR Part 1065

Milk marketing orders, Milk, Dairy products.

PART 1065—[AMENDED)

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

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

§§ 1065.7 and 1065.13 [Amended]

(It is therefore ordered, That for the months of September 1988 through March 1989 in paragraph (b) of § 1065.7, the provision "40 percent" is revised to "30 percent"; and in paragraphs (d)(2) and (3) of § 1065.13, the provisions "40 percent" is revised to "60 percent".

Signed at Washington, DC, on September 13, 1988.

W.H. Blanchard,

Acting Director, Dairy Division.

[FR Doc. 88–21219 Filed 9–15–88; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Core Cooling Systems; Revisions to Acceptance Criteria

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to allow the use of alternative methods to demonstrate that the emergency core cooling system (ECCS) would protect the nuclear reactor core during a postulated design basis loss-of-coolant accident (LOCA). The Commission is taking this action because research, performed since the current rule was written, has shown that calculations performed using current methods and in accordance with the current requirements result in estimates of cooling system performance that are significantly more conservative than estimates based on the improved knowledge gained from this research. While the existing methods are conservative, they do not result in accurate calculation of what would actually occur in a nuclear power plant during a LOCA and may result in less than optimal ECCS design and operating procedures. In addition, the operation of some nuclear reactors is being unnecessarily restricted by the rule, resulting in increased costs of electricity generation. This rule, while continuing to allow the use of current methods and requirements, also allows the use of more recent information and knowledge to demonstrate that the ECCS would protect the reactor during a LOCA. This amendment, which applies to all applicants for and holders of construction permits or operating licenses for light water reactors, also relaxes requirements for certain reporting and reanalyses which do not contribute to safety.

EFFECTIVE DATE: October 17, 1988.

FOR FURTHER INFORMATION CONTACT: L.M. Shotkin, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3530.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1987, the Nuclear Regulatory Commission published in the **Federal Register** proposed amendments (52 FR 6334) to 10 CFR Part 50 and Appendix K. These proposed amendments were motivated by the fact that since the promulgation of § 50.46 of 10 CFR Part 50, "Acceptance Criteria for Emergency Core Cooling Systems (ECCS) in Light Water Power Reactors," and the acceptable and required features and models specified in Appendix K to 10 CFR Part 50, considerable research has been performed that has greatly increased the understanding of ECCS performance during a LOCA. It is now confirmed that the methods specified in Appendix K, combined with other analysis methods currently in use, are highly conservative and that the actual cladding temperatures which would occur during a LOCA would be much lower than those calculated using Appendix K methods. In soliciting the public's comments on the proposed rule, the NRC specifically requested its views on questions posed by Commissioner Asselstine and the Advisory Committee on Reactor Safeguards (ACRS). The ACRS requested that the Commission

solicit the public's comments on whether the existing rule should be "grandfathered" indefinitely. That is:

1. Should the conservative ECCS evaluation method of Appendix K be permitted indefinitely or should this aspect of the ECCS rule be phased out after some period of time?

Commissioner Asselstine requested the public's comments on the following:

2. Should this rule change include an explicit degree of conservatism that must be applied to the evaluation models?

3. This rule change would allow a 5 to 10 percent increase in the fission product inventory that could be released from any core meltdown scenario. Should this rule change explicitly prohibit any increase in approved power levels until all severe accident issues and unresolved safety issues are resolved?

4. Should the technical basis for this proposed rule change be reviewed by an independent group such as the American Physical Society?

Summary of Public Comments

The comment period for the proposed rule revision and the draft regulatory guide (52 FR 11385) expired on July 1, 1987. Twenty-seven letters addressing the proposed rule were received by the expiration date, as well as nine responses to the request for comments on questions in the regulatory guide. A number of late comments were also received. These were also considered to the extent that new and substantial comments were provided.

The public comment on the proposed rule revisions have been divided into thirteen categories and are summarized in the following paragraphs. Categories one through four represent the responses to the specific questions posed by the ACRS and Commissioner Asselstine. In general, consideration of the public comments resulted in no substantive revision to the proposed rule.

1. *Grandfathering of Conservative ECCS Methods of Appendix K (Question 1).*

Twenty-one of the commenters specifically addressed the ARCS question concerning the grandfathering of the current Appendix K approach. Seventeen of these commenters recommended indefinite grandfathering of the existing Appendix K evaluation models. Most cited the known conservatism as the basis of their recommendation. In addition, several commenters stated that in light of the known conservatisms not allowing continued use of existing Appendix K evaluation models would be unfairly burdensome to licensees who determine that they would not derive an economic benefit by performing realistic analysis of ECCS performance. The position of an additional commenter is unclear concerning grandfathering. The remaining commenter was not opposed to grandfathering but thought the question is premature. This commenter believes that indefinite use of existing ECCS evaluation methods should be considered when significant experience has been gained with the implementation of the new features of the rule but makes no recommendation as to what policy the Commission should pursue in the meantime.

The Commission agrees with the majority of the commenters that existing Appendix K evaluation models should be permitted indefinitely. The Commission also believes that the decision to permit continued use of such models can and should be made at this time because it believes that both methods provide adequate protection of the public health and safety. As described in the regulatory analysis, the probability of a large break is so low, that the choice of best estimate versus Appendix K has little effect on public risk. The TMI action plan calls for industry to improve their small break LOCA evaluation models to be more realistic when evaluating the more probable small break accident scenario. This has been done within the context of § 50.46 and Appendix K compliance and was entirely appropriate since small breaks are not limiting in design basis performance and a better understanding of small break behavior is a desirable safety goal from a risk perspective. Therefore, the grandfathering provision has been retained in the final rule.

2. *Specification of Explicit Degree of Conservatism (Question 2).* The majority of the responses to this question indicated that the proposed rule already contains conservatism in the required uncertainty evaluation.

The use of additional conservatism would be inconsistent with the objective of the rule which is to provide a realistic evaluation of plant response during a LOCA. The NRC has not included an additional explicit degree of conservatism in this rule.

3. *Resolution of all Safety Issues Prior to Allowing Power Level Increases (Question 3).* Some commenters pointed out that fission product inventory is not a direct function of total power, but rather it is the rate of fission product formation that is a direct function of power. Fission product inventory available for release during a core meltdown would be a function of burnup, not total power.

Actually, the inventory of fission products is a complex function of both time and power and not as simple as described by the commenters. Short lived isotopes, such as xenon and iodine, quickly reach an equilibrium inventory and total steady state inventory of these fission products is a direct function of power. Inventories of long-lived isotopes, such as strontium and cesium, are functions of total fuel burnup, as described by the commenters. Intermediate-lived isotopic inventories are complex functions of time, power, and integrated power. In an independent study, documented in chapter XII of NUREG 1230, the staff determined that the change in risk due to a 5% power increase is negligible. The arguments above do not alter the Commission's position that the increase in fission products available for release during a core meltdown caused by a 5% power increase is negligible compared to the uncertainty in fission product release. The Commission has decided not to delay the proposed rule revision pending resolution of all unresolved safety issues or severe accident issues and therefore will proceed with this final rulemaking, as planned.

4. *Independent Review of Technical Basis (Question 4).* Several commenters indicated that the technical basis for the proposed rule has had adequate review as the research was being performed. A number of commenters stated that it was the role of the ACRS to perform any review of the proposed rule revision because it is uniquely qualified due to its familiarity with the research.

The Commission agrees that the technical basis has had adequate review, except for the uncertainty methodology which is new and untried except for the General Electric Company's use of an uncertainty evaluation of their SAFER code. As a proof of principle and demonstration of feasibility, the ACRS and a second independent peer group has reviewed the uncertainty methodology developed by the NRC for use in quantifying the uncertainty of NRC developed thermal hydraulic transient codes. Both the ACRS and the peer group made generally favorable comments concerning the methodology; however, both groups recognized that a complete demonstration (i.e., application to small break LOCA and the reflood portion of large break LOCA) has not yet been accomplished and certain reviewers questioned whether such a demonstration could be performed successfully. The only objectives of the NRC methodology demonstration are to demonstrate feasibility, to develop an

audit tool, and to provide the necessary experience to audit licensee submittals. The staff does not believe that an NRC demonstration of the methodology is a prerequisite to this rulemaking. Licensees wishing to adopt the best estimate approach permitted as a result of this rule are neither required to use this methodology nor to model their own methodologies after it. This methodology will play an important part in the best-estimate model review process. The NRC has determined through twenty years of experience that independent analysis with independent methodologies is the most effective way to intelligently review new vendor or licensee methodologies. It is therefore appropriate that this new methodology be subjected to stringent technical scrutiny, as directed by the Commission. The NRC staff is committed to completing this demonstration by the time that it will be needed to review licensee submittals and is confident that such a demonstration will be successful. Based on the paucity of negative response concerning the technical basis for the proposed rule revision and generally favorable review of the NRC uncertainty methodology, the Commission plans no further review of the technical basis.

5. *General Comments on Proposed Rule.* Twenty-one commenters made comments of this nature. The majority of the comments came from the nuclear industry of which 19 expressed support of the proposed rule. The industry also strongly supports the specific ECCS rule approach proposed by the NRC. One commenter neither supported nor opposed the proposed approach. One negative comment was received from an anonymous individual within the nuclear industry who implied, without specifics, that the ECCS rule is not sound and that public comment is not a fair hearing because expert insiders would be afraid to comment.

Based on the absence of any supporting justification for the negative response and the unprecedented amount of research supporting the rule revision, the NRC does not consider this comment to be valid and has proceeded with this rulemaking with no major revisions.

One commenter suggested that fuel reload suppliers should not be required to complete full LOCA/ECCS analyses because the hydraulics are not changed by a fuel change.

Although this point is valid, the Commission believes that it is an unworkable situation to allow fuel suppliers to make use of previous analyses performed by others. It is believed that serious questions of accountability would arise in cases where errors are discovered in evaluation models, requests are made to revise plant technical specifications, or some other questions regarding the analyses are raised. The NRC believes that shared responsibility for evaluation models would not be in the best interest of the public health and safety and therefore has not implemented the suggestion of this commenter.

The NRC received two requests for an extension of the comment period to allow time for review of NUREG–1230, which describes the research supporting the proposed rule revision.

The NRC believes the comment period was sufficient since most of the research is not new and has been extensively reviewed in the past. Both commenters were contacted and told that comments received after the comment period would be considered if time permitted. Comments from both parties were received late and were indeed considered by the NRC.

6. *Reporting Requirements.* Some commenters viewed the proposed reporting procedures as new requirements needing consideration in the backfit analysis while others stated that they are a major relaxation and clarification of existing reporting requirements.

The NRC position is that the reporting requirements are new in the sense that they will now appear in the Code of Federal Regulations. However, in practice, these reporting requirements are indeed a clarification and relaxation over the current interpretation for the existing requirements and therefore the net effect of these requirements will be to reduce the frequency for reporting and reanalysis.

A number of commenters requested that only significant errors or changes in the non-conservative direction or only those that result in exceeding the 2200°F limit be required to be reported. In addition, a number of commenters suggested that the NRC require only annual reporting of significant errors or changes.

The NRC considers a major error or change in any direction a cause for concern because it raises potential questions about the adequacy of the evaluation model as a whole. Therefore, the NRC requires the reporting of significant errors or changes, in either direction, on a timely basis so that the Commission may make a determination of the safety significance. Thus, the final rule contains no change in this requirement.

One commenter recommended that the word "immediate" be deleted from the requirement to propose steps to be taken to demonstrate compliance in the event that the criteria in § 50.46(b) are exceeded.

The Commission considers this a very serious condition in which the plant is not in compliance with the regulations and may be operating in an unsafe manner. The word "immediate" reflects this seriousness and is further defined by reference in other sections of Part 50.

Several commenters questioned the need to report minor or inconsequential errors or changes, even on an annual basis, as required in the proposed rule.

While errors or changes which result in changes in calculated peak clad temperatures of less than 50°F are not considered to be of immediate concern, the NRC requires cognizance of such changes or corrections since they constitute a deviation from what previously has been reviewed and accepted. The proposed annual reporting is believed to be a fair compromise between the burden of reporting and the Commission's need to be aware of changes and error corrections being made to evaluation models. Therefore, the annual reporting of minor errors remains in the final rule.

One commenter interpreted the use of the words "or in the application of such a model" as requiring reporting when facility changes (already reportable under § 50.59), resulting in model input changes, occur.

The regulatory language referred to is intended to ensure that applications of models to areas not contemplated during initial review of the model do not result in errors by extending a model beyond the range that it was intended. The Commission does not believe that further clarification of this requirement is necessary and has not done so in the final rule.

Several commenters requested a further relaxation of the reporting requirement by changing the definition of significant code errors from 50°F to 100°F.

While justification for the 50°F criteria is largely judgmental, the NRC believes that it is sufficiently large to screen the code error corrections and changes which have little safety significance while providing a mechanism for timely reporting of more serious errors and changes. Since 50°F is a threshold for reporting and no further action is required pending NRC determination of safety significance, the Commission has retained this criteria in the final rule.

One commenter requested consideration for allowing that the cumulative effect of several errors and corrections be applied towards the 50°F threshold.

The requirement, which states that the 50°F criteria applies to the sum of the absolute magnitudes of temperature changes from numerous error corrections or model changes was formulated specifically because the Commission requires knowledge of serious deficiencies in evaluation models in use by licensees. Allowing errors or corrections which offset one another to relieve a licensee of the thirty-day reporting requirement, would be counter to this objective. If this recommendation were accepted, two errors or changes, having a large impact on the calculated peak cladding temperature but in the opposite direction, would not be reportable if the net magnitude of their difference was less than 50°F. For this reason, and the fact that no further action (beyond reporting within thirty days) is required, the Commission retained this requirement in the final rule.

7. *Continued Use of Dougall-Rohsenow.* Five comments that addressed this aspect of the proposed rule were received. One commenter believed that this correlation should not be permitted without further verification and should be phased out. Other commenters supported continued use of the correlation subject to the provisions of the proposed rule.

The NRC position is that no safety concern is created by continued use of the correlation, as long as the evaluation model is overall conservative. Therefore, the Commission can not justify the burden of requiring licensees to modify their evaluation models and to perform reanalysis. As discussed in SECY 83–472, current evaluation models contain more conservatisms than just those required by Appendix K. However, error corrections or changes could alter the conservatism of the model. Therefore, the Commission believes that it is necessary to ensure continued overall conservatism in the evaluation models as a basis for continued use of the correlation. Therefore, the final rule does not modify this requirement except for the correction of a typographical error identified by one commenter.

8. *Uncertainty Evaluation.* The comments received on the uncertainty evaluation support the proposed rule, particularly the flexibility provided by a non-prescriptive requirement. Therefore, the Commission is publishing the final rule without modification of this requirement.

9. *Acceptance Criteria.* The three comments received on this topic were all supportive of the existing criteria, as contained in § 50.46(b), and thus the Commission did not give consideration to altering them in the final rule.

10. *Cladding Materials.* Three commenters requested that the Commission consider broadening the language of the rule to allow the use of a range of zirconium based alloys for cladding material.

The Commission believes that this modification is beyond the scope of the current rule revision and should be considered in a separate rulemaking action in which it would receive appropriate public review and comment prior to implementation. In addition, zircaloy cladding material is specified in other portions of the Code of Federal Regulations, such as § 50.44. Making a change of this type is more suitable in a broader regulatory context. Therefore, the Commission is not broadening the definition of cladding materials within this rulemaking.

11. *Other Suggested Expansions to Rule Scope.* One commenter believes that hydraulic loads occurring during a LOCA could cause steam generator tubes to rupture and that the NRC should resolve steam generator tube integrity safety issues prior to publishing this rule.

Steam generator tubes are designed to withstand LOCA loads at allowed thinning, and there is no evidence to contradict this. If anything, the problem would be with inspection techniques to detect the actual tube thinning and whether there is an unacceptably high probability that a tube rupture during a LOCA due to tube thinning is in excess of the design basis. However, the risk from LOCA with concurrent tube rupture will not be greatly affected by the proposed rule change. As a result of the commenter's concerns, this issue has been assigned as a generic issue (GI–141) to be prioritized by the NRC staff. The results of the prioritization process will determine if further action is required.

A second commenter believes that the ECCS rule does not adequately address a plant's long term decay heat removal capability, and recommends a "short/long term integrative analysis approach." Both the existing requirements and the proposed rule contain the requirement to provide for long term cooling subsequent to a LOCA. Small increases in power that may result from the proposed rule should not greatly change decay heat removal requirements following a LOCA or any other accident or transient. Thus, the issue of decay heat removal is not materially impacted by this rulemaking. Moreover, any proposed increase in power resulting from this rule promulgation would be approved only after the licensee demonstrates that decay heat removal capacities remain adequate. The Commission is planning no further action with regard to this issue.

12. *Acceptability of Models Approved Under SECY–83–472.* One commenter requests that the rule language be modified to state explicitly that ECCS evaluation models that have been previously approved under SECY–83–472 continue to be acceptable under this rule.

SECY 83–472 provides an alternative, acceptable method for developing ECCS evaluation models. Licensees were still required, however, to demonstrate that evaluation models developed using the SECY–83–472 approach complied with the requirements of Appendix K to Part 50. This final rule explicitly finds that ECCS evaluation models, which have been previously approved as satisfying the requirements of Appendix K, remain acceptable. Therefore, the Commission sees no need for further clarification of this issue.

13. *Comments Received After Comment Period.* Six letters commenting on the proposed rule were received subsequent to the end of the comment period. The Commission considered these comments *to the extent that the comments provided substantive information not previously considered.*

One commenter believes that the proposed § 50.46(a)(2) expands the discretion of the Director of the Office of Nuclear Reactor Regulation (NRR) by allowing imposition of immediate effective restrictions on reactor operation without a prior determination that such action is required to protect the public health, safety, or interest. NRC's intent is not to alter the responsibilities of the Director of NRR but to simply retain the description of the scope of the authority that is currently found in § 50.46(a)(1)(v). Furthermore, the provisions of § 50.46(a)(2) do not specify the procedure to be followed by the Director of NRR. These procedures are set out in Part 2 and remain unchanged by this rulemaking.

One commenter believes that the rule is illegal because it is based solely on cost savings considerations and that there is nothing wrong with large conservatisms.

The Commission disagrees with this assessment. Safety factors are required to protect the health and safety of the public when uncertainties in plant response exist. As these uncertainties are reduced, it is appropriate to modify these safety factors to provide more

realistic evaluation of actual plant response. The large conservatisms of Appendix K served the public well in 1974 when there was great uncertainty in ECCS performance. However, these conservatisms are now known to be very large, and there is no need to "over regulate" by maintaining this unnecessary margin. This type of activity can often result in the expenditure of resources that would be better spent improving safety in other areas. The benefits to safety, while difficult to quantify, are believed to be substantial. While cost savings may have been one factor resulting in the rule change, the Commission believes that the conservatisms contained in the acceptance criteria themselves, as well as those required in the uncertainty evaluation required in this rule, are adequate to protect the health and safety of the public.

This commenter also cites portions of the 1975 General Electric Company's Nuclear Reactor Study (Reed Report), which claims that there is a lack of understanding of phenomena and small safety margins.

Many of the conclusions of the "Reed Report" were valid in 1975 when it was written and due to this fact it was difficult to show that sufficient safety margins existed. Most of the research discussed in NUREG–1230 has been conducted since the "Reed Report" was written and has resulted in significant improvement in understanding LOCA phenomena. We now know that significant margin to the ECCS acceptance criteria exists, particularly for the BWR/6 which was of concern in the "Reed Report." The contents of this report have been reviewed by the Commission on several occasions, most recently in NUREG–1285, and the finding has been made that no new significant safety issues are identified. For these reasons, the NRC is proceeding with this rulemaking, as proposed.

The same commenter also recommends that credit for ECCS margins be taken in the Individual Plant Examinations (IPE) and not through generic rulemaking.

The Commission agrees that plant specific differences may justify the application of different margins and that these may be addressed through Individual Plant Examinations. However, the requirement for licensees to evaluate ECCS performance and meet the acceptance criteria specified in 10 CFR 50.46(b) is generic. The Commission believes that margins that may be reduced due to a better understanding of a reactor's response to a LOCA should be applied through a generic rulemaking action because it allows a broad range of technical review of the issues, enhances public participation in the process, and provides a complete public record. Therefore, the Commission has decided to proceed with the rulemaking as planned.

Finally, this commenter questions the experimental basis for this rule because full-scale ECCS bypass data is not yet available.

The 2D/3D tests which will provide this important data represent a small portion of the total research upon which this rule relies. Significant research on ECCS bypass has already been completed in small scale vessels and the full-scale work is required only to confirm the smaller scale results and quantify any uncertainty due to scale effects. One full-scale ECCS bypass test has already been completed under the 2D/3D program which showed that more margin exists than expected from the small scale tests. Completion of the full-scale tests only affects the uncertainties in the calculations, and reduces them. Uncertainties must be addressed by licensees in any analysis under the revised rule whether 2D/3D results are available or not. The Commission concludes that there is no need to delay the final rule, while awaiting these data.

Summary of Rule Changes

Section 50.46 Acceptance Criteria for Emergency Core Cooling Systems for Light Water Reactors.

Section 50.46(a)(1) is amended and redesignated § 50.46(a)(1)(i) to delete the requirement that the features of Section I of Appendix K to Part 50 be used to develop the evaluation model. This section now requires that an acceptable evaluation model have sufficient supporting justification to show that the analytical technique realistically describes the behavior of the reactor system during a LOCA. The NRC expects that the analytical technique will, to the extent practicable, utilize realistic methods and be based upon applicable experimental data. The amended rule also requires that the uncertainty of the calculation be estimated and accounted for when comparing the results of the calculation to the temperature limits and other criteria of § 50.46(b) so that there is a high probability that the criteria would not be exceeded. The Commission expects the realistic evaluation model to retain a degree of conservatism consistent with the uncertainty of the calculation. The final rule does not specifically prescribe the analytical methods or uncertainty evaluation techniques to be used. However, guidance has been provided in the form of a Regulatory Guide.[1] In SECY–83–472, the NRC has found acceptable an approach for estimating the 95th percentile of the probability distribution. This percential is considered adequate to meet the high level of probability required by the rule. It is also recognized that the probability cannot be determined using totally rigorous mathematical methods due to the complexity of the calculations. However, the NRC requires that any simplifying assumptions be stated so that the Commission may evaluate them to ensure that they are reasonable. The NRC has independently developed and exercised a methodology to estimate the uncertainty associated with its own thermal-hydraulic safety codes. This methodology is described in the "Compendium of ECCS Research."[2] This document also provides reference to the large body of relevant thermal-hydraulic research, documents NRC studies on the effects of reactor power increases on risk, and provides background information on the ECCS rule. While this method has not been reviewed for acceptability from the standpoint of safety licensing, it may provide additional guidance on how the uncertainty may be quantified. In addition to providing guidance to industry, this work was undertaken to provide a proof of principle and a tool to independently audit submittals. Appendix K, Section II, "Required Documentation," remains generally applicable, with only minor revisions made to be consistent with the amended rule.

A new paragraph (ii) has been added to § 50.46(a)(1) to allow the features of Section I of Appendix K to be used in evaluation models as an alternative to performing the uncertainty evaluation specified in the amended § 50.46(a)(1)(i). This method would remain acceptable because Appendix K is conservative with respect to the realistic method proposed in the amended § 50.46(a)(1)(i). This would allow both current and future applicants and licensees to use existing evaluation models if they did not need or desire relief from current operating restrictions.

In § 50.46, paragraphs (a) (2) and (3) have been revised to eliminate portions of those paragraphs concerned with historical implementation of the current file. These provisions have been

[1] Regulatory Guide, "Best Estimate Calculations of Emergency Core Cooling Systems Performance," RG 1.157.

[2] "Compendium of ECCS Research for Realistic LOCA Analysis," NUREG–1230, TBP.

replaced as described in the following paragraphs.

Section 50.46(a)(2) has been revised to indicte that restrictions on reactor operation may be imposed by the Director of Nuclear Reactor Regulation, if the ECC cooling performance evaluations are not consistent with the requirements of § 50.46(a)(1) (i) and (ii). This section has been added to retain similar requirements that have been deleted from § 50.46(a)(1)(i) by this rule revision. This section does not specify the procedures to be followed by the Director. These procedures are found in Part 2 and are unchanged by this rulemaking.

The current rule contains no explicit requirements concerning reporting and reanalysis when errors in evaluation models are discovered or changes are made to evaluation models. However, current practice has required reporting of errors and changes and reanalyses with the revised evaluation models. This final rule explicitly sets forth requirements to be followed in the event of errors or changes. The definition of a significant change is currently taken from Appendix K, Section II.1.b which defines a significant change as one which changes calculated cladding temperature by more than 20 °F.

The revised § 50.46(a)(3) states specific requirements for reporting and reanalyses when errors in evaluation models are discovered or changes are made to evaluation models. It requires that all changes or errors in approved evaluation models be reported at least annually and does not require any further action by the licensee until the error is reported. Thereafter, although reanalysis is not required solely because of such minor error, any subsequent calculated evaluation of ECCS performance requires use of a model with such error, and any prior errors, corrected. The NRC needs to be apprised of even minor errors or changes in order to ensure that they agree with the applicant's or licensee's assessment of the significance of the error or change and to maintain cognizance of modifications made subsequent to NRC review of the evaluation model. Past experience has shown that many errors or changes to evaluation models are very minor and the burden of immediate reporting cannot be justified for these minor errors because they do not affect the immediate safety or operation of the plant. The NRC therefore requires periodic reporting to satisfy NRC's need to be apprised of changes or errors without imposing an unnecessary burden on the applicant or licensee. This report is to be filed within one year of discovery of the error and must be reported each year thereafter until a revised evaluation model or a revised evaluation correcting minor errors is approved by the NRC staff.

Significant errors require more timely attention since they may be important to the safe operation of the plant and raise questions as to the adequacy of the overall evaluation model. This final rule defines a significant error or change as one which results in a calculated peak fuel cladding temperature different by more than 50 °F, or an accumulation of errors and changes such that the sum of the absolute magnitude of the temperature changes is greater than 50 °F. More timely reporting (30 days) is required for significant errors or changes. This definition of a significant change is based on NRC's judgment concerning the importance of errors and changes typically reported to the NRC in the past. This final rule revision also allows the NRC to determine the schedule for reanalysis based on the importance to safety relative to other applicant or licensee requirements. Errors or changes that result in the calculated plant performance exceeding any of the criteria of § 50.46(b) mean that the plant is not operating within the requirements of the regulations and require immediate reporting as required by § 50.55(e), § 50.72 and § 50.73 and immediate steps to bring the plant into compliance with § 50.46.

Appendix K ECCS Evaluation Models

Amendments have been made to Appendix K, Section I.C.5.b, to modify the post-CHF heat transfer correlations listed as acceptable. The "McDonough" reference has been replaced with a more recent paper by the same authors entitled "An Experimental Study of Partial Film Boiling Region With Water at Elevated Pressures in a Round Vertical Tube" which is more generally available and which includes additional data.

The heat transfer correlation of Dougall and Rohsenow, listed as an acceptable heat transfer correlation in Appendix K, paragraph I.C.5.b, has been removed, because research performed since Appendix K was written has shown that this correlation overpredicts heat transfer coefficients under certain conditions and therefore can produce nonconservative results. A number of applicants and licensees currently use the Dougall-Rohsenow correlation in approved evaluation models. The NRC has concluded that the continued use of this correlation can be allowed. This is appropriate (even though parts of the approved evaluation model, Dougall-Rohsenow, are known to be nonconservative) because the existing evaluation models are known to contain a large degree of overall conservatism even while using the Dougall-Rohsenow correlation. This large overall conservatism has been demonstrated through comparisons between evaluation model calculations and calculations using NRC's best-estimate computer codes. Thus, requiring that the applicants and licensees remove the Dougall-Rohsenow correlation from their current evaluation models cannot be justified as necessary to maintain safety. The stipulation that the Dougall-Rohsenow correlation will cease to be acceptable for previously approved evaluation models applies only when changes to the model are made which reduce the calculated peak clad temperature by 50 °F or more. However, the requirement to report any changes or culmination of changes, such that the sum of the absolute magnitudes of the respective temperature changes is greater than 50 °F, still applies.

A new Section I.C.5.c has been added to Appendix K to state the Commission's requirements regarding continued use of the Dougall-Rohsenow correlation in existing evaluation models. Evaluation models which make use of the Dougall-Rohsenow correlation and have been approved prior to the effective date of this rule may continue to use this correlation as long as no changes are made to the evaluation model which significantly reduce the current overall conservatism of the evaluation model. If the applicant or licensee submits proposed changes to an approved evaluation model, or submits corrections to errors in the evaluation model which significantly reduce the existing overall conservatism of the model, continued use of the Dougall-Rohsenow correlation under conditions where nonconservative heat transfer coefficients result would no longer be acceptable. For this purpose, significant reduction in overall conservatism has been defined as a "net" reduction in calculated peak clad temperature of at least 50°F from that which would have been calculated using existing evaluation models. A reduction in calculated peak clad temperature could potentially result in an increase in the actual allowed peak power in the plant. An increase in allowed plant peak power with a known nonconservatism in the analysis would be unacceptable. This definition of a significant reduction in overall conservatism is based on a judgment regarding the size of the existing overall conservatism in evaluation model calculations relative to

the conservatism required to account for overall uncertainties in the calculations.

Appendix K, Section II.1.b, has been removed since this requirement has been clarified in the amended § 50.46(a)(3). Likewise, Appendix K, Section II.5, has been amended to account for the fact that not all evaluation models will be required to use the features of Appendix K, Section I. These minor changes to Appendix K do not affect any existing approved evaluation models since the changes are either "housekeeping" in nature or are changes to "acceptable features," not "required features."

Availability of Documents

1. Copies of NUREGs 1230 and 1285 may be purchased from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies are also available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161. A copy is also available for public inspection and/or copying at the NRC Public Document Room, 2120 L Street NW., Washington, DC 20555.

2. Copies of SECY–83–472, an information report entitled "Emergency Core Cooling Systems Analysis Methods," dated November 17, 1983, is available for inspection and copying at the NRC Public Documents Room, 2120 L Street NW., Washington, DC 20555. Single copies of this report may be obtained by writing L. M. Shotkin, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

3. Regulatory Guide, "Best Estimate Calculations of Emergency Core Cooling Systems Performance," Task RS 701–4, may be obtained by writing to the Division of Information Support Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

4. The Paraphrased Summary of Public Comments on the ECCS Rule is available for public inspection at the NRC Public Documents Room, 2120 L Street NW., Washington, DC 20555.

Finding of No Significant Environmental Impact: Availability

The Commission has determined under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in Subpart A of 10 CFR Part 51, that this rule is not a major Federal action significantly affecting the quality of the human environment and therefore an environmental impact statement is not required. The primary effect of the rule is to allow an increase in the peak local power in the reactor. This could be used either to tailor the power shape within the reactor or to increase the total power. Changing the power shape without changing the total power has a negligible effect on the environmental impact. The total power could also be increased, but is expected to be increased by no more than about 5% due to hardware limitations in existing plants. This 5% power increase is not expected to cause difficulty in meeting the existing environmental limits. The only change in non-radiological waste will be an increase in waste heat rejection commensurate with any increase in power. For stations operating with an open (once through) cooling system, this additional heat will be directed to a surface water body. Discharge of this heat is regulated under the Clean Water Act administered by the U.S. Environmental Protection Agency (EPA) or designated state agencies. It is not intended that NRC approval of increased power level affects in any way the responsibility of the licensee to comply with the requirements of the Clean Water Act. The environmental assessment and finding of no significant impact on which this determination is based are available for inspection at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from L. M. Shotkin, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington DC 20555, telephone (301) 492–3530.

Paperwork Reduction Act Statement

This final rule amends information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These reporting requirements were approved by the Office of Management and Budget (Approval Number 3150–0011).

Regulatory Analysis

The Commission has prepared a regulatory analysis for this final regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The regulatory analysis is available for inspection and copying for a fee at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Single copies of the analysis may be obtained from L. M. Shotkin, Office of Nuclear Regulatory Research, Washington, DC 20555, telephone (301) 492–3530.

Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact upon a substantial number of small entities. This rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121. Since these companies are dominant in their service areas, this rule does not fall within the purview of the Act.

Backfit Analysis

A backfit analysis is not required by 10 CFR 50.109 because the rule does not require applicants or licensees to make a change but only offers additional options and provides a clarification and relaxation of existing reporting requirements. Nonetheless, the factors in 10 CFR 50.109(c) have been analyzed for the entire rule.

1. *Statement of the specific objectives that the backfit is designed to achieve.*

The objective of the rule is to modify 10 CFR 50.46 and Appendix K to permit the use of realistic ECCS evaluation models. More realistic estimates of ECCS performance, based on the improved knowledge gained from recent research on ECCS performance, may remove unnecessary operating restrictions. Also experience with the previous version of § 50.46 has demonstrated that a clearer definition of reporting requirements for changes and errors is very desirable.

2. *General description of the activity that would be required by the licensee or applicant in order to complete the backfit.*

The amendment allows alternative methods to be used to demonstrate that the ECCS would protect the nuclear reactor core during a postulated design basis loss-of-coolant accident (LOCA). While continuing to allow the use of current Appendix K methods and requirements, the rule also allows the use of more recent information and knowledge currently available to demonstrate that the ECCS would perform its safety function during a LOCA. If an applicant or licensee elects to use a new realistic model they will be required to provide sufficient supporting justification to validate the model and include comparisons to experimental data and estimates of uncertainty. In accounting for the uncertainty, the analysis would have to show, with a high level of probability, that the ECCS performance criteria are not exceeded.

Whether or not a licensee or applicant chooses to use realistic analysis, complete with an uncertainty analysis, each licensee must comply with the requirement to report changes to their evaluation models (i.e., less than 50°F change in calculated peak cladding temperature) annually to the NRC. In addition, significant changes (those which have a greater than 50°F change in calculated peak cladding temperature) have to be reported within 30 days.

3. *Potential change in risk to the public from the accidental offsite release of radioactive materials.*

The rule could result in increased local power within the reactor core and possible increases in total power. Power increases on the order of 5 will have an insignificant effect on risk. One effect of increased power could be to increase the fission product inventory. A five percent power increase would result in a less than five percent increase in fission products. Thus, less than five percent more fission products might be released during core melt scenarios and potentially released to the environment during severe accidents.

The rule still requires the fuel rod peak cladding temperature (PCT) remain below 2200°F. Reactors choosing to increase power by about five percent will be operating with less margin between the PCT and the 2200°F limit than previously. The increased risk represented by this decrease in margin and increase in fission product inventory is negligible and falls within the uncertainties of PRA risk estimates. In addition, other safety limits, such as departure from nucleate boiling (DNB), and operational limits, such as turbine design, will limit the amount of margin reduction permitted under the rule. The rule could also potentially reduce the risk from pressurized thermal shock by allowing the reactor to be operated in a manner which reduces the neutron fluence to the vessel.

4. *Potential impact on radiological exposure to facility employees.*

Since the primary effect of the rule involves the calculational methods to be used in determining the ECCS cooling performance, it is expected that there will be an insignificant impact on the radiological exposure to facility employees. Because of the reduced LOCA restrictions resulting from the new calculations it is possible for the plant to achieve more efficient operation and improved fuel utilization with improved maneuvering capabilities. As a result, it is conceivable that there could be a reduction in radiological exposure if the fuel reloads can be reduced. This effect is not expected to be very significant.

5. *Installation and continuing costs associated with the backfit, including the cost of facility down times or the cost of construction delay.*

LOCA considerations resulting from the present rule are restricting the optimum production of nuclear electric power in some plants. These restrictions can be placed into the following three categories:

(1) Maximum plant operating power,

(2) Operational flexibility and operational efficiency of the plant, and

(3) Availability of manpower to work on other activities.

The effect of the rule will vary from plant to plant. Some plants may realize savings of several million dollars per year in fuel and operating costs. Significantly greater economic benefit would be realized by plants able to increase total power as a result of this final rule. The regulatory analysis cited above indicates that the total present value of the energy replacement cost savings for a five percent power upgrade would vary between 18 and 127 million dollars depending on the plant. Additional information concerning these potential cost savings are included in the regulatory analysis.

The costs associated with the new reporting requirements are deemed to be minimal. Although the existing Appendix K has no official reporting requirements, paragraph II.1.b was interpreted by the staff to require a reanalysis and report to NRC when significant changes are made which change the peak cladding temperature by more than 20 °F. Therefore, this rule change, by changing the definition of significant changes to 50 °F, is actually a relaxation of current practices. The annual reporting of changes that are not significant is not viewed by the NRC as a major burden since no other action is required.

6. *The potential safety impact of changes in plant or operational complexity including the effect on other proposed and existing regulatory requirements.*

There are safety benefits derivable from alternative fuel management schemes that could be utilized. The higher power peaking factors that would be allowed with the final rule provide greater flexibility for fuel designers when attempting to reduce neutron flux at the vessel wall. This can result in a corresponding reduction in risk from pressurized thermal shock.

The reduced cladding temperatures that would be calculated under the revised rule offers the possibility of other design and operational changes that could result from the lower calculated temperatures. ECCS equipment numbers, sizes or surveillance requirements might be reduced and still meet the ECCS design criteria (if not required to meet other licensing requirements). Another option may be to increase the diesel/generator start time duration.

In summary, the effect of this rule on safety would have both potential positive and negative aspects. The potential for reduction of ECCS system capability in existing or new plants is present. However, several positive aspects may also be realized under the final rule. The net effect on safety would be plant specific. However, the probability of a large break LOCA is so low that the choice of best estimate versus Appendix K would have little effect on public risk.

7. *The estimated resource burden on the NRC associated with the proposed backfit; and the availability of such resources.*

The major staff resources required under the final rule are to review the realistic models and uncertainty analysis required by the revised ECCS Rule. Based on previous experience with the General Electric Company's SAFER model and the learning that has resulted from these efforts, it is estimated that approximately one staff year would be required to review each generic model submitted. There are four major reactor vendors (GE already has a revised evaluation model approved under the existing Appendix K for both jet pump and non-jet pump plants and may update their methodology under this new rule) and several fuel suppliers and utilities which perform their own analyses and potentially might submit generic models for review. However, it is expected that only 3 or 4 generic models would be submitted since not all plants would benefit from this rule. Thus, about 3–4 staff years would be required to review the expected generic models. Once a generic model is approved, the plant specific review is very short. In addition, several vendors are currently planning to submit realistic models in conjunction with the use of SECY–83–472. Therefore, staff resources would be expended to review these models in any event. Since these models would not change as a result of the revised ECCS rule, there should be no net increase in resources required over that already planned to be expended. In summary, while it is difficult to estimate accurately, it is expected that the rule change will have a small overall impact on NRC resources.

8. *The potential impact of differences in facility type, design or age on the relevancy and practicality of the backfit.*

The degree to which the rule would affect a particular plant depends on how limited the plant is by the LOCA restrictions. General Electric Company (GE) plants do tend to be limited in operation by LOCA restrictions and would benefit from relief from LOCA restrictions. However, this relief is already available for most GE plants through the recently approved SAFER evaluation model. Any additional relief due to a rule change would be of little further benefit. Westinghouse (*W*) plants would appear to directly benefit from relaxation of LOCA limits. *W* plants represent the largest number of plants, with 47 plants operating and 10 additional plants being constructed. *W* indicates that most of these plants are limited by LOCA considerations. The potential benefit for plants of B&W and CE design is uncertain at this time.

9. *Whether the proposed backfit is interim or final and if interim, the justification for imposing the proposed backfit on an interim basis.*

The rule, when made effective, will be in final form and not interim form. It will continue to permit the performance of ECCS cooling calculations using either realistic models or models in accord with Appendix K.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and Recordkeeping requirements.

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. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 102, 103, 104, 105, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 938, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246, (42 U.S.C. 5841, 5842, 5846).

Section 50.7 also issued under Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Section 50.10 also issued under secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 2131, 2235); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.23, 50.35, 50.55, 50.56 also issued under sec. 185, 68 Stat. 955 (42 U.S.C. 2235). Sections 50.33a, 50.55a, and Appendix Q also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332). Sections 50.34 and 50.54 also issued under sec. 204, 88 Stat. 1245 (42 U.S.C. 5844). Sections 50.58, 50.91, and 50.92 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80–50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.103 also issued under sec. 108, 68 Stat. 939, as amended (42 U.S.C. 2138). Appendix F also issued under sec. 187, 68 Stat. 955 (42 U.S.C. 2237).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50,48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.9, 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50,73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.46, paragraph (a) is revised to read as follows:

§ 50.46 Acceptance criteria for emergency core cooling systems for light-water nuclear power reactors.

(a)(1)(i) Each boiling and pressurized light-water nuclear power reactor fueled with uranium oxide pellets within cylindrical Zircaloy cladding must be provided with an emergency core cooling system (ECCS) that must be designed such that its calculated cooling performance following postulated loss-of-coolant accidents conforms to the criteria set forth in paragraph (b) of this section. ECCS cooling performance must be calculated in accordance with an acceptable evaluation model and must be calculated for a number of postulated loss-of-coolant accidents of different sizes, locations, and other properties sufficient to provide assurance that the most severe postulated loss-of-coolant accidents are calculated. Except as provided in paragraph (a)(1)(ii) of this section, the evaluation model must include sufficient supporting justification to show that the analytical technique realistically describes the behavior of the reactor system during a loss-of-coolant accident. Comparisons to applicable experimental data must be made and uncertainties in the analysis method and inputs must be identified and assessed so that the uncertainty in the calculated results can be estimated. This uncertainty must be accounted for, so that, when the calculated ECCS cooling performance is compared to the criteria set forth in paragraph (b) of this section, there is a high level of probability that the criteria would not be exceeded. Appendix K, Part II, Required Documentation, sets forth the documentation requirements for each evaluation model.

(ii) Alternatively, an ECCS evaluation model may be developed in conformance with the required and acceptable features of Appendix K ECCS Evaluation Models.

(2) The Director of Nuclear Reactor Regulations may impose restrictions on reactor operation if it is found that the evaluations of ECCS cooling performance submitted are not consistent with paragraphs (a)(1) (i) and (ii) of this section.

(3)(i) Each applicant for or holder of an operating license or construction permit shall estimate the effect of any change to or error in an acceptable evaluation model or in the application of such a model to determine if the change or error is significant. For this purpose, a significant change or error is one which results in a calculated peak fuel cladding temperature different by more than 50°F from the temperature calculated for the limiting transient using the last acceptable model, or is a cumulation of changes and errors such that the sum of the absolute magnitudes of the respective temperature changes is greater than 50°F.

(ii) For each change to or error discovered in an acceptable evaluation model or in the application of such a model that affects the temperature calculation, the applicant or licensee shall report the nature of the change or error and its estimated effect on the limiting ECCS analysis to the Commission at least annually as specified in § 50.4. If the change or error is signficant, the applicant or licensee shall provide this report within 30 days and include with the report a proposed schedule for providing a reanalysis or taking other action as may be needed to show compliance with § 50.46 requirements. This schedule may be developed using an integrated scheduling system previously approved for the facility by the NRC. For those facilities not using an NRC approved integrated scheduling system, a schedule will be established by the NRC staff within 60 days of receipt of the proposed schedule. Any change or error correction that results in a calculated ECCS performance that does not conform to the criteria set forth in paragraph (b) of this section is a reportable event as described in §§ 50.55(e), 50.72 and 50.73. The affected applicant or licensee shall propose immediate steps to demonstrate compliance or bring plant design or

operation into compliance with § 50.46 requirements.

* * * * *

3. In 10 CFR Part 50, Appendix K, paragraph II.1.b is deleted, paragraph II.1.c is redesignated II.1.b, the introductory text to paragraph I.C.5.b and paragraphs II.1.b and II.5 are revised, and a new section I.C.5.c is added to read as follows:

APPENDIX K—ECCS EVALUATION MODELS

* * * * *

I. Required and Acceptable Features of the Evaluation Models * * *

C. Blowdown Phenomena * * *

5. *Post-CHF Heat Transfer Correlations.*

* * *

b. The Groeneveld flow film boiling correlation (equation 5.7 of D.C. Groeneveld, "An Investigation of Heat Transfer in the Liquid Deficient Regime," AECL–3281, revised December 1969) and the Westinghouse correlation of steady-state transition boiling ("Proprietary Redirect/Rebuttal Testimony of Westinghouse Electric Corporation," USNRC Docket RM–50–1, page 25–1, October 26, 1972) are acceptable for use in the post-CHF boiling regimes. In addition, the transition boiling correlation of McDonough, Milich, and King (J.B. McDonough, W. Milich, E.C. King, "An Experimental Study of Partial Film Boiling Region with Water at Elevated Pressures in a Round Vertical Tube," Chemical Engineering Progress Symposium Series, Vol. 57, No. 32, pages 197–208, (1961) is suitable for use between nucleate and film boiling. Use of all these correlations is restricted as follows:

* * * * *

c. Evaluation models approved after October 17, 1988, which make use of the Dougall-Rohsenow flow film boiling correlation (R.S. Dougall and W.M. Rohsenow, "Film Boiling on the Inside of Vertical Tubes with Upward Flow of Fluid at Low Qualities," MIT Report Number 9079 26, Cambridge, Massachusetts, September 1963) may not use this correlation under conditions where nonconservative predictions of heat transfer result. Evaluation models that make use of the Dougall-Rohsenow correlation and were approved prior to October 17, 1988, continue to be acceptable until a change is made to, or an error is corrected in, the evaluation model that results in a significant reduction in the overall conservatism in the evaluation model. At that time continued use of the Dougall-Rohsenow correlation under conditions where nonconservative predictions of heat transfer result will no longer be acceptable. For this purpose, a significant reduction in the overall conservatism in the evaluation model would be a reduction in the calculated peak fuel cladding temperature of at least 50 °F from that which would have been calculated on October 17, 1988, due either to individual changes or error corrections or the net effect of an accumulation of changes or error corrections.

II. Required Documentation

1.a. * * *

b. A complete listing of each computer program, in the same form as used in the evaluation model, must be furnished to the Nuclear Regulatory Commission upon request.

* * * * *

5. General Standards for Acceptability—Elements of evaluation models reviewed will include technical adequacy of the calculational methods, including: For models covered by § 50.46(a)(1)(ii), compliance with required features of section I of this Appendix K; and, for models covered by § 50.46(a)(1)(i), assurance of a high level of probability that the performance criteria of § 50.46(b) would not be exceeded.

Dated at Rockville, MD, this 13 day of September 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88–21179 Filed 9–15–88; 8:45 am]

BILLING CODE 7590–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2; Amdt. 48]

Administration; Conduct of Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final Rule.

SUMMARY: On August 23, 1988, the President approved Pub. L. 100–418 (102 Stat. 1107), the Omnibus Trade and Competitiveness Act of 1988, which increases the loan limit for small business concerns (other than small concerns engaged in, or adversely affected by, international trade) from $500,000 to $750,000. This rule implements that enactment (with the stated exception) by amending the relevant delegations of authority to conduct program activities in field offices (§ 101.3–2).

EFFECTIVE DATE: This rule is effective September 16, 1988.

FOR FURTHER INFORMATION CONTACT: Martin D. Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street, NW, Washington, DC 20416. Tel. (202) 653–6642.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking, public participation, analysis under Executive Orders 12291 and 12612 and a regulatory flexibility review, 5 U.S.C. 601, *et seq.*, are not required and this amendment is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies, Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

Accordingly, Part 101 of Title 13, Chapter I of the Code of Federal Regulations, is hereby amended as follows:

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

Authority: Secs. 4 and 5, Pub. L. 85–536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634 as amended); sec. 308, Pub. L. 85–699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Pub. L. 93–386 (Aug. 23, 1974); and 5 U.S.C. 552.

§ 101.3–2 [Amended]

2. In § 101.3–2, Part I, Section A, item 1.b. is revised as follows:

Section A—Loan Approval Authority

1. * * *

b. *Guaranty loans.* 7(a) business loans (except section 7(a)(13) loans):

	Approve	Decline
(1) Regional Administrator	$750,000	$750,000
(2) Deputy Regional Administrator	750,000	750,000
(3) Assistant Regional Administrator/F&I	750,000	750,000
(4) District Director	750,000	750,000
(5) Deputy District Director	750,000	750,000
(6) Assistant District Director/F&I	750,000	750,000
(7) Chief, Financing Division, D/O	750,000	750,000
(8) Financial/Management Assistance Officer, Minneapolis, MN, D/O)	500,000	750,000
(9) Supervisory Loan Specialist, Financing, D/O	250,000	750,000
(10) Senior Loan Specialist, Financing, D/O, Region IV only	250,000	750,000
(11) Branch Manager, Corpus Christi, Milwaukee, Springfield, IL, Springfield, MO, and Sacramento	500,000	750,000
(12) Branch Manager, Buffalo and Elmira	350,000	750,000
(13) Branch Manager, except Fairbanks, Buffalo, Corpus Christi, Elmira, Milwaukee, Springfield, IL, and Springfield, MO	250,000	750,000
(14) Branch Manager, Fairbanks D/O	150,000	150,000
(15) Assistant Branch Manager/F&I, Milwaukee, Springfield, IL, and Sacramento B.O's	350,000	750,000
(16) Assistant Branch Manager for F&I, Gulfport, B/O	250,000	750,000
(17) Assistant Branch Manager/F&I, Corpus Christi B.O. only	500,000	750,000

3. In § 101.3–2, Part I, Section C, items 2.a, b., and c. are revised as follows:

Section C—Section 7(a)(13) Loans Approval Authority

2. * * *

a. Unlimited project cost:
(1) Regional Administration.....$750,000
b. Overall project cost not exceeding $1,500,000:
(2) Deputy RA (Region VII).....750,000
(3) ARA/F&I.....750,000
(4) District Director.....750,000
(5) Deputy District Director.....750,000
(6) ADA/F&I.....750,000
(7) Branch Manager.....500,000
(8) Assistant Branch Manager/F&I, Corpus Christi B.O. only.....500,000
c. Overall project cost not exceeding $750,000:
(9) Chief, Financing D/O.....750,000
(10) Financial/Management Assistant Officer, Minneapolis, MN D/O.....500,000
(11) Assistant Branch Manager/F&I, Sacramento B.O.....500,000

4. In § 101.3–2, Part III, Section A, items 1.a., b., and c. are revised to read as follows:

Section A—Section 503 Denture Guaranty Approval Authority (Small Business Investment Act)

1. * * *

a. Unlimited project cost:
(1) Regional Administrator.....$750,000
b. Overall project cost not exceeding $1,500,000:
(1) Deputy RA (Region VII).....750,000
(2) ARA/F&I.....750,000
(3) District Director.....750,000
(4) Deputy District Director.....750,000
(5) ADA/F&I.....750,000
(6) Branch Managers.....500,000
c. Overall project cost not exceeding $1,000,000:
(1) Chief, Financing D/O.....750,000
(2) Assistant Branch Managers/F&I 500,000

Dated: September 1, 1988.

James Abdnor,

Administrator.

[FR Doc. 88–20885 Filed 9–15–88; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–CE–12–AD; Amdt. 39–6017]

Airworthiness Directives; Beech Models F33A, A36, and B36TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Beech Models F33A, A36, and B36TC airplanes, which requires removal of the Mortell 931 sound deadener on the aft side of the firewall. The FAA has determined that this sound deadener material may ignite in the event of a fire in the engine compartment. This action will reduce the possibility of injury to the pilot and possible loss of control of the airplane.

EFFECTIVE DATE: October 19, 1988.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: Beech Service Bulletin Number 2249, dated April 1988, applicable to this AD may be obtained from Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201–0085. This information may also be examined at the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Larry Engler, Federal Aviation Administration, Wichita Aircraft Certification Office, ACE–12OW, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209, Telephone (316) 946–4409.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring removal of the Mortell 931 sound deadener on the aft side of the firewall on certain Beech Models F33A, A36, and B36TC airplanes was published in the **Federal Register** on May 31, 1988 (53 FR 19799). Recent flammability tests of a firewall with Mortell 931 material applied to the cabin side revealed that this material ignites when the engine side of the firewall is subjected to a 2000°F flame, the intensity required to substantiate the adequacy of firewall materials to contain an engine compartment fire. In the event an engine compartment fire ignited the Mortell 931 Material, the resulting fire inside the cabin could cause injury to the pilot and a potential loss of airplane control. To prevent such an occurrence, Beech has developed Service Bulletin Number 2249, dated April 1988, that defines procedures to remove the Mortell 931 sound deadener from the aft (cabin) side of the firewall. Since the condition described is likely to exist or develop in other Beech Models of the same design, the FAA proposed an AD which would require certain Beech Models F33A, A36, and B36TC airplanes to comply with Beech Service Bulletin Number 2249.

Interested persons have been afforded an opportunity to comment on the proposal. No comments or objections were received on the proposal or the FAA determination of the related cost to the public. Accordingly, the proposal is adopted without change except for minor editorial clarifications.

The FAA has determined that this regulation only involves 94 airplanes at an approximate one-time cost of $1,350 for each airplane, or a total one-time fleet cost of $127,000. This cost will be absorbed by Beech Aircraft Corporation under warranty provisions specified in Beech Service Bulletin Number 2249, dated April 1988. Few, if any, small entities are expected to own a sufficient number of airplanes that the cost to them will exceed the threshold for Regulatory Flexibility action.

The regulations set forth in this amendment are promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et seq.), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

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

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

2. By adding the following new AD:

Beech: Applies to the following airplanes certificated in any category:

Model	Serial No.
F33A	CE-1162 through CE-1223
A36	E-2383 through E-2405 E-2407 through E-2409
B36TC	EA-468 through EA-470 EA-472 through EA-474

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent a potential fire in the cabin, accomplish the following:

(a) Remove the Mortell 931 sound deadener material from the aft side of the firewall in accordance with the instructions in Beech Service Bulletin Number 2249, dated April 1988.

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

(c) An equivalent means of compliance with this AD may be used if approved by the Manager, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4400.

All persons affected by this directive may obtain copies of this document referred to herein upon request to Beech Aircraft Corporation, Commercial Service, Dept. 52, P.O. Box 85, Wichita, Kansas 67201-0085; or may examine this document at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on October 19, 1988.

Issued in Kansas City, Missouri, on September 2, 1988.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88-21126 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 391

[Docket No. 80864-8164]

Foreign Availability Assessments; Examples of Evidence the Office of Foreign Availability Uses in Assessments

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Interim final rule.

SUMMARY: Under sections 5(f) and (h) of the Export Administration Act of 1979, as amended, the Office of Foreign Availability (OFA) assesses the existence of foreign availability. OFA evaluates whether a good or technology is: (1) Available in fact to proscribed countries, (2) from sources outside the United States, (3) in sufficient quantity, (4) and of comparable quality to render the validated license requirement ineffective in achieving the national security purposes of the Act. Part 391 of the Export Administration Regulations establishes the procedures and criteria for initiating and reviewing claims of foreign availability on items controlled for national security purposes.

Section 5(f) of the Act identifies several examples of evidence that can be submitted to substantiate a claim of foreign availability (i.e., brochures, operation manuals, articles, photographs, and depositions based on eyewitness accounts). In addition, after several years of experience, OFA has identified a wide variety of additional information that it has found useful in assessing foreign availability.

OFA recognizes industry's need for additional guidance concerning the specific kinds of evidence that OFA uses in its analysis. This rule amends the Regulations by adding a Supplement No. 1 to Part 391. This Supplement provides examples of evidence that OFA has used in its assessments and additional guidance concerning the kinds of evidence the OFA has found useful in making assessments. The Bureau hopes that by providing this assistance, foreign availability submissions will be improved and the assessment process will be more effective.

This list is not all-inclusive. Acceptable evidence is not limited to these examples. A foreign availability submission should include as much reasonable evidence as possible on *all four* of the criteria which are listed in the first paragraph. A combination of several types of evidence will usually be required. The list is representative of the types of evidence OFA has found to be useful in its assessments. The Office of Foreign Availability will combine this evidence with data that it collects from other government and public sources. The Office of Foreign Availability will evaluate carefully and fully all the accumulated evidence, taking into account factors that may include, but are not limited to: Information concerning the source of the evidence; corroborative or contradictory indications; and experience concerning the reliability or reasonableness of such evidence. OFA will assess whether the four criteria are met.

From time to time, as OFA identifies new examples of evidence that would enhance the assessment submission, we will amend this informational list.

DATES: Effective September 16, 1988. The period for submission of comments will close November 15, 1988.

ADDRESSES:

Submit comments about the list of examples to Dr. Irwin M. Pikus, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, Room SB701, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230. Comments regarding the burden estimate for the collection of this information should be sent to both the Director of the Office of Foreign Availability, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

The public record concerning these regulations will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, Room 4886, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Irwin Pikus, Director of Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-8074.

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. This rule clarifies a requirement for the collection of information which is subject to the Paperwork Reduction Act and which the Office of Management and Budget has approved under OMB Control Number 0694-0004. A request to renew the data collection is pending before the Office of Management and Budget. The Department of Commerce estimates that the public burden for the collection of this information averages three hours per response which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining data, reviewing, and submitting the information collected. Comments regarding the burden estimate of this data collection including suggestions for reducing this burden are to be sent to both the Director of the Office of Foreign Availability, and the Office of Management and Budget. See paragraph 11 for addresses.

3. This rule does not contain policies with Federalism implications sufficient to warrant preparation of a Federalism

assessment under Executive Order 12612.

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

5. 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 the effective date. This rule is also exempt from APA requirements because it involves a foreign and military affairs function of the United States. Section 13(b) of the EAA does not require that this rule be published in proposed form because this rule does not impose a new control. Further, no other law requires that a notice of proposed rulemaking and opportunity for public comment be provided for this rule.

6. However, because of the importance of the issues raised by these regulations, this rule is issued in interim form and comments will be considered in the development of final regulations.

7. The period for submission of comments will close November 15, 1988. The Department will consider all comments received before the close of the comment period in developing final regulations. Comments received after the end of the comment period will be considered if possible, but their consideration cannot be assured. Accordingly, the Department encourages interested persons who wish to comment to do so at the earliest possible time to permit the fullest consideration of their views.

8. The Department will not accept public comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. The Department will return such comments and materials to the person submitting them and will not consider them in the development of final regulations.

9. All public comments on these regulations will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which will also be a matter of public record and will be available for public review and copying. Communications from agencies of the United States Government or foreign governments will not be made available for public inspection.

10. The public record concerning these regulations will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, Room 4886, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in Part 4 of Title 15 of the Code of Federal Regulations. Information about the inspection and copying of records may be obtained from Margaret Corenejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

List of Subjects in 15 CFR Part 391

Exports, Foreign availability, Science and technology, Technical Advisory Committees.

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

PART 391—[AMENDED]

1. The authority citation for 15 CFR Part 391 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 391.2(d)(2)(iii) is amended by adding a new sentence at the end reading "(See Supplement No. 1 for examples of evidence.)"

3. A new Supplement No. 1 to Part 391 is added, reading as follows:

Supplement No. 1 to Part 391

Evidence of Foreign Availability

Below is a list of examples of evidence that the Office of Foreign Availability has found useful in conducting assessments of foreign availability. A claimant submitting evidence supporting a claim of foreign availability may want to review this list for suggestions as evidence is collected.

This list is not all inclusive. Acceptable evidence is not limited to these examples. A foreign availability submission should include as much reasonable evidence as possible on *all four* of the criteria listed below. A combination of several types of evidence will usually be required. The list is representative of the types of evidence OFA has found useful in its assessments. The Office of Foreign Availability will combine this evidence with the evidence it collects from other government and public sources. The Office of Foreign Availability will evaluate carefully and fully the evidence, taking into account factors that may include, but are not limited to: information concerning the source of the evidence; corroborative or contradictory indications; and experience concerning the reliability or reasonableness of such evidence. OFA will assess whether the four criteria are met.

From time to time, as OFA identifies new examples of evidence that would enhance assessment submissions, we will amend this informational list.

Examples of Evidence of Foreign Availability

The Export Administration Act of 1979, as amended, requires that four criteria be met to prove foreign availability. The four criteria are: available-in-fact, from a non-U.S. source, in sufficient quantity and of comparable quality.

Available-In-Fact

—Evidence of marketing of a comparable foreign product in a proscribed country (e.g., an advertisement in the media of the proscribed country that the commodity is for sale);
—Copies of sales receipts demonstrating sales to proscribed countries;
—The terms of a contract under which the commodity has been or is being sold to a proscribed country;
—Information from a named foreign government official that it will not deny the sale of an item it produces to a proscribed country in accordance with its laws and regulations;
—Information from a named company official that the company legally can and would sell an item it produces to a proscribed country;
—Evidence of actual shipments of the product to proscribed countries (e.g., shipping documents, photographs, news reports);
—An eyewitness report of such items in operation in a proscribed country;
—Evidence of sales or technical service personnel in a proscribed country;
—Evidence of production within a proscribed country;
—Evidence of the item being exhibited at a trade fair in a proscribed country;
—A copy of the export control laws or regulations of the source country which shows that the product is not controlled.

Non-U.S. Source

—A list of non-U.S. (COCOM, non-COCOM, or proscribed countries) manufacturers of the item;
—A report from a reputable source of information on Commercial relationships that a foreign manufacturer is not linked financially or administratively with a U.S. company;

—A list of the components in the U.S. and non-U.S. items indicating model numbers and their sources;
—A schematic of the non-U.S. item identifying the components and their sources;
—Evidence that the commodity is a direct product of non-U.S. technology (e.g., a patent law suit lost by a U.S. producer, a foreign patent);
—A list of producers of a similar commodity and evidence of indigenous technology, production facilities, the capabilities at those facilities, and/or distribution of the commodity;
—Evidence that the parts and components of the item are of non-U.S. origin or are exempt from U.S. export licensing requirements by the Parts and Components provision (Section 376.12).

Sufficient Quantity

—Evidence that non-U.S. sources have the item in serial production;
—Evidence that the item or its manufacture is used in civilian applications in proscribed countries;
—Evidence that a proscribed country is marketing in the West a comparable product of its manufacture;
—Evidence of excess capacity in a proscribed country's production facility;
—Evidence that proscribed countries have not targeted the commodity or are not seeking to purchase it in the West;
—A proscribed country's official or a knowledgeable source's estimate of the proscribed country's needs;
—A trade paper anlaysis of the worldwide market (i.e., demand, production rate for the commodity for various manufacturers, plant capacities, installed tooling, monthly production rates, orders, sales and cumulative sales over 5–6 years).

Comparable Quality

—A sample of the non-U.S. product;
—Operation or maintenance manuals;
—Records or a statement from a user of the non-U.S. product;
—A comprehensive evaluation of the U.S. and non-U.S. product by a western producer or purchaser of the product, a recognized expert, trade publication, or independent laboratory;
—A comparative list identifying, by manufacturer and model numbers, the key performance components and the material used in the product that qualitatively affect the performance of the U.S. and non-U.S. products;
—Evidence of the interchangeability of the U.S. and non-U.S. products;
—Published specifications for the U.S. and non-U.S. products;
—Evidence of the competitiveness of the non-U.S. product in the world market (e.g., sales contracts, repeat purchases, orders);
—Patent descriptions for the U.S. and non-U.S. products;
—Evidence that the U.S. and non-U.S. items meet a published industry or universal standard;
—A report or eyewitness account, by deposition or otherwise, of the non-U.S. product's operation;
—Evidence concerning the non-U.S. manufacturers' corporate reputation, history, and track record;
—Comparison of the U.S. and non-U.S. end-product(s) made from a specific commodity tool(s), technical data or a device.

Dated: September 9, 1988.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 88–20994 Filed 9–15–88; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

Occupational Safety and Health Regulations for Construction

CFR Correction

At 44 FR 8618, Feb. 9, 1979, the Occupational Safety and Health Administration republished the regulations in 29 CFR 1926.302(e) on standards for powder-actuated hand tools. Beginning with the July 1, 1983, revision of Title 29 (Part 1920 to End) of the Code of Federal Regulations, the word "powder" was inadvertently changed to "power" in § 1926.302(e).

In the July 1, 1987, revision of Title 29 (Part 1926) of the Code of Federal Regulations, on page 115, columns one and two, paragraphs (e) heading, (e)(1), and (e)(12) of § 1926.302 continued to be published incorrectly.

§ 1926.302 [Corrected]

The words "power-actuated" should read "powder-actuated" in the heading of paragraph (e), the last line of paragraph (e)(1), and the first line of paragraph (e)(12).

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3438–7]

Approval and Promulgation of Implementation Plan, State of Louisiana; Good Engineering Practice-Stack Height Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This **Federal Register** notice approves Louisiana Air Quality Regulations, LAC 33: Part III, Section 921, "Stack Heights" (formerly Sections 17.14.1—17.14.3), for "Good Engineering Practice-Stack Height" (GEP–SH) and Dispersion Techniques. Although the EPA generally approves the Louisiana stack height rules on the grounds that the State satisfies the requirements of 40 CFR Part 51, the EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). This GEP–SH SIP revision implements Section 123 of the Clean Air Act, as amended, and Federal regulations at 40 CFR Part 51, and enables the State to ensure that the degree of emission limitation required for the control of any air pollutant under its SIP is not affected by that portion of any stack height which exceeds GEP–SH or by any other dispersion technique.

DATE: This action is effective on October 17, 1988.

ADDRESSES: Copies of the State's final submittal and EPA's *Technical Support Document* may be obtained by writing to:

Chief, SIP New Source Section, Air Programs Branch, Air, Pesticides and Toxics Division, Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 655–7214, or

Administrator, Louisiana Air Quality Division, Louisiana Department of Environmental Quality, 325 North Fourth Street, P.O. Box 44096, Baton Rouge, Louisiana 70804, Telephone: (504) 342–1206.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E.; Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202, Telephone: (214) 655–7214.

SUPPLEMENTARY INFORMATION: On July 18, 1986, the Governor of Louisiana submitted a copy of the Louisiana GEP–SH Air Quality Regulations, Sections 17.14.1–17.14.3 [now LAC 33: Part III, Section 921], adopted by the Secretary of the Department of Environmental Quality (LDEQ) on May 20, 1986, as a proposed SIP revision together with supporting documents. With one exception, EPA determined that the LDEQ GEP–SH regulations were equivalent to the Federal regulations found at 40 CFR 51.100(z), 40 CFR 51.100(ff)–(kk), 40 CFR 51.164, and, indeed, were largely identical thereto except for minor changes to accommodate the State's regulatory format. Based upon this evaluation, EPA proposed in a **Federal Register** notice of August 7, 1987 (51 FR 29392) to approve the Louisiana stack height regulations if

the State first corrected a minor clerical deficiency in Section 17.14.3 [now LAC 33: Part III, Section 921(C)] of the State regulations. No comments were received on the proposal notice.

In the notice of the proposed rulemaking, EPA specifically stated that, with one exception, Section 17.14.3 [now LAC 33: Part III, Section 921(C)] of the State regulations replicated, and thus satisfied the requirements of 40 CFR 51.164 for new source review programs. This Federal regulation requires that "before a State issues a permit to a new or modified source based on a good engineering practice stack height that exceeds the height allowed by 40 CFR 51.100(ii) (1) or (2), the State must notify the public of the availability of the demonstration study and must provide opportunity for public hearing. There was an apparent clerical error in Section 17.14.3 [now LAC 33: III, Section 921(C)] insofar as it failed to include a reference to subsections (1) or (2) of Section 17.14.1(e) [now LAC 33: Part III, Section 921(A), "Good Engineering Practice (GEP) Stack Height 1 or 2"], the equivalents of subsections (1) and (2) of 40 CFR 51.100(ii). As a result of this inadvertent oversight, the State regulation incorrectly suggested that there is an approvable method for determining GEP–SH other than those prescribed by 40 CFR 51.100(ii) and Section 17.14.1(e) [now LAC 33: III, Section 921(A) "Good Engineering Practice (GEP) Stack Height"] and that new or modified source emission limitations developed pursuant to Section 17.14.1.(e)(3) [now LAC 33: Part III, Section 921(A) "Good Engineering (GEP) Stack Height 3"] need not be subjected to public review. The EPA required that the State amend this section, consistent with the requirements of 40 CFR 51.164, before final approval of GEP–SH SIP revision.

In the interim, the EPA's stack height regulations were challenged in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Appeals Court for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions to the EPA for reconsideration. These provisions are: (1) Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements [40 CFR 51.100(kk)(2)]; (2) dispersion credit for sources originally designed and constructed with merged or multiflue stacks [40 CFR 51.100(h)(2)(ii)(A)]; and (3) Grandfathering pre-1979 use of the refined H+1.5L formula [40 CFR 51.100(ii)(2)].

Since the publication of the proposed rulemaking, the Louisiana Department of Environmental Quality has revised the State regulations to correct the deficiency which was identified in the proposed notice of August 7, 1987. On January 6, 1988, the Governor of Louisiana submitted the revised Louisiana GEP–SH Air Quality Regulations, adopted by the Secretary of the LDEQ on December 20, 1987, as a proposed SIP revision to the EPA. The EPA has reviewed this submittal (the revised regulations) and has determined that the State GEP–SH regulations are equivalent to the Federal stack height requirements and meet the provisions of the New Source Review program adequately. Therefore, EPA is now approving the Louisiana GEP–SH regulations, LAC 33: Part III, Section 921, as a revision to the Louisiana SIP.

Although the EPA generally approves Louisiana's stack height rules on the grounds that the State satisfies the requirements of 40 CFR Part 51, the EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). If the EPA's response to the *NRDC* remand modifies the July 8, 1985, regulations, the EPA will notify the State of Louisiana that its rules must be changed to comport with the EPA's modified requirements. This may result in revised emissions limitations or may affect other actions taken by the State of Louisiana and source owners or operators.

The Office of Managment and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 1988. This action may not be challenged later in proceedings to enforce its requirements. [See 307(b)(2).]

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Incorporation by reference, and Hydrocarbons.

Dated: August 25, 1988.

Lee M. Thomas,

Administrator.

PART 52—[AMENDED]

Title 40, Part 52 of the Code of Federal Regulations is amended as follows:

Subpart T—Louisiana

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.970 is amended by adding paragraph (c)(45) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(45) On January 6, 1988, the Governor of Louisiana submitted a revision to the State Implementation Plan (SIP) that contained Air Quality Regulations, LAC 33: Part III, Section 921, Stack Heights, as adopted by the Secretary of the Department of Environmental Quality on December 20, 1987. Section 921, Stack Heights, enables the State to ensure that the degree of emission limitation required for the control of any air pollutant under its SIP is not affected by that portion of any stack height which exceeds GEP or by any other dispersion technique.

(i) Incorporation by reference.

(A) Louisiana Air Quality Regulations—LAC 33: Part III, Section 921, Stack Heights, as adopted by the Secretary of the Department of Environmental Quality on December 20, 1987.

(ii) Other material—none.

3. A new § 52.990 is added as follows:

§ 52.990 Stack height regulations.

The State of Louisiana has committed to submit to EPA a SIP revision whenever a new or revised emission limitation for a specific source exceeds the height allowed by Section 921(A) "Good Engineering Practice (GEP) Stack Height 1 or 2" of the State regulations. A letter from the Secretary of Louisiana Department of Environmental Quality, dated September 23, 1986, stated that:

In specific, the State regulation, Section 17.14.2 [now LAC 33: Part III, Section 921(B)], provides that the degree of emission limitation required of any source for control of any air pollutant must not be affected by so much of any source's stack height that exceeds good engineering practice or by any other dispersion technique. In reference to this requirement, the Louisiana Department of Environmental Quality or the Administrative Authority will submit to EPA a SIP revision whenever the Louisiana

Department of Environmental Quality adopts a new or revised emission limitation for a specific source that is based on a stack height that exceeds the height allowed by Section 17.14.1(e)(1) [now LAC 33: Part III, Section 921(A) "Good Engineering Practice (GEP) Stack Height 1"] or Section 17.14.1(e)(2) [now LAC 33: Part III, Section 921(A) "Good Engineering Practice (GEP) Stack Height 2"].

[FR Doc. 88-19780 Filed 9-15-88; 8:45 am]
BILLING CODE 6560-50-M

---

40 CFR Part 52

[FRL-3447-2]

Approval and Promulgation of Air Quality Implementation Plans; Massachusetts; Disapproval of Final Compliance Date Extension for Automobile Surface Coating

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is disapproving a State Implementation Plan revision submitted by the Commonwealth of Massachusetts to extend the final compliance date in the automobile surface coating regulation for topcoat and final repair applications from December 31, 1985 to August 31, 1987. This disapproval will not increase or decrease emissions from the one automobile surface coating source located in the Commonwealth, the General Motors facility in Framingham. The final compliance date for automobile surface coating, topcoat, and final repair applications will remain December 31, 1985. The intended effect of this action is to disapprove the Commonwealth's request and thereby to ensure reasonable further progress towards the attainment of the ozone standard by the applicable deadline of December 31, 1987, as required under section 172 of the Clean Air Act.

EFFECTIVE DATE: This rule will become effective on October 17, 1988.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the U.S. Environmental Protection Agency, JFK Federal Building, Room 2311, Boston, MA 02203; and the Massachusetts Department of Environmental Quality Engineering, Division of Air Quality Control, One Winter Street, 8th floor, Boston, MA 02108.

FOR FURTHER INFORMATION CONTACT: Cynthia L. Greene (617) 565-3244; FTS 835-3244.

SUPPLEMENTARY INFORMATION: On December 2, 1986 (51 FR 43394), EPA published a Notice of Proposed Rulemaking (NPR) to disapprove a Massachusetts State Implementation Plan (SIP) revision submitted by the Department of Environmental Quality Engineering (DEQE). That revision would have extended the final compliance date to August 31, 1987 from December 31, 1985 in the automobile surface coating regulation. The compliance date of December 31, 1985 was approved as part of the SIP on September 16, 1980 (45 FR 61293). General Motors Corporation (GM) in Framingham is the only automobile surface coating operation in Massachusetts. The revision and EPA's rationale for disapproval were explained in the NPR. Explanations of two major reasons for the disapproval action are provided in detail below, followed by brief restatements of five additional reasons.

First, an EPA October 20, 1981 (46 FR 51366) policy statement (the Policy) provided States with information on the approvability of the extension of compliance schedule dates for automobile assembly plant paint shop operations. That Policy also established the criteria the Agency would use in reviewing any extension requests. One of those criteria was to assure continued compliance with the requirement of Section 172 of the Clean Air Act (the Act) for the implementation of reasonably available control technology (RACT) as expeditiously as practicable.

Here, DEQE and GM have failed to show that the earliest practicable time for compliance was August 31, 1987. Indeed the available evidence indicates strongly that compliance by December 31, 1985 was practicable. For a detailed discussion of this evidence see the technical support document (TSD) for this section. (A copy of the TSD may be obtained from the EPA Regional office listed in the **ADDRESSES** section of this notice.) For this reason, EPA is disapproving the revision submitted by the DEQE to extend the compliance date in the automobile surface coating regulation of the Massachusetts SIP.

Second, any deferral of the compliance date must be consistent with the statutory requirement of section 172(b)(2) of the Act that nonattainment area SIPs provide for implementation of all reasonable available control measures as expeditiously as practicable. The latter requirement is explained above and, by itself, is adequate to disapprove the DEQE's SIP revision request for an extension. With regard to the former requirement, granting an extension for GM in Framingham would allow VOCs, precursors to ozone, to be emitted that the State's ozone attainment plan relied upon for maintaining RFP and for demonstrating attainment by December 31, 1987.

The five additional reasons for disapproval, as stated in the NPR and elaborated on now, are:

1. The Policy allowed deferral of compliance dates for automobile paint shop operations in order to implement more cost-effective control methods. In its submittal, the DEQE did not document that the construction of a new paint shop with incinerators is a more cost-effective control method than the installation of abatement equipment on the existing lacquer topcoating lines.

2. The Policy allowed postponement of compliance dates for further *development* of coating technology. However, other means of complying such as coatings and incineration technologies had already been developed when DEQE submitted its SIP revision request. In fact GM Framingham was not even considering *developing* basecoat/clearcoat (BC/CC) technology for Framingham until 1985. Therefore, GM cannot argue that it needed the additional two years to develop these technologies.

3. The Policy does not allow an increase in emissions from the source during the deferral of the compliance dates. The DEQE submittal predicted that emissions from the Framingham paint shop would increase above 1984 actual emissions thereby making it ineligible for the deferral. Although in other submittals and in comments on the NPR from DEQE it has been stated that the emissions will in fact not increase, the DEQE has not submitted a permit with legally enforceable conditions restricting GM from increasing its emissions.

4. The Policy states that any modifications must be designed to be capable to use a new generation of low-solvent coatings (i.e., low-solvent/water-based coatings). Neither the SIP revision nor the NSR permit application demonstrates that the proposed new paint shop will be capable of implementing the new generation of low-solvent technology.

5. The DEQE stated that GM's emissions from the new paint shop would not affect the State's ability to demonstrate a 35% reduction in emissions of VOCs. This percentage was used in the 1982 SIP to demonstrate attainment with the ozone standard in the Boston SIP analysis area. However, in its December 30, 1985 submittal of this SIP revision request, the DEQE included a 1983 RFP report that lacked the compliance status of VOC sources and the linear reduction graphs that demonstrate a straight line progression

towards attainment. To consider the deferral of compliance dates, complete documentation that RFP would be maintained despite a compliance date extension for the Framingham facility, is necessary. The complete RFP report for 1983 was submitted on June 4, 1986 and it did show that the Boston SIP analysis area was on RFP through 1983. However on June 30, 1987 the DEQE submitted its 1985 RFP report and the report showed for the Boston SIP analysis area that RFP had not been maintained as the December 31, 1985 attainment target had not been met.

EPA received six letters of public comments on the NPR that are addressed below.

Public Comments

Two letters, one from a Framingham resident and the other from a Framingham neighborhood association, offered general comments in support of EPA's proposed disapproval. Two other letters of comment, from individuals with family members who work at GM, asked that EPA take into consideration the commitments the company has made to Framingham and the employment security of its workers. The two remaining letters, from GM and the DEQE, contained several issues which are addressed below.[1]

General Motors' letter of comment, dated December 23, 1986, raised seven issues.

Issue No. 1: The Policy does not require the State to document that construction of a new paint shop with incinerators is more cost effective than controlling the lacquer lines.

Issue No. 1 Answer: The Clean Air Act requires the implementation of RACT as expeditiously as practicable. In order for a state to obtain approval of a compliance date extension, it must demonstrate that RACT would be expeditiously implemented under the extension.

To do so, the state must demonstrate the impracticability of meeting the initial deadline, i.e., in this case, that control of the lacquer lines through add-on controls by the compliance deadline was impracticable. Establishing that the construction of a new paint shop with incinerators is more cost-effective than retrofitting the lacquer lines with add-on controls would be one way to demonstrate impracticability of meeting the initial compliance date. This showing would be in keeping with the Policy which sought to allow automobile surface coating companies to avoid the costs of add-on controls when reasonable less costly alternative solutions were possible.

GM tailed to demonstrate that construction of a new paint shop with incinerators is a more cost-effective compliance technique than control of the lacquer lines. Therefore, GM failed to demonstrate that the latter technique was impracticable. More broadly, GM has failed to show that it would have been, from the standpoint of the original adoption of the relevant emissions limitations, impracticable for the company to bring the relevant coating lines into compliance with those limitations. Instead, several shifts in corporate strategy, rather than any impediment inherent in the limitations themselves, appear to have prevented timely compliance. These shifts in corporate strategy are outlined in the TSD prepared by EPA on today's action.

Issue No. 2: General Motors believes that its July 6, 1982 and November 20, 1984 requests for an extension to December 31, 1987 to meet RACT fulfill the Policy criteria to meet RACT "as expeditiously as practicable". Additionally, GM alleges that the Policy does not require documentation of the impracticability of meeting the SIP compliance date deadline.

Issue No. 2 Answer: GM never followed through to the point of having the DEQE conduct a public hearing and submit a SIP revision to EPA requesting a compliance date extension until it wrote to DEQE on June 7, 1985 and submitted a permit application to construct a new paint shop on August 7, 1985. As previously stated, the DEQE conducted a public hearing on its proposal to grant that request on December 16, 1985 and submitted the SIP revision to EPA on December 30, 1985. As explained in more detail in the TSD, submittal of a SIP revision request on December 30, 1985 to extend the effective December 31, 1985 compliance date strongly suggests that the inability to comply by December 31, 1985 was not due to any difficulties inherent in the applicable emission limitations, but to tardiness in attempting to meet them.

The argument that GM does not have to show impracticability is without merit. A key test of the approvability of a compliance date extension is whether compliance with the original deadlines was impracticable from the start. Evidence of such impracticability could include the fact of noncompliance, coupled with a showing of strenuous good faith efforts to comply. Impracticability might also be shown by a demonstration that the premises underlying the original deadline were flawed. Here, however, the company has been unable to show that it struggled to meet the emission limits on time. In GM's December 23, 1986 comment letter to Louis F. Gitto, Director of the EPA Region I Air Management Division, GM points out that the future of the Framingham operation was uncertain and suggests that that uncertainty justified its failure to commit resources to achieving timely compliance. But such uncertainty is not an adequate justification in the context of the current Clean Air Act, which requires the implementation of reasonable controls as expeditiously as practicable to assure attainment by the end of 1987. Moreover, the company does not claim that the original deadline was flawed in its premises. Indeed, the company itself sought and approved the very degree of forbearance that the original deadline represents. GM and the State and Territorial Air Pollution Program Administrators (STAPPA) successfully negotiated with EPA in 1978 to relax the automobile surface coating compliance schedule to a nationally consistent phased-in extended compliance schedule. Additionally, in comments at the DEQE public hearing on the 1979 original SIP revision for automobile surface coating, GM Framingham supported the STAPPA negotiated schedule. Therefore, impracticability is a pertinent showing and GM failed to make that showing.

Issue No. 3: The Policy does not require documentation that a compliance coating technology has not yet been developed. Additionally EPA's assertion that BC/CC technology has been demonstrated is inconsistent with EPA's position espoused in its issuance of innovative technology waivers.

Issue No. 3 Answer: The Policy allowed for extensions for the further development of coating technology and more cost-effective compliance techniques to achieve RACT. Although EPA acknowledged in the Policy that BC/CC coating technology was still being developed at specific plants, that technology was not, and is not, the only compliance technique available to meet RACT requirements. As GM had originally proposed, abatement by incineration could bring the topcoat and final repair lines into compliance. Additionally, all of the New Source Performance Standard (NSPS) waivers (10) expired on December 31, 1986. Those waivers, only allowed extensions to December 31, 1986 for development of lower solvent BC/CC to meet NSPS and not RACT requirements at specific plants. Considering the 1986 end date for the NSPS waivers and the late request

[1] Responses to additional comments, which were received after the close of the public comment period, appear in the technical support document for this rule.

by GM for its Framingham plant, EPA cannot approve the State's request to grant GM additional time to *develop* BC/CC technology at its Framingham plant.

Issue No. 4: GM believes actual emissions will decrease during the extension, not increase.

Issue No. 4 Answer: EPA cannot assure, as the Policy requires, that the Framingham facility will not increase its emissions during the extension based on GM's "belief" that the emissions will decrease. The DEQE would have to impose operating restrictions on GM and submit them to EPA for approval in order to legally ensure that emissions would not increase. No such legally enforceable operating restrictions to limit its emissions have been submitted to EPA.

Issue No. 5: GM has demonstrated that the Framingham BC/CC facility is designed to use low-solvent technology.

Issue No. 5 Answer: The Policy required that EPA assure that plants modified to accommodate BC/CC paint systems will be capable of subsequent adoption of "the new generation of low-solvent coatings." EPA interprets this language of the Policy to mean low-solvent and water-based coatings. This interpretation is reasonable, particularly given the fact that many water-based coatings contain a small amount of VOC. In order to meet this requirement, GM would have to include an extra vestibule in its paint shop design at the end of the topcoat ovens to ensure that the paint shop would be able to accommodate the additional drying time that is required of water-based coatings. GM has not submitted such a design or other methods of accommodation.

Issue No. 6: GM asserts that the extension should be allowed because the Commonwealth of Massachusetts has an approved 1982 Ozone and Carbon Monoxide SIP with an approved attainment demonstration for the Boston SIP analysis area (of which Framingham is a part). The DEQE concluded in its Decision Memorandum for the SIP revision that air quality would not be adversely affected by the compliance date extension. Additionally, the Commonwealth of Massachusetts submitted a complete reasonable further progress (RFP) report which demonstrated that RFP requirements were met.

Issue No. 6 Answer: EPA did approve the Massachusetts Ozone and Carbon Monoxide SIP on November 9, 1983 (48 FR 51480) and it contained demonstrations of attainment. These demonstrations were to plan for attainment as expeditiously as practicable as required by Section 110(a)(2)(A) of the Act and in any case before December 31, 1987. Allowing a compliance date extension would allow a relaxation in the expeditiousness that Massachusetts planned for in its 1982 SIP. The DEQE in its 1982 SIP, planned for expeditious attainment of the ozone standard and demonstrated it could be achieved in the Boston SIP analysis area by December 31, 1985. However, the 1985 RFP report, received on June 30, 1987, indicated that the 1985 target for attainment was not achieved.[2] Although EPA extended the attainment date for Massachusetts to December 31, 1987 (see 40 CFR 52.1127), the reductions anticipated from GM by December 31, 1985 were needed to bring about attainment as expeditiously as anticipated in the 1982 SIP, or by December 31, 1985.

Secondly, at the time of the December 30, 1985 DEQE SIP submission, only a draft 1983 RFP report was available. A complete report, including the compliance status of VOC sources and graphs representing the annual linear reductions towards attainment, was not submitted to EPA until June 4, 1986. Without a complete report at the time of the submittal of the SIP revision, neither the DEQE nor EPA could confirm that the compliance deadline extension would not interfere with RFP.

Issue No. 7: EPA did not process the DEQE's SIP revision within the four month time period required by section 110(a)(2) of the Act, 42 U.S.C. 7410(a)(2). Had it done so, it should have concluded that the extension would not jeopardize RFP and timely attainment.

Issue No. 7 Answer: After the DEQE submitted the December 30, 1985 SIP revision, it requested that EPA hold action on the revision until June 20, 1986 because of ongoing negotiations with GM. In addition, EPA does not believe that the agency must take final action under Section 110(a)(3) of the Act on a revision to a SIP which earlier in time received Federal approval under section 110(a)(2), within four months, but instead within a reasonable time. Nevertheless, EPA cannot ignore facts that come to light before final action. EPA maintains that the compliance date extension is a relaxation in the expeditious attainment that Massachusetts demonstrated in its 1982 SIP.

The DEQE letter of comment of January 2, 1987 raised five issues.

Issue No. 1: The DEQE states that it finds it inconsistent that EPA proposes to disapprove the SIP revision extension, while indicating that such an extension would be acceptable if it were obtained through an enforcement mechanism.

Issue No. 1 Answer: The enforcement mechanism that the State attempted to negotiate with GM to extend GM's compliance date was a delayed compliance order (DCO). Section 113(d) of the Act does not make it a prerequisite to issuance of a DCO that reasonable further progress toward attainment be maintained, as section 172 of the Act does for SIP revisions in nonattainment areas. In addition, the Act requires that a DCO contain a schedule with increments of progress that ensures compliance as expeditiously as practicable. Section 113(d) also requires a source subject to a DCO to use the best practicable system of emission reduction for the period during which the order is in effect. These requirements help ensure that with a DCO emissions will be minimized before final compliance and that compliance will be expeditious. Moreover, the Act provides for enforcement actions should a source violate an interim requirement in a DCO. A SIP revision does not provide for this level of control over a source's emissions and does not provide such certainty of expeditious compliance.

Issue No. 2: The DEQE believes that because EPA proposed to grant a Section 111(j) waiver in September of 1986 for the development of BC/CC, that BC/CC technology was not yet available for the GM Framingham plant.

Issue No. 2 Answer: As explained in answer to GM's issue #3, EPA's disapproval is not dependent upon an assertion that complying BC/CC technology was available to GM Framingham. The facts are that other compliance technologies were available in order for GM to comply by December 31, 1985.

Issue No. 3: The DEQE stated that the facility will not be increasing its emissions during the time of the extension.

Issue No. 3 Answer: See answer to GM issue #4, above

Issue No. 4: The DEQE suggested that EPA could condition the SIP revision approval to require that GM install equipment capable of using low-solvent coatings.

Issue No. 4 Answer: Section 110(a)(3) of the Act gives EPA authority to approve SIP revisions if they meet the requirements of the Act. When a minor deficiency exists in the SIP revision,

[2] On December 31, 1987, the DEQE submitted the 1986 RFP report and it demonstrated that the Boston SIP analysis area had met the attainment target, that is the target that the 1982 SIP anticipated would be met by December 31, 1985, but had not met the RFP target for 1986.

EPA may conditionally approve the revision. The condition suggested here—that GM be required to install equipment in order to accommodate low solvent coatings—would not address how expeditiously GM would comply with RACT, (the major deficiency of the SIP revision request). Therefore, EPA could not approve the revision based on such a condition.

Issue No. 5: The 1983 RFP report was not incomplete and contained the compliance status of VOC sources and graphs representing annual reductions that the December 2, 1986, Federal Register stated it lacked.

Issue No. 5 Answer: As stated in the answer to GM's issue #7, a final and complete RFP report containing the compliance status of VOC sources and graphics was not submitted with the SIP revision, and was not received by EPA until June 4, 1986.

As no public comments were received which raised issues or facts sufficient to cause the Agency to reconsider its proposed action, EPA is taking final action to disapprove this SIP revision.

Final Action

EPA is disapproving the SIP revision, submitted by the DEQE on December 30, 1985, to Massachusetts' automobile surface coating regulation, 310 CMR 7.18(7), to extend the final compliance date to implement RACT on topcoat and final repair applications from December 31, 1985 to August 31, 1987. The final compliance date for automobile surface coating, topcoat and final repair applications will remain December 31, 1985.

Under Executive Order 12291, this action is not "Major." It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air Pollution control, Hydrocarbons, Intergovernmental Relations, Ozone, Reporting and recordkeeping requirements.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 15, 1988. This action may not be challenged later in proceedings to enforce its requirements (see 307(b)(2)).

Date: September 4, 1988.

Lee M. Thomas,

Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

Subpart W—Massachusetts

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1168a, is added to read as follows:

§ 52.1168a Part D—Disapproval of Rules and Regulations.

On December 30, 1985, the Massachusetts Department of Environmental Quality Engineering (DEQE) submitted a revision to the Massachusetts State Implementation Plan (SIP) for the automobile surface coating regulation. This revision requested an extension of the final compliance dates to implement reasonably available control technology (RACT) on topcoat and final repair applications. As a result of EPA's disapproval of this revision, the existing compliance date of December 31, 1985 specified in the automobile surface coating regulation contained in the Massachusetts SIP will remain in effect (Massachusetts Regulation 310 CMR 7.18(7) as approved by EPA and codified at 40 CFR 52.1120(c)(30) and (53)).

[FR Doc. 88–21016 Filed 9–15–88; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Part 306

Child Support Enforcement Program, Medical Support Enforcement

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Final rule.

SUMMARY: OCSE is amending the Child Support Enforcement program regulations governing medical support enforcement. Prior regulations required State child support enforcement (IV-D) agencies to perform certain medical support enforcement activities. This regulation requires State IV-D agencies to extend these activities to certain IV-D cases not embraced by the prior regulations and eliminates a restriction which applies to cooperative agreements between State IV-D and State Medicaid agencies. The IV-D agency is required to develop criteria to identify existing child support cases which have a high potential for obtaining medical support, and to petition the court or administrative authority to modify support orders to include medical support for targeted cases even if no other modification is anticipated. In addition, the IV-D agency is required to provide the custodial parent with information pertaining to the health insurance coverage obtained by the absent parent for the dependent child(ren). Further, this regulation deletes the condition that IV-D agencies may only secure health insurance coverage under a cooperative agreement when it will not reduce the absent parent's ability to pay child support. Finally, this regulation deletes prior maintenance of effort requirements States must adhere to when entering into a cooperative agreement with the State Medicaid agency. No changes were made to the regulations as a result of comments received.

These activities will expand the number of children for whom private health insurance coverage is obtained by increasing the availability of third party resources to pay for medical care and will result in Medicaid cost savings to State and Federal governments. Federal funding under title IV-D of the Social Security Act is available to State IV-D agencies for these required medical support activities.

EFFECTIVE DATE: September 16, 1988, except for §§ 306.51 (b)(3) and (b)(5) which are pending OMB approval. These sections will become effective when notice is given in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Andrew J. Hagan, Policy Branch, OCSE (202) 252–5368.

SUPPLEMENTARY INFORMATION:

Background

Section 16 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98–378) amends section 452 of the Social Security Act (the Act). This statute requires the Secretary of HHS to issue regulations to require that State IV-D agencies petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at reasonable cost. It also provides for improved information exchange between State IV-D and State Medicaid agencies. OCSE published implementing regulations on October 16, 1985 in the **Federal Register** (50 FR 41887). Those regulations require the State IV-D agency to secure medical support information regarding the absent parent, to exchange information with the State Medicaid agency, to petition the court or administrative entity to include health insurance in

new or modified support orders, whether or not it is currently available to the absent parent at reasonable cost, and to take steps to enforce ordered health insurance coverage. The State IV-D agency may perform certain functions beyond the scope of the title IV-D program, including providing services on behalf of individuals who are not receiving IV-D services, by entering into cooperative agreements with the State Medicaid agency pursuant to 45 CFR Part 306, Subpart A.

In prior years, little attention was paid to petitions for health insurance coverage for the dependent child of an absent parent with the result that only a limited number of AFDC cases already adjudicated require the absent parent to obtain health insurance coverage. Prior requirements to petition for medical support were applicable only to new cases or cases which required modification of existing orders for reasons other than medical support. After those regulations were published, it became apparent that health insurance coverage for a substantial number of existing child support cases was not addressed.

This regulation expands the prior requirement to include existing cases with child support orders which warrant modification solely for purposes of obtaining medical support. Examples of situations in which petitions to modify might be considered are: (1) Absent parents leaving unemployment compensation rolls due to changes in employment status, in which case the new employers will, most likely, provide health benefits; (2) Absent parents having wages withheld for child support, in which case it is likely they should have jobs that provide health benefits; (3) Other indications that the absent parents are employed by organizations likely to provide health benefits such as union membership, available wage information from State tax forms, etc.; or (4) Situations in which comparisons with Medicaid data indicate that health benefits formerly provided without a court order have lapsed. The prudent use of State and Federal resources dictates that the IV-D Agency develop procedures to work closely with the State Medicaid Agency to give priority to cases in which there is a demonstrated need for medical support.

Enhancements to medical support enforcement activities have been made because of the belief that many absent parents have private health insurance or health insurance coverage available through employers, unions or other groups. Such coverage may be extended when available at reasonable cost to provide for dependents' medical expenses. This regulation will benefit families by increasing the incidence of absent parents who obtain health insurance coverage for their dependent children and will result in cost savings to State and Federal governments by reducing Medicaid expenditures when such insurance is available to families who are eligible for AFDC or Medicaid services. This regulation is also responsive to the February 12, 1985 findings of the General Accounting Office's report to Congress, "Improved Efforts Needed to Relieve Medicaid from Paying for Services Covered by Private Insurers," which stressed that the Medicaid program should be relieved of health care costs if some other person is legally responsible to pay since Federal and State Medicaid costs (which, according to the report, totalled $38 billion in 1984) would be reduced without affecting Medicaid services.

This regulation is also responsive to the Office of the Inspector General's study entitled "Child Support Enforcement/Absent Parent Medical Liability" which looked at cases in which a new or modified child support order was established in the first quarter after the effective date of the earlier medical support regulation. Medical support was included in the child support order in less than half of these cases. These final regulations address the concerns of the Office of Inspector General about the availability of medical support services and the better coordination between the responsible agencies.

The implementing regulations of October 16, 1985 also included interim final regulations, with a comment period, for §§ 305.20(c) and 305.56, which added medical support enforcement to the State plan-related audit criteria. The audit regulations were effective October 16, 1985, with a comment period until December 16, 1985 for any public comment. Since no comments were received by the December 16 deadline, no revisions are necessary to the interim final regulations and those regulations are final rules.

Statutory Authority

This regulation is published under the authority of sections 1102, 452(f) and 454(13) of the Act. Section 1102 authorizes the Secretary of HHS to publish regulations not inconsistent with the Act which may be necessary to efficiently administer the Secretary's functions under the Act. We believe this regulation is consistent with the Act, as section 462(b), which defines "child support" for purposes of certain garnishment proceedings to include "payments to provide for health care", has long been an integral section of title IV–D of the Act. In addition, section 452(f) of the Act requires the Secretary of HHS to issue regulations to require States to petition for the inclusion of medical support as part of any child support order whenever health care coverage is available to the absent parent at a reasonable cost. Further, under section 454(13) of the Act, States must comply with such requirements and standards as the Secretary of HHS determines to be necessary for the establishment of an effective title IV–D program.

Regulatory Provisions

Prior regulations at 45 CFR 306.10(g) provided that IV–D agencies may, under cooperative agreement, secure health insurance coverage through court or administrative order when it will not reduce the absent parent's ability to pay child support. This regulation deletes the condition that the health insurance may not affect the absent parent's ability to pay cash support payments.

This regulation deletes the maintenance of effort requirement at 45 CFR 306.40 which prohibits a decrease in title IV–D program activities, personnel and resources as a result of entering into cooperative agreements with a State Medicaid agency.

Section 306.51(a) of prior regulations stated that, for purposes of this section, health insurance is considered reasonable in cost if it is employment-related or other group health insurance. This regulation amends 45 CFR 306.51(a) by designating all that follows the phrase "For purposes of this section" as paragraph (1) and clarifying in the newly designated paragraph (1) that all employment-related or group health insurance is considered reasonable regardless of the service delivery mechanism. A new paragraph (2) clarifies the definition of health insurance to include health maintenance organization (HMO) and preferred provider organization (PPO) and other types of coverage under which medical services could be provided to the dependent child(ren) of an absent parent.

Prior regulations at 45 CFR 306.51(b) required State IV–D agencies to petition the court or administrative authority to include health insurance in new or modified court or administrative orders. As previously stated, there was no specific requirement for State IV–D agencies to return to court to add medical support to existing orders. This regulation amends 45 CFR 306.51(b) by

redesignating the current contents of paragraphs (b) (3), (4), (5) and (6) as (b) (6), (7), (8) and (9), respectively, and inserting new paragraphs (3), (4) and (5).

The new paragraph (b)(3) requires all State IV–D agencies to develop written criteria to identify cases not included under paragraphs (b)(1) and (b)(2) with a high potential for obtaining medical support based on: (i) Evidence that health insurance may be available to the absent parent at a reasonable cost; and (ii) Facts, as defined by State law, regulation, procedure or other directive, which are sufficient to warrant modification of the existing support order to include health insurance coverage for a dependent child(ren).

The new paragraph (b)(4) requires State IV–D agencies to petition the court or administrative authority to modify support orders for targeted cases identified in paragraph (b)(3) to include medical support in the form of health insurance coverage.

The new paragraph (b)(5) requires IV–D agencies to provide the custodial parent with health insurance policy information when the absent parent secures coverage for the dependent child(ren). This includes any information available to the IV–D agency about the health insurance policy which would permit a claim to be filed or, in the case of HMO's and PPO's, services to be provided.

This regulation does not alter or replace other provisions at 45 CFR 306.51. It remains the responsibility of the State IV–D agency to take steps to enforce health insurance coverage as required by court or administrative order. The IV–D agency is not responsible for enforcing medical support of an unspecified nature, unless this is done under cooperative agreement with the State Medicaid agency.

As indicated above, Federal funding is available to IV–D agencies for these required medical support activities.

Response to Comments

We received 32 comments in response to the Notice of Proposed Rulemaking published in the **Federal Register** on May 27, 1987 (52 FR 19738). Twenty-five State agencies, four local agencies, two private citizens and one advocacy group submitted comments.

Section 306.10(g) Securing Health Insurance Coverage

We received eight comments including six from State agencies on revising § 306.10(g) to allow IV–D agencies under a cooperative agreement with the Medicaid agency to secure health insurance coverage through court or administrative order regardless of whether or not it will reduce the absent parent's ability to pay child support.

Comment: All eight commenters expressed concern that, if medical support were to be treated on an equal footing with financial support, the potential adverse impact on child support collections would outweigh the benefit to the child and the State Medicaid agencies. Commenters expressed concern that payment or recovery of medical expenses can be delayed while child support payments meet the daily needs of the child(ren) and that this change may force medically needy families onto welfare if there is a reduction in cash support.

Response: Under current IV–D regulations (§ 306.51(b)) which require State IV–D agencies to petition for inclusion of medical support in support orders, there are no provisions which allow the petition for medical support to be excluded because it might adversely affect financial support. The revision to § 306.10(g) makes IV–D requirements under cooperative agreements consistent with the general responsibility of IV–D agencies for seeking establishment of medical support.

Section 306.40 Maintenance of Effort

We received five comments from State agencies concerning the deletion of the maintenance of effort requirement when a IV–D agency enters into a cooperative agreement with the State Medicaid agency.

Comment: All five expressed concern that enforcement of financial support could suffer without the maintenance of effort requirement.

Response: The regulations were revised to provide States more flexibility in developing cooperative agreements which are best suited to the needs of the State and the agencies involved. This change conforms to the Health Care Financing Administration's (HCFA's) regulations implementing section 2367 of Pub. L. 98–369, which provides the States greater flexibility in the administration of the third-party liability program. In addition, the maintenance of effort requirement is no longer necessary to ensure that child support services are provided as a result of the revised audit criteria published October 1, 1985 in the **Federal Register** (50 FR 40120). The audit regulations required OCSE to conduct an audit of State IV–D agencies at least once every three years to determine whether each State has an effective IV–D program. These regulations incorporate objective performance criteria which OCSE will use to determine program effectiveness in providing child support services to those in need of them.

Section 306.51(a) Securing and Enforcing Medical Support Obligations

We received eight comments on the clarification that service delivery mechanism does not affect whether health insurance is considered reasonable.

1. *Comment:* Four commenters, including two State agencies, asked how the medical support regulations will be enforced when the absent parent's health insurance coverage is through an HMO which may not be geographically available to the child(ren).

Response: The regulations only require the IV–D agency to petition the court or administrative body which establishes support orders to include medical support in the support order in appropriate cases. The provisions of a support order are determined on a case-by-case basis in accordance with State law and judicial or administrative discretion. If the IV–D agency petitions the court or administrative authority to include medical support in the order and the court or other authority does not do so, the IV–D agency has met its responsibility under the regulations.

Furthermore, it should be noted that availability of insurance alone may not be a sufficient indicator that it would be cost-effective for the IV–D agency to seek modification of an order if the available insurance has geographic limitations which preclude the child(ren)'s use of the services.

2. *Comment:* One State agency requested we revise the language of the regulations by adding "all alternative service delivery systems" so as to include individual practice associations (IPA's), dental professional organizations (DPO's), group and model HMO's and other forms of service delivery.

Response: We are revising the language of the regulations in response to the commenter's request to clarify that fee-for-service, HMO and PPO were cited only as examples of service delivery mechanisms. Additional service mechanisms such as those in the commenter's letter are also included.

3. *Comment:* One local agency requested further definition of "reasonable in cost."

Response: We consider any employment-related or other group coverage "reasonable" under the assumption that most employment-related or other group health insurance is inexpensive to the employee/absent parent. A study done in 1983 by the National Center for Health Services

Research of the Public Health Service indicated that, for low-wage employees with employer-provided insurance coverage, 72% of the premium costs was paid for by the employer. These regulations do not require that absent parents be asked to purchase more expensive individual health coverage for their children.

4. *Comment:* One local agency expressed concern that the custodial parent could refuse to use a health care provider required by the absent parent's health care coverage.

Response: It is beyond the scope of these Federal regulations to specify that the custodial parent must use the health care providers covered under the absent parent's health insurance policy. These regulations pertain to IV–D agencies' responsibilities, not those of Medicaid recipients under title XIX of the Act. In non-AFDC cases, since the IV–D agency may provide medical support services only with the consent of the non-AFDC individual, refusal to use the health care provider should not be a problem.

5. *Comment:* One State agency opposed the definition of health insurance as reasonable if it is employment-related or other group health insurance, since in minimum wage jobs the insurance often is not reasonable in cost.

Response: As cited earlier, research indicates that 73 percent of low-income employees can obtain employment-related insurance at reasonable or no cost. Ultimately it will be up to the court or administrative authority to decide in an individual case whether the health insurance is available at a reasonable cost.

6. *Comment:* One State agency questioned whether the statement in section 306.51(a)(1) that "Health insurance is considered reasonable in cost if it is employment-related or other group health insurance" means that any employment implies that health insurance is available at reasonable cost or that the determination of reasonable is to be based on employment where health insurance is known to be offered by the employer or available under a group plan.

Response: Section 306.51(b) requires the State to petition the court or administrative authority to include health insurance in new or modified court or administrative orders for support whether or not health insurance at reasonable cost is actually available to the absent parent at the time the order is entered. We believe that this will result in fewer delays in obtaining coverage for dependents because the State will not always have to go back to the court or use administrative procedures to have medical support included in the existing order once insurance becomes available to the absent parent. If, however, the IV–D agency is seeking to modify an order solely for medical support, there must be evidence that health insurance may be available to the absent parent at a reasonable cost and facts must exist which are sufficient under State law to warrant modification of the existing support order.

Section 306.51(b)(3) Establishment of Written Criteria Where There is a High Potential for Obtaining Medical Support

We received 13 comments on the new provision that the IV–D agency shall establish written criteria to identify existing cases where there is a high potential for obtaining medical support.

1. *Comment:* Three commenters requested greater specification of the phrase "high potential for obtaining medical support" to avoid being held accountable as a result of an audit or review for not adequately implementing the medical support requirements.

Response: As explained in the rationale accompanying the proposed regulations, States are being given the flexibility to set their own criteria for selecting cases with high potential for obtaining medical support to return to court. This will allow States to respond to conditions and requirements of State law which may be unique to them. We encourage State IV–D agencies to consult with the State Medicaid agencies for assistance in determining which type of cases have the greatest potential for high future costs savings.

When attempting to determine the availability of health insurance coverage under § 306.51(b)(3)(i), States could focus on cases with income that is indicative of regular employment, such as cases with orders for wage withholding and cases with assets which may be indicative of changed financial circumstances or substantial income. Similarly, States could examine the employment history of absent parents to identify union membership, new employment or other situations which may indicate the existence of health insurance resources. However, it should be noted that availability of insurance alone may not be a sufficient indicator that the case is appropriate for modification under State law or that the available insurance would be beneficial to the child, e.g., coverage may exclude certain pre-existing conditions, or have geographic limitations such as a PPO which would preclude the child's use of the services.

2. *Comment:* Four commenters opposed the requirement that cases be reviewed to identify cases with high potential for medical support coverage. One State agency commented that the process could be duplicative if the Medicaid agency already knows of health insurance coverage. Another State agency suggested that the process of identifying absent parents with health insurance resources is an on-going labor-intensive process with a minimal success rate. The commenter indicated that questionnaires to the absent parent requesting information about insurance coverage generate less than a 50 percent response and additional investigation with the absent parent's employer or insurance carrier often doesn't improve the information gathered.

Response: In too many cases, children are not receiving appropriate child support services, including medical support coverage, because their cases are lying moribund, with no periodic review to determine whether the child(ren)'s needs have changed or the absent parent's circumstances have varied. The review of cases based on State-developed criteria will alleviate this injustice. States have been given the opportunity to develop criteria and procedures to fit their special needs, while ensuring medical support services will be provided to those in need. State IV–D agencies should collaborate with the State Medicaid agency and with employers and insurance carriers to identify cost-effectively those cases with a high potential for medical support.

3. *Comment:* Three State agencies and one local agency expressed the concern that full implementation of the medical support provisions would require IV–D agencies to perform additional duties, resulting in a diversion of resources from the establishment and enforcement of child support obligations, and would increase the workload of the courts and the Medicaid agency. One commenter suggested that the requirement be limited to cases referred to the IV–D agency by the Medicaid agency.

Response: OCSE realizes that the implementation of the medical support requirements, both the earlier (October 16, 1985) regulations and these more expansive revisions, will necessitate additional resources. Federal financial participation in these additional costs is available. We also believe that it is in a State's best financial interest to aggressively pursue medical support since such efforts could result in considerable Medicaid cost savings to the State.

The suggestion that the requirement apply only to cases referred by the Medicaid agency is inconsistent with the purposes of the IV–D program. Services

provided under the IV–D program must be available to all who request and need them. We recommend collaboration with the Medicaid agency in developing the criteria so that Medicaid-eligible cases will be served, but the IV–D agency must also provide services to children needing medical support who are not eligible for Medicaid.

4. *Comment:* One State agency pointed out that neither the IV–D agency nor the Medicaid agency may know the medical history of the child(ren) and that the Medicaid agency would learn of large medical bills only after they are incurred.

Response: To be able to establish and enforce medical support obligations in situations of extraordinary medical expenses or chronic conditions, States should be aware of the child(ren)'s medical history. Although IV–D agencies are not specifically required to investigate the child(ren)'s medical history, certainly, any information which comes to their attention concerning new medical exigencies should be considered.

5. *Comment:* One State agency requested clarification regarding whether in interstate cases the criteria of the initiating State or of the responding State govern if there is a difference in criteria the States use to determine cases with a high potential for obtaining medical support.

Response: Where there is a difference between the criteria of the initiating State (the State where the child(ren) and custodial parent live) and the responding State (the State where the absent parent lives) the criteria of the responding State will govern because it is the responding State's criteria which will govern whether or not the case meets the conditions for modification in that State. An initiating State may request a review of an existing interstate case to determine if modification to include medical support in the order should be sought. In responding to such a case, however, the responding State will use its own criteria for selection.

6. *Comment:* One State agency expressed concern that the effect of the medical support regulations would be that the IV–D agency would be working many of the child support cases twice (presumably once to establish child support and again to seek medical support) with the potential of issues other than child or medical support (presumably custody or visitation issues) being raised during an attempt to modify the order. The commenter indicated that Federal funding is not available for adjudicating these issues.

Response: In attempting to modify an order to address medical support, other unrelated issues may be raised. States should encourage the participation of custodial parents in modification hearings. If non-IV–D issues are raised, custodial parents should definitely be given an opportunity to obtain private counsel to protect their interests. The commenter is correct that Federal funding is available only for IV–D activities that are part of the approved State plan.

7. *Comment:* One State agency expressed concern that the regulation would allow financial support and medical support to compete in all levels of the child support system. One local agency pointed out that some States' child support guidelines take into account medical support in the form of medical insurance premium payments when establishing financial support amounts while other States' guidelines do not and requested guidance from OCSE on how to include medical insurance premium payments in financial support guidelines.

Response: Medical support is an integral part of child support and should not be considered as an extraneous issue. In developing the written criteria to identify the high priority cases for referral to the court or administrative authority for inclusion of medical support, States should consider whether adequate financial support to obtain medical support is already included in the original order.

In September, 1987, OCSE published "Development of Guidelines for Child Support Orders: Advisory Panel Recommendations and Final Report," which was prepared under a grant to the National Center for State Courts. Copies are available from the OCSE Reference Center, Room 2525, 330 C Street, SW., Washington, DC 20201. This publication may be useful to States in determining how to address medical support in support guidelines. However, each State was required to have implemented by October 1, 1987, guidelines using the criteria that the individual State considered appropriate.

Section 306.51(b)(3)(i) Evidence That Health Insurance May Be Available to the Absent Parent at a Reasonable Cost

We received four comments on the requirement that the written criteria for identifying cases with high potential for obtaining medical support include evidence that health insurance may be available to the absent parent at a reasonable cost.

Comment: The commenters all expressed concern that obtaining medical support would be hindered by restrictions on coverage by insurance companies, including the exclusion of dependents not living with the policyholder, born out-of-wedlock, or born before enrollment but not listed at the time of enrollment; geographic restrictions; and policy riders which void coverage if Medicaid benefits are available.

Response: OCSE is fully aware that there are certain restrictions imposed by some insurance companies which will hinder obtaining medical support. However, these should affect only a small proportion of cases. The IV–D agency should notify the Medicaid agency in cases where insurance company restrictions are inconsistent with section 1903(o) of the Social Security Act, which states that Medicaid is to be the payor of last resort. The IV–D agency should also work with the Medicaid agency and the State Insurance Commission to have unduly harsh health insurance policy restrictions investigated.

Section 306.51(b)(3)(ii)—Facts, as Defined by State Law, Sufficient to Warrant Modification to Include Medical Support

We received three comments on the requirement that the written criteria for identifying cases with high potential for obtaining medical support include facts, as defined by State law, which are sufficient to warrant modification to include medical support.

1. *Comment:* One commenter suggested that "law" should be replaced with "law, regulation, procedure or directive."

Response: While we believe circumstances which warrant modification of support orders are generally set forth in State law, some States may address those circumstances in regulations, judicial procedures or court directives. The point of this section is to ensure that criteria for identifying cases in which to seek medical support should take into consideration the circumstances under which it is allowable in the State to seek to modify a support order. Accordingly, we have accepted the commenter's suggestion and have revised § 306.51(b)(3)(ii) to include regulation, procedure or other directive.

2. *Comment:* One court officer pointed out that several States have laws that allow modification of child support orders only upon the showing of a material and substantial change in the circumstances of the parties since the entry of the original order. The commenter requested clarification about the apparent conflict between the

statement in the proposed rule that this "proposal would expand the audience of the current requirement to include existing cases with child support orders which require modification only for the purposes of medical support" and the actual language of § 306.51(b)(3)(ii) which requires States to establish criteria for identifying cases with a high potential for obtaining medical support based on facts which are sufficient to warrant modification of the existing order.

Response: As stated in the rationale accompanying the proposed regulation, not all cases where an absent parent has available health insurance would be appropriate for return to court. Support orders are generally modified only in response to a significant change in the circumstances of the parties since the rendering of the original order. Likely candidates for modification actions may include cases which indicate a change in the medical needs of the child or changes in the financial circumstances of either parent. Attention should be given to cases where medical support would be of obvious benefit to the family. This includes cases where the child's health is affected by chronic or debilitating illnesses which require extensive, expensive health services. States need to examine their own laws to determine what restrictions apply in the State with respect to seeking modification of an existing order to include health insurance.

3. *Comment:* One State agency commented that each State has different statutory standards for a modification of child support orders, and cited the difficult standard in its State.

Response: OCSE is cognizant of the diversity among the States with respect to when a modification can be sought. For that reason, the regulations allow States to develop criteria for identifying cases which warrant modification to include medical support under the State's law. If the State's law governing modification is restrictive, the number of cases in which the State will be able to seek modification to include medical support will be similarly restricted.

Section 306.51(b)(4)—Petition the Court or Administrative Authority to Modify Orders to Include Medical Support in the Form of Health Insurance Coverage

We received 24 comments on the requirement that the IV–D agency petition the court or administrative authority to modify orders to include medical support in the form of health insurance coverage for cases identified as appropriate according to the criteria in § 306.51(b)(3).

1. *Comment:* The majority of commenters expressed concern that the time, effort and staff required to examine existing cases and to petition the court or administrative authority for medical support in cases identified as appropriate should not be diverted from child support efforts.

Response: Prior regulations only mandated efforts to obtain medical support in new orders or orders modified for reasons other than just seeking medical support. Under that requirement, the need for medical support in existing cases was ignored. This regulation addresses that inequity by requiring States to identify those existing cases in which medical support might be available and there are grounds for modification solely to obtain such support. In so doing, it eliminates inequitable treatment under the program and ensures scrutiny to detect the availability of health insurance.

OCSE believes that the benefits of obtaining medical support in existing cases should outweigh the administrative burden of examining the current caseload and petitioning the court or administrative authority. The gathering of information to assist the decisionmaker, including a description of the available health insurance coverage, the medical history and special medical needs of the child(ren), and any change in the financial circumstances of either party, could lead to increased support awards, in addition to medical support for the child(ren) and Medicaid cost savings for the State and Federal government. In any case, Federal matching funds are available for any additional administrative costs associated with these activities and the expected Medicaid cost savings should far outstrip any cost of additional resources.

2. *Comment:* One State agency pointed out that State law prohibits the County Attorney from petitioning the court to modify a child support order, including any ancillary matters, and that this provision would require a State law amendment.

Response: Section 306.51(b)(4) requires IV–D agencies to petition the court or administrative authority to modify support orders for cases that meet the criteria established by the State under § 306.51(b)(3). In order to meet this requirement, States will have to develop procedures, enact laws, or make whatever changes are necessary to allow them to secure modifications in accordance with § 306.51(b)(4).

3. *Comment:* One State agency expressed concern that it would have to amend its administrative process law in order to modify orders to include medical support administratively.

Response: Use of administrative process can expedite establishment and enforcement of support. If legislation is needed to allow administrative modification of orders to include medical support, we urge the State to pursue a legislative change.

4. *Comment:* Two commenters stated that some courts would not consider a revision of child support orders to include medical support to be a significant enough change in the circumstances of the parties to be defensible in the court. One commenter also expressed concern that the court might reduce the financial support obligation if the case were to be returned to court.

Response: The IV–D agency is only required to petition the court or administrative authority for medical support if it believes the circumstances would warrant a modification in accordance with State law and procedures. The court or other authority must decide whether the need for medical support is sufficient to revise the child support order. However, if the IV–D agency adequately prepares its requests for modification, explaining the child(ren)'s needs and that the absent parent has available health insurance coverage at a reasonable cost, the court or administrative authority could well grant the requested modification. The possibility of a decrease in the financial support obligation at the same time is a factor the State should consider in determining which cases warrant petitions for modification. The child(ren)'s medical needs may, in some cases, be so important that the health insurance coverage is essential and warrants any risk of reduction in financial support. We believe that in most cases where there has been a substantial change in circumstances, the hearing for consideration of medical support could also result in an increase in the amount of financial support.

5. *Comment:* One commenter stated that many child support orders are obtained by consent and that absent parents' failure to consent to a revision to include medical support in the child support order could increase the burden on the already back-logged court system. Nine commenters expressed concern over the increased workload on the courts due to child support revisions being requested to include medical support.

Response: We encourage IV–D agencies to attempt to modify a child support order to include medical support by consent order. However, should such

attempts fail, petitions for modification will have to be filed. State criteria for selecting cases "ripe" for modification should enable the use of expedited processes to establish most modified orders and, therefore, only complex cases should be referred to the full judicial process. The courts should not be unduly burdened because we believe that most modifications will be routine and cases will be handled under expedited processes.

6. *Comment:* One State agency suggested that it is beyond the required functions of the IV–D agency to address the medical history of the child(ren) in petitioning for medical support.

Response: OCSE does not envision an examination of the child(ren)'s medical history in all cases. Rather, such an examination would only be needed when the medical history and special medical needs come to the attention of the IV–D agency and are integral to the argument for inclusion of medical support in the child support order.

7. *Comment:* One State agency strongly objected to the provision which requires that revisions to child support orders be sought solely for the purpose of including medical support. The State agency suggested that the same result would be achieved eventually as cases were reviewed and petitioned for revision of financial support.

Response: OCSE agrees with the commenter that these regulations would not be necessary if all child support awards were routinely reviewed and updated since the State must petition for inclusion of medical support in all new and modified cases. The State may not have to establish a separate review process for medical support, if it routinely reviews all cases for potential modification of support and there are provisions in its review criteria which allow cases to be modified for medical support even in the absence of a potential revision in the support award.

8. *Comment:* One State agency worried that petitioning the court or administrative authority to include medical support in child support orders could result in countersuits that will involve property distribution, custody or visitation issues.

Response: Although there is potential for additional, extraneous issues to be raised when the court or administrative authority is petitioned for inclusion of medical support in the child support orders, research indicates that there is a much greater chance for the child(ren)'s situation to be improved (e.g., inclusion of medical support, an increase in the amount of financial support) by petitioning the court or administrative authority.

9. *Comment:* One advocacy group commented that, since their State law provides that the amount the absent parent pays for the child(ren)'s medical insurance be deducted from his or her income before calculating the financial support obligation, if the custodial parent can provide medical insurance for the child(ren), the proposed requirement would unnecessarily reduce the amount of financial support.

Response: Section 306.51(b)(1) requires the IV–D agency to petition for medical support "unless the custodial parent and child(ren) have satisfactory health insurance other than Medicaid." If the custodial parent does not have access to health insurance, the family may be better off with medical support, even if the result is less financial support.

10. *Comment:* One local agency commented that the custodial parent who is an AFDC recipient might not wish to pursue medical support since health services are provided by the Medicaid program while the non-AFDC custodial parent would not welcome medical support, unless the child(ren) have major medical problems, if health insurance payments might impact on the absent parent's ability to pay financial support.

Response: In accordance with section 1912 of the Act, Medicaid recipients must assign any rights to medical support to the Medicaid agency and cooperate in securing that support as a condition of eligibility for Medicaid. Non-AFDC custodial parents, who are not Medicaid applicants or recipients, must consent before receipt of medical support enforcement services, in accordance with § 306.51(c). Since custodial parents otherwise would have to secure health care coverage when they leave the AFDC roles, inclusion in the absent parent's group plan could be considerably cheaper.

Section 306.51(b)(5) Provide the Custodial Parent With the Health Insurance Policy Information

We received 13 comments on the requirement that the custodial parent be provided information pertaining to the health insurance policy which had been secured for the dependent child(ren) under this section.

1. *Comment:* The majority expressed concern that the mechanism for obtaining this information has not been established and that meeting this requirement would be difficult and expensive.

Response: Section 306.51(b)(5) requires IV–D agencies to provide the custodial parent with health insurance policy information when the absent parent secures coverage for the dependent children. This would include only any information which is available to the IV–D agency.

2. *Comment:* Four State agencies asked whether the IV–D agency would be required to interpret the provisions of the policy or to assist the custodial parent with the filing of claims.

Response: The IV–D agency is required to provide the custodial parent with health insurance policy information when the absent parent secures coverage for the dependent child(ren), including information available to the IV–D agency about the policy which will permit a claim to be filed and what services are to be covered, or provided in the case of HMO's and PPO's. The IV–D agency is not required to interpret the policy or assist in the filing of claims.

3. *Comment:* One State agency suggested that the States should be given flexibility to designate which agency should be responsible for notifying the custodial parent of available health insurance coverage.

Response: The IV–D agency need only ensure that the custodial parent gets the information about the health insurance policy. If the IV–D agency prefers to arrange for the custodial parent to receive the information from some other source via a cooperative agreement or other procedure, it may do so, as long as the custodial parent receives the necessary information.

4. *Comment:* Two commenters, including a State agency, suggested that we specify what information the IV–D agency must provide to the custodial parent.

Response: The IV–D agency must provide any information available to it about the health insurance policy which would permit a claim to be filed or, in the case of HMO's or PPO's, services to be provided.

5. *Comment:* One State agency asked if implementation could be delayed for a year to allow States to assess the fiscal impact.

Response: OCSE believes that adequate time has elapsed since the enactment of the 1984 Amendments for the States to have fully prepared for their implementation. Further delay would only result in children being deprived of the medical support which is their due.

Comments Received on Potential Financial Impact of Requirements

1. *Comment:* Sixteen commenters pointed out that their child support enforcement programs are audited and evaluated on the basis of the ratio of

child support collections to expenditures and that inclusion of expenditures for medical support enforcement without providing appropriate credit for collection of health insurance premiums or savings to the Medicaid program would lower that ratio. Some commenters recommended that expenditures associated with medical support activities be deducted from the IV–D agency's total child support enforcement expenditures when performance ratios are computed.

Response: The method of calculating incentive payments is specified in title IV–D of the Act. However, we believe that the overall impact of the requirements in this regulation on incentive payments to States will be nominal.

2. *Comment:* Fourteen commenters requested that an incentive system for medical support enforcement activities be established. Some commenters specified that OCSE should permit the State to count the health insurance coverage premiums as collections eligible for incentive payments.

Response: Current statute does not allow health insurance premiums to be counted as collections eligible for incentive payments. However, since the savings accruing to State governments as a result of medical support efforts may be substantial, States may wish to examine the possibility of rewarding their IV–D agencies for aggressive medical support efforts with some portion of the non-Federal share of resultant savings. States could develop incentive formulas to reward their State or local IV–D agencies for successful medical support enforcement activities based on Medicaid savings.

3. *Comment:* Four commenters expressed concern that OCSE had underestimated the impact of the regulations. One State agency suggested that OCSE should do an extensive impact study or pilot project to ensure that implementation of the medical support regulations would have no adverse impact on the States.

Response: OCSE realizes that the implementation of the medical support regulations will require additional efforts and expenditures, but the long-term benefit to the children and the Medicaid savings should well exceed the implementation costs. States should look beyond the IV–D agency perspective to the cost-benefit potential for the State as a whole when comparing Medicaid savings and IV–D costs.

Paperwork Reduction Act

45 CFR 306.51 (b)(3) and (b)(5) of this regulation contain information collection requirements which are subject to OMB review under the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The public is not required to comply with these information collection requirements until OMB approves them under section 3507 of the Paperwork Reduction Act. A notice will be published in the **Federal Register** when OMB approval is obtained.

Economic Impact Analysis

The Secretary has determined, in accordance with Executive Order 12291 that this regulation does not constitute a "major" rule. A major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Executive Order requires that, for major rules, we prepare a regulatory impact analysis which describes the potential benefits and costs of the rule, together with the potential benefits and costs of alternative approaches.

The regulation will have little or no net economic effect, because it will not change substantially the total amount that will be spent on medical care for dependent children of absent parents. The effect here is not the level of medical coverage but rather who will finance it—parents, third-party payors, and ultimately, employers and employees who pay premiums, versus the Medicaid program and taxpayers. As total expenditures will remain about the same, this regulation only results in a redistribution of resources.

As the purpose of this regulation is to provide enhancements of a limited nature to current medical support enforcement requirements, no effective alternatives to this approach were apparent. This regulation merely expands the audience of current medical support enforcement requirements to include certain targeted cases as identified by the State.

Regulatory Flexibility Analysis

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. This regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

List of Subjects in 45 CFR Part 306

Child Support, Grant programs/social programs, Medicaid, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Programs No. 13.783, Child Support Enforcement Program)

Date: April 8, 1988.

Wayne A. Stanton,

Director, Office of Child Support Enforcement.

Approved: June 30, 1988.

Otis R. Bowen,

Secretary.

PART 306—[AMENDED]

For the reasons set out in the preamble, 45 CFR Part 306 is amended as follows:

1. The authority citation for Part 306 is revised to read as set forth below:

Authority: 42 U.S.C. 652, 654(13), 1302, 1396a(a)(25), 1396b(d)(2), 1396b(o), 1396b(p), and 1986k.

2. 45 CFR 306.10 is amended by revising paragraph (g) to read as follows:

§ 306.10 Functions to be performed under a cooperative agreement.

* * * * *

(g) Secure health insurance coverage through court or administrative order.

* * * * *

§ 306.40 [Removed]

3. 45 CFR 306.40 is removed.

4. 45 CFR 306.51 is amended by revising paragraph (a) to read as follows:

§ 306.51 Securing and enforcing medical support obligations.

(a) For purposes of this section:

(1) Health insurance is considered reasonable in cost if it is employment-related or other group health insurance, regardless of service delivery mechanism.

(2) Health insurance includes fee for service, health maintenance organization, preferred provider organization, and other types of coverage under which medical services could be provided to the dependent child(ren) of an absent parent.

* * * * *

5. 45 CFR 306.51 is amended by redesignating paragraphs (b) (3), (4), (5) and (6) as (6), (7), (8) and (9) respectively and by inserting new paragraphs (b) (3), (4) and (5) as follows:

§ 306.51 Securing and enforcing medical support obligations.

* * * * *

(b) * * *

(3) Establish written criteria to identify cases not included under paragraphs (b)(1) and (b)(2) of this section where there is a high potential for obtaining medical support based on—

(i) Evidence that health insurance may be available to the absent parent at a reasonable cost, and

(ii) Facts, as defined by State law, regulation, procedure, or other directive, which are sufficient to warrant modification of the existing support order to include health insurance coverage for a dependent child(ren).

(4) Petition the court or administrative authority to modify support orders for cases identified in paragraph (b)(3) of this section to include medical support in the form of health insurance coverage.

(5) Provide the custodial parent with information pertaining to the health insurance policy which has been secured for the dependent child(ren) pursuant to an order obtained under this section.

* * * * *

[FR Doc. 88-20876 Filed 9-15-88; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Ch. I

[CGD 86-033]

Update of Cross References and Correction of U.S.C. Citations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is amending its regulations to update internal references to statutes and regulations affecting hazardous materials. This action is necessary because new legislation and the consolidation of hazardous materials regulations has made many internal references incorrect. These changes will make it easier to follow the Coast Guard regulations and related publications.

EFFECTIVE DATE: September 16, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Frank K. Thompson, Hazardous Materials Branch, Office of Marine Safety, Security, and Environmental Protection, (202) 267-1577.

SUPPLEMENTARY INFORMATION: Since 1976 a number of changes have occurred in the statutes and regulations affecting the transportation of hazardous materials. Because of these changes the Coast Guard regulations now contain a number of incorrect or out of date authority citations and cross references to hazardous materials regulations. The purpose of this document is to correct those citations and references. The amendments in this document fall into the following three categories:

1. In 1976 a large part of the Coast Guard dangerous cargo (hazardous materials) regulations, which had been in 46 CFR Part 146, was transferred to Title 49, where the hazardous materials regulations of all the modes within the Department of Transportation were consolidated into Parts 171 through 179. Nearly all of 46 CFR Part 146 was revoked at that time. However, many cross-references to 46 CFR Part 146 or to 46 CFR Subchapter N in other parts of Title 46 were left unchanged. Since all of the referenced material has been replaced by provisions of 49 CFR Parts 171–179, these references are being amended to cite the appropriate provisions within Title 49.

2. Container standards previously under the jurisdiction of the Interstate Commerce Commission are now under the jurisdiction of the Department of Transportation. Therefore any references in the Coast Guard regulations to "ICC" container standards are being amended to refer to "DOT" packaging specifications.

3. In 1983 the U.S. Congress, in enacting Pub. L. 98-89, repealed the "Dangerous Cargo Act" formerly codified at 46 U.S.C. 170. In numerous places in the statutory authorities and the text of the Coast Guard regulations in 46 CFR Chapter I, references and citations to 46 U.S.C. 170 remain. These citations are being amended to delete the reference to 46 U.S.C. 170 and other corrections in the statutory authority citations are being made, as appropriate.

Notice of Proposed Rulemaking

This rule merely updates internal cross references and deletes references to 46 U.S.C. 170 and corrects other statutory authority citations. Therefore, under the provisions of 5 U.S.C. 553, this amendment is being issued as a final rule without publication of a notice of proposed rulemaking, which is unnecessary. Since the actions that necessitated these changes occurred several years ago, good cause exists for making these rules effective upon publication.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rulemaking merely updates internal cross references and deletes references to 46 U.S.C. 170. There is no substantive effect on current Coast Guard regulations.

Regulatory Flexibility Evaluation

Since this rulemaking merely updates internal references, the Coast Guard certifies that there is no significant economic impact on a substantial number of small entities.

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612 and it has been determined that this rulemaking does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Environmental Analysis

This rulemaking 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.2.1 of Commandant Instruction M16475.1B. A Categorical Exclusion Determination has been prepared and is included as part of the regulatory package.

List of Subjects

46 CFR Part 2

Marine safety, Reporting and recordkeeping requirements, Vessels.

46 CFR Part 24

Marine safety.

46 CFR Part 25

Fire prevention, Marine safety.

46 CFR Part 30

Cargo vessels, Foreign relations, Hazardous materials transportation, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 31

Cargo vessels, Marine safety, Reporting and recordkeeping requirements.

46 CFR Part 33

Cargo vessels, Marine safety, Occupational safety and health, Seamen.

46 CFR Part 35

Cargo vessels, Marine safety, Navigation (water), Occupational safety and health, Reporting and recordkeeping requirements, Seamen.

46 CFR Part 37

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection.

46 CFR Part 38

Cargo vessels, Fire prevention, Gases, Hazardous materials transportation, Marine safety.

46 CFR Part 50

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 61

Reporting and recordkeeping requirements, Vessels.

46 CFR Part 70

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 78

Marine safety, Navigation (water), Passenger vessels, Penalties, Reporting and recordkeeping requirements.

46 CFR Part 90

Cargo vessels, Marine safety.

46 CFR Part 94

Cargo vessels, Marine safety.

46 CFR Part 97

Cargo vessels, Marine safety, Navigation (water), Reporting and recordkeeping requirements.

46 CFR Part 99

Cargo vessels, Marine safety, Nuclear vessels, Radiation protection, Reporting and recordkeeping requirements.

46 CFR Part 105

Cargo vessels, Fishing vessels, Hazardous materials transportation, Marine safety.

46 CFR Part 146

Arms and munitions, Hazardous materials transportation, Labeling, Marine safety, Packaging and containers, Reporting and recordkeeping requirements.

46 CFR Part 147

Arms and munitions, Hazardous materials transportation, Marine safety, Packaging and containers.

46 CFR Part 147A

Fire prevention, Hazardous substances, Occupational safety and health, Pesticides and pests, Seamen, Vessels.

46 CFR Part 175

Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 176

Fire prevention, Marine safety, Passenger vessels, Reporting and recordkeeping requirements.

46 CFR Part 188

Marine safety, Oceanographic research vessels.

46 CFR Part 194

Explosives, Hazardous materials transportation, Marine safety, Oceanographic research vessels.

46 CFR Part 195

Marine safety, Navigation (water), Oceanographic research vessels.

In consideration of the foregoing, the Coast Guard hereby amends 46 CFR Chapter I as set forth below.

PART 2—VESSEL INSPECTIONS

1. The authority citation for Part 2 is revised to read as follows:

Authority: 33 U.S.C. 1903; 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115, 8105; 46 App. U.S.C. 1295g; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46; Subpart 2.45 also issued under the authority of Act Dec. 27, 1950, ch. 1155, § 1, 2, 64 Stat. 1120 (see 46 U.S.C. App. note prec. 1).

§ 2.01-7 [Amended]

2. The table in § 2.01–7(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171–179" are added in their place.

b. The words "46 CFR Part 146" are removed, wherever they appear, and the words "49 CFR Parts 171–179" are added in their place.

c. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171–179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law."

d. Footnote 12 is removed.

PART 24—GENERAL PROVISIONS

3. The authority citation for Part 24 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 4104, 4302; E.O. 12234, 45 FR 58801, 3 CFR, 1980, Comp., p. 277; 49 CFR 1.46.

§ 24.01-10 [Removed]

4. Section 24.01–10 is removed.

§ 24.05-1 [Amended]

5. The table in § 24.05–1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171–179" are added in their place.

b. The words "46 CFR Part 146" are removed, wherever they appear, and the words "49 CFR Parts 171–179" are added in their place.

c. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171–179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law."

d. Footnote 13 is removed.

PART 25—REQUIREMENTS

6. The authority citation for Part 25 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 4104, 4302; 49 CFR 1.46.

§ 25.45-1 [Amended]

7. Section 25.45–1 is amended by changing the phrase "Parts 146 and 147" to read "Part 147".

PART 30—GENERAL PROVISIONS

8. The authority citation for Part 30 is revised to read as follows:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 30.01–2 also issued under the authority of 44 U.S.C. 3507.

§ 30.01-5 [Amended]

9. Section 30.01–5 is amended as follows:

a. In paragraphs (a)(1)(ii), (a)(2)(ii), and (a)(3)(iii), the words "Part 146 of this chapter" are replaced by "49 CFR Parts 171–179".

b. The table in paragraph (d) is amended as follows:

i. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171–179" are added in their place.

ii. The words "46 CFR Part 146" are removed, wherever they appear, and the words "49 CFR Parts 171–179" are added in their place.

iii. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171–179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law."

iv. Footnote 12 is removed.

§ 30.01-25 [Amended]

10. Section 30.01–25(c) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Parts 171–179".

PART 31—INSPECTION AND CERTIFICATION

11. The authority citation for Part 31 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j), 1607, 2071; 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

PART 33—LIFESAVING EQUIPMENT

12. The authority citation for Part 33 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3102, 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 35—OPERATIONS

13. The authority citation for Part 35 is revised to read as follows:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

§ 35.01-45 [Amended]

14. Section 35.01–45(d) is amended by changing "ICC" to "DOT".

§ 35.30-40 [Amended]

15. Section 35.30–40(a)(1) is amended by removing "ICC".

PART 37—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

16. The authority citation for Part 37 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 38—LIQUEFIED FLAMMABLE GASES

17. The authority citation for Part 38 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 38.01-1 [Amended]

18. Section 38.01–1(b) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Parts 171–179".

PART 50—GENERAL PROVISIONS

19. The authority citation for Part 50 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703, 5115; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.45, 1.46; § 50.01–20 also issued under the authority of 44 U.S.C. 3507.

§ 50.01-1 [Removed]

20. Section 50.01–1 is removed.

PART 61—PERIODIC TESTS AND INSPECTIONS

21. The authority citation for Part 61 is revised to read as follows:

Authority: 43 U.S.C. 1333; 46 U.S.C. 3306, 3703; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

22. Section 61.10–5(f) and (h)(1) are revised to read as follows:

§ 61.10-5 Periodic inspection.

* * * * *

(f) *Compressed gas or hazardous liquid pressure vessel tests.* Cargo tanks of pressure vessel configuration containing liquefied, compressed gases or hazardous liquids must be inspected and tested as required by the applicable regulations published in Subchapter D or Subchapter I of this chapter.

* * * * *

(h) Pneumatic tests. (1) Pressure vessels that were pneumatically tested before being stamped with the Coast Guard Symbol must be thoroughly examined internally and externally biennially at the regular inspection for certification accept in those instances where the inspection interval is prescribed otherwise, by the specific regulations applicable to the product carried, in Subchapter D. (Tank Vessels), Subchapter I (Cargo and Miscellaneous Vessels), or Subchapter I–A (Mobile Offshore Drilling Units) of this chapter. For those tanks whose design precludes a thorough intenal or external examination. the thickness must be determined by a nondestructive method acceptable to the Officer in Charge, Marine Inspection.

* * * * *

PART 70—GENERAL PROVISIONS

23. The authority citation for Part 70 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.45, 1.46. § 70.01–15 also issued under the authority of 44 U.S.C. 3507.

§ 70.01-10 [Removed]

24. Section 70.01–10 is removed.

§ 70.05-1 [Amended]

25. The table in § 70.05–1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171–179" are added in their place.

b. Footnote 2 is revised to read as follows: "Subchapters E (Load Lines), F (Marine Engineering), J (electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. the provisions of 49 CFR Parts 171–179 apply whenever hazardous materials are on board vessels (including motorboats, except when specifically exempted by law."

c. Footnote 12 is removed.

26. Section 70.05–12(c) is revised to read as follows:

§ 70.05-12 Application to vessels concerning nuclear energy.

* * * * *

(c) The regulations covering the transportation and handling of radioactive materials as cargo are in 49 CFR Parts 171–179.

* * * * *

27. Section 70.05–30 is amended by revising paragraph (a)(2) to read as follows:

§ 70.05-30 Combustible liquid cargo in bulk.

(a) * * *

(2) Grade D in a portable tank in accordance with 49 CFR Parts 171–179.

§ 70.10-44 [Amended]

28. Section 70.10–44 is amended by changing the last sentence to read: "In addition, preparation of automobiles prior to carriage, with the exception of disconnecting battery cables, must be in accordance with the applicable provisions of 49 CFR 176.905."

PART 78—OPERATIONS

29. The authority citation for Part 78 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101, 8105, 49 U.S.C. App. 1804; E.O. 11735 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

Subpart 78.80—[Amended]

30. The note at the end of § 78.80–1 is revised to read as follows:

§ 78.80–1 Application.

* * * * *

Note: The regulations affecting the use of power-operated industrial trucks on foreign vessels are in 49 CFR 176.78, or in the case of foreign tank vessels in Subpart 35.70 of Subchapter D (Tank Vessels) of this chapter.

31. Section 78.80–10(a)(1), Note, and (e) are revised to read as follows:

§ 78.80–10 Use of power-operated industrial truck in various locations.

(a) * * *

(1) * * *

Note: Class A, Class B, and Class C explosives are defined in 49 CFR Part 173.53, 173.88, and 173.100, respectively.

* * * * *

(e) *Spaces containing other hazardous materials.* In a space in which hazardous materials subject to 49 CFR Parts 171–179, except those provided for in paragraphs (a), (b), (c) or (d) of this section, are stowed, any approved power-operated industrial truck may be used to handle cargo including the handling of such hazardous materials.

* * * * *

32. Section 78.80–25(b)(3) is revised to read as follows:

§ 78.80–25 Charging or replacing batteries.

* * * * *

(b) * * *

(3) The hold shall not contain any cargo coming under the regulations in 49 CFR Parts 171–179.

* * * * *

§ 78.80–35 [Amended]

33. Section 78.80–35 is amended by changing the reference to "ICC" to "DOT", wherever it appears.

PART 90—GENERAL PROVISIONS

34. The authority citation for Part 90 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306 and 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 90.01–10 [Removed]

35. Section 90.01–10 is removed.

§ 90.05–1 [Amended]

36. The table in § 90.05–1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171–179" are added in their place.

b. Footnote 2 is revised to read as follows:

[2] Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171–179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

c. Footnote 12 is removed.

37. Section 90.05–35 is amended by revising paragraphs (a)(1)(ii) and (2)(iii) to read as follows:

§ 90.05–35 Flammable and combustible liquid cargo in bulk.

(a) * * *

(1) * * *

(ii) Hazardous materials in a portable tank in accordance with 49 CFR Parts 171–179, or in a marine portable tank approved for the material under Part 64 of this chapter.

* * * * *

(2) * * *

(iii) Hazardous materials in a portable tank in accordance with 49 CFR Parts 171–179, or in a marine portable tank approved for the material under Part 64 of this chapter.

38. Section 90.05–40(c) is revised to read as follows:

§ 90.05–40 Application to vessels concerning nuclear energy.

* * * * *

(c) The regulations covering the transportation and handling of radioactive materials as cargo are in 49 CFR Parts 171–179.

* * * * *

§ 90.10–38 [Amended]

39. Section 90.10–38 is amended by changing the last sentence to read: "In addition, preparation of automobiles prior to carriage, with the exception of disconnecting battery cables, must be in accordance with the applicable provisions of 49 CFR 176.905."

PART 94—LIFESAVING EQUIPMENT

40. The authority citation for Part 94 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3102, 3306; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 97—OPERATIONS

41. The authority citation for Part 97 continues to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 6101; 49 U.S.C. App 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

42. The note at the end of § 97.70–1 is revised to read as follows:

§ 97.70–1 Application.

* * * * *

Note: The regulations affecting the use of power-operated industrial trucks on foreign vessels are in 49 CFR 176.78, or in the case of foreign tank vessels in Subpart 35.70 of Subchapter D (Tank Vessels) of this chapter.

43. Section 97.70–10(a)(1), Note, and (e)(1) are revised to read as follows:

§ 97.70–10 Use of power-operated industrial trucks in various locations.

(a) * * *

(1) * * *

Note: Class A, Class B, or Class C explosives are defined in 49 CFR 173.53, 173.88, and 173.100, respectively.

* * * * *

(e) *Spaces containing other hazardous materials.* (1) In a space in which hazardous materials subject to the regulations in 49 CFR Parts 171–179, except those provided for in paragraphs (a), (b), (c) and (d) of this section, are stowed, any approved power-operated industrial truck may be used to handle cargo including the handling of such dangerous cargoes or hazardous materials.

* * * * *

44. Section 97.70–25(b)(3) is revised to read as follows:

§ 97.70–25 Charging or replacing batteries.

* * * * *

(b) * * *

(3) The hold shall not contain any cargo coming under the regulations in 49 CFR Parts 171–179.

* * * * *

§ 97.70–35 [Amended]

45. Section 97.70–35 is amended by changing the reference to "ICC" to "DOT", wherever it appears.

PART 99—SPECIAL CONSTRUCTION, ARRANGEMENT, AND OTHER PROVISIONS FOR NUCLEAR VESSELS

46. The authority citation for Part 99 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 105—COMMERCIAL FISHING VESSELS DISPENSING PETROLEUM PRODUCTS

47. The authority citation for Part 105 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp., p. 793; 49 CFR 1.46.

PART 146—TRANSPORTATION OR STORAGE OF MILITARY EXPLOSIVES ON BOARD VESSELS

48. The authority citation for Part 146 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 146.01–5 also issued under the authority of 44 U.S.C. 3507.

PART 147—REGULATIONS GOVERNING USE OF DANGEROUS ARTICLES AS SHIPS' STORES AND SUPPLIES ON BOARD VESSELS

49. The authority citation for Part 147 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

PART 147A—INTERIM REGULATIONS FOR SHIPBOARD FUMIGATION

50. The authority citation for Part 147A is revised to read as follows:

Authority: 49 U.S.C. App. 1804; 49 CFR 1.46.

51. Section 147A.3 is revised to read as follows:

§ 147A.3 Applicability.

This part prescribes the rules for shipboard fumigation on vessels to which 49 CFR Parts 171–179 apply under 49 CFR 176.5.

PART 175—GENERAL PROVISIONS

52. The authority citation for Part 175 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306, 3703, 5115, 8105; 49 U.S.C. App. 1804; 49 CFR 1.45, 1.46; § 175.01–3 also issued under the authority of 44 U.S.C. 3507.

§ 175.05–1 [Amended]

53. The table in § 175.05–1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171–179" are added in their place.

b. Footnote 2 is revised to read as follows:

[2] Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171–179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

c. Footnote 12 is removed.

PART 176—INSPECTION AND CERTIFICATION

54. The authority citation for Part 176 is revised to read as follows and all other authority citations in the part are removed:

Authority: 33 U.S.C. 1321(j); 46 U.S.C. 3306, 8105; 49 U.S.C. App. 1804; E.O. 11735, 38 FR 21243, 3 CFR 1971–1975 Comp., p. 793; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1.46.

PART 188—GENERAL PROVISIONS

55. The authority citation for Part 188 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 2113, 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 188.01–10 [Removed]

56. Section 188.01–10 is removed.

§ 188.05–1 [Amended]

57. The table in § 188.05–1(a) is amended as follows:

a. The words "or 146" are removed, wherever they appear, and the words "or 49 CFR Parts 171–179" are added in their place.

b. Footnote 2 is revised to read as follows:

[2] Subchapters E (Load Lines), F (Marine Engineering), J (Electrical Engineering), and N (Dangerous Cargoes) of this chapter may also be applicable under certain conditions. The provisions of 49 CFR Parts 171–179 apply whenever hazardous materials are on board vessels (including motorboats), except when specifically exempted by law.

c. Footnote 12 is removed.

58. Section 188.05–2(b) is revised to read as follows:

§ 188.05–2 Exemptions from inspection laws for oceanographic research vessels and terms and conditions which apply in lieu thereof.

* * * * *

(b) The oceanographic research vessel shall comply with 49 CFR Parts 171–179 whenever applicable, except to the extent as specifically provided otherwise in this subchapter.

* * * * *

59. Section 188.05–15(c) is revised to read as follows:

§ 188.05–15 Application to vessels concerning nuclear energy.

* * * * *

(c) The regulations covering the transportation and handling of radioactive materials as cargo are in 49 CFR Parts 171–179.

* * * * *

§ 188.10–3 [Amended]

60. Section 188.10–3 is amended by changing "ICC" to "DOT".

§ 188.10–21 [Amended]

61. Section 188.10–21 is amended by changing the last sentence to read: "Compressed gases are discussed in more detail in 49 CFR Parts 171–179."

§ 188.10–25 [Amended]

62. Section 188.10–25 is amended by changing the last sentence to read: "Explosives are discussed in more detail in 49 CFR Parts 171–179."

63. Section 188.10–37 is revised to read as follows:

§ 188.10–37 Label.

This term means the label required by 49 CFR Part 172 to be affixed to containers of explosives or other hazardous materials.

§ 188.10–73 [Amended]

64. Section 188.10–73 is amended by removing "Parts 146 or 147" and inserting "Part 147" in its place.

65. The title of Part 194 is revised to read as follows:

PART 194—HANDLING, USE AND CONTROL OF EXPLOSIVES AND OTHER HAZARDOUS MATERIALS

66. The authority citation for Part 194 is revised to read as follows and all other authority citations in the part are removed:

Authority: 46 U.S.C. 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR 1980 Comp., p. 277; 49 CFR 1.46.

§ 194.01–1 [Amended]

67. Section 194.01–1(c) is amended by removing "Part 145 of Subchapter N (Dangerous Cargoes) of this chapter"

and inserting "49 CFR Parts 171–179" in its place.

68. Section 194.05–1(b) is revised to read as follows:

§ 194.05–1 General.

* * * * *

(b) Chemical stores shall be stowed in a chemical storeroom in approved drums, barrels, or other packages, properly marked and labeled, as prescribed by 49 CFR Part 172 for those specific commodities, except that those chemical stores excluded from the storeroom by §§ 194.20–15 and 194.20–17, and those chemical stores not desired to be located in a chemical storeroom, shall be stored in accordance with the appropriate provisions of 49 CFR Part 176 insofar as such regulations apply to cargo vessels.

* * * * *

69. Section 194.05–3 is revised to read as follows:

§ 194.05–3 Chemical stores.

(a) Chemical stores are those chemicals which possess one or more of the following properties and shall be classed, marked and labeled in accordance with 49 CFR Part 172:

(1) Explosives.
(2) Flammable liquids.
(3) Flammable solids.
(4) Oxidizing materials.
(5) Corrosive materials.
(6) Compressed gasses.
(7) Poisons.
(8) Cumbustible liquids.
(9) Other Regulated Materials (DOT Hazard Class "ORM").

(b) Substances for use in the chemistry laboratory, or to be stored in the chemical storeroom and generally covered under paragraph (a) of this section but not specifically listed by name in 49 CFR 172.101 must be approved by the Commandant prior to being carried on board a vessel.

§ 194.05–5 [Amended]

70. Section 194.05–5(a) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Part 172".

71. Section 194.05–7 (a), (b), and (c)(1) are revised to read as follows:

§ 194.05–7 Explosives—Detail requirements.

(a) Except as otherwise provided by this part, Class A explosives and blasting caps shall be carried in magazines specifically fitted for that purpose as described in Subpart 194.10.

(b) Military explosives shall be identified by their appropriate DOT classification.

(c)(1) Compatibility of magazine stowage shall be in accordance with 49 CFR 176.83.

* * * * *

§ 194.05–9 [Amended]

72. Section 194.05–9(b) is amended by changing "Subpart 146.21 of Part 146" to "49 CFR Parts 172, 173, and 179".

§ 194.05–11 [Amended]

73. Section 194.05–11(b) is amended by changing "Subpart 146.22 of Part 146" to "49 CFR Parts 172, 173, and 179".

§ 194.05–13 [Amended]

74. Section 194.05–13(b) is amended by changing "Subpart 146.23 of Part 146" to "49 CFR Parts 172, 173, and 176".

§ 194.05–15 [Amended]

75. Section 194.05–15(b) is amended by changing "Subpart 146.24 of Part 146" to "49 CFR Parts 172, 173, and 176".

§ 194.05–17 [Amended]

76. Section 194.05–17(b) is amended by changing "Subpart 146.25 of Part 146" to "49 CFR Parts 172, 173, and 176".

§ 194.05–19 [Amended]

77. Section 194.05–19(b) is amended by changing "Subpart 146.26 of Part 146" to "49 CFR Parts 172, 173, and 176".

78. Section 194.05–21 is revised to read as follows:

§ 194.05–21 Other regulated materials.

(a) Other Regulated Materials (DOT Hazard Class "ORM") as chemical stores and reagents shall be governed by appropriate portions of Subparts 194.15 and 194.20 of this part.

(b) Other Regulated Materials (DOT Hazard Class "ORM") which are not chemical stores and reagents shall be regulated by the appropriate portions of 49 CFR Parts 172, 173, and 176.

§ 194.10–1 [Amended]

79. Section 194.10–1(b) is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Parts 173 and 176".

80. Section 194.10–5(b)(2) is revised to read as follows:

§ 194.10–5 Type and location.

* * * * *

(b) * * *

(2) Magazine vans may be installed below decks in holds provided the hold location meets the location requirements for integral magazines. The cofferdam requirement of paragraph (a)(3) of this section is considered as fulfilled if the van is of steel construction. Holds so utilized shall not be used for stowage of other hazardous materials covered by 49 CFR Parts 171–179. The stowage of other explosives or oxidizing materials in the same hold is permitted in accordance with the requirements of 49 CFR Part 176.

* * * * *

§ 194.10–35 [Amended]

81. Section 194.10–35(e) is amended by changing "§ 146.09–6 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR 176.150".

82. Section 194.15–15 is revised to read as follows:

§ 194.15–15 Chemicals other than compressed gases.

Chemicals, including those listed in 49 CFR Part 172, may be stored in small working quantities in the chemical laboratory.

§ 194.15–17 [Amended]

83. Section 194.15–17(a) is amended by changing "§ 146.24–15(d) of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR 173.301(g)".

§ 194.20–15 [Amended]

84. Section 194.20–15 is amended by changing "Part 146 of Subchapter N (Dangerous Cargoes) of this chapter" to "49 CFR Part 172" in paragraphs (d) and (f).

85. Section 194.20–17 (b) and (c) are revised to read as follows:

§ 194.20–17 Compressed gases.

* * * * *

(b) Flammable compressed gases and oxygen shall be stowed in accordance with 49 CFR Part 176, Subpart H.

(c) Compressed gas cylinders shall have valve protection in accordance with 49 CFR 173.301(g) and shall be safely stowed in a vertical position in suitable racks.

PART 195—VESSEL CONTROL AND MISCELLANEOUS SYSTEMS AND EQUIPMENT

86. The authority citation for Part 195 is revised to read as follows:

Authority: 46 U.S.C. 3306; 49 U.S.C. App. 1804; E.O. 12234, 45 FR 58801, 3 CFR, 1980 Comp., p. 277; 49 CFR 1/48; 49 CFR 1.46.

87. Section 195.11–30(c) is revised to read as follows:

§ 195.11–30 Portable tanks.

* * * * *

(c) Portable tanks containing other hazardous materials shall be in accordance with the requirements of 49 CFR Parts 171–179.

Dated: September 8, 1988.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88-21158 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[Federal Acquisition Circular 84-38]

Federal Acquisition Regulation (FAR); Miscellaneous Amendments; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comments and final rule; correction.

SUMMARY: This document corrects the effective date of four clauses in a final rule in Federal Acquisition Circular (FAC) 84-38 published in the **Federal Register** on Wednesday, July 20, 1988 (53 FR 27460).

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 16269 beginning on page 27460, make the following correction:

52.213-1 [Corrected]

1. On page 27468, in the second column of the Item 53 amendatory language, remove the date "(JUL 1988)" and insert in its place "(AUG 1988)", the effective date of the final rule.

52.219-4 [Corrected]

2. On page 27468, in the second column, remove in the title of the clause the date "(JUL 1988)" and insert in its place "(AUG 1988)," the effective date of the final rule.

52.225-3 [Corrected]

3. On page 27468, in the second column, remove in the Item 55 amendatory language the date "(JUL 1988)" and insert in its place "(AUG 1988)", the effective date of the final rule.

52.245-18 [Corrected]

4. On page 27468, in the third column, remove in the Item 56 amendatory language the date "(JUL 1988)" and insert in its place the date "(AUG 1988)", the effective date of the final rule.

Dated: September 12, 1988.

Roger M. Schwartz,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 88-21115 Filed 9-15-88; 8:45 am]

BILLING CODE 6820-61-M

48 CFR Part 52

[Federal Acquisition Circular 84-39]

Federal Acquisition Regulation (FAR); Miscellaneous Amendments; Correction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule in Federal Acquisition Circular (FAC) 84-39 published in the **Federal Register** on Friday, September 2, 1988 (53 FR 34224).

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523-4755.

SUPPLEMENTARY INFORMATION: In FR Doc. 88-19950, beginning on page 34224, make the following correction:

52.203-7 [Corrected]

1. On page 34228, third column, remove in the Item 21 amendatory language, the date "(XXX 1988)" and insert in its place "(OCT 1988)".

52.209-1 [Corrected]

2. On page 34229, first column, remove in the title clause the date "(XXX 1988)" and insert in its place "(OCT 1988)".

52.229-10 [Corrected]

3. On page 34229, second column, remove in the title of the clause the date "(XXX 1988)" and insert in its place "(OCT 1988)".

Dated: September 12, 1988.

Roger M. Schwartz,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 88-21116 Filed 9-15-88; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-98, Amdt. 192-60]

Exception From Pressure Testing Non-Welded Tie-In Joints

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: Under existing requirements, welded joints used to tie in test segments are excepted from pressure testing because of the impracticability of conducting the test. This final rule extends this exception to non-welded tie-in joints because they are equally impracticable to pressure test. However, the final rule requires that all excepted tie-in joints be leak tested at operating pressure. Since RSPA believes current operating and enforcement practices are consistent with the final rule, a minimal economic and safety impact is anticipated.

EFFECTIVE DATE: This final rule takes effect October 17, 1988.

FOR FURTHER INFORMATION CONTACT: Bernard Liebler, (202) 366-2392, regarding changes to safety standards; or the Dockets Unit, (202) 366-5046, for copies of this final rule or other material in the docket.

SUPPLEMENTARY INFORMATION: Subpart J of Part 192 requires that gas pipelines be pressure tested to detect potentially hazardous leaks and, in some cases, to substantiate maximum allowable operating pressure. However, § 192.503(d) excepts from the pressure test requirements of Subpart J welds used to tie in test segments of pipeline because of the impracticability of pressure testing these welds. Notice 1 of this proceeding (53 FR 1045, January 15, 1988) proposed extending this exception to non-welded tie-in joints for the same reason of impracticability.

Thirty commenters responded to Notice 1 (3 trade groups, 2 State agencies, 25 operators). The commenters unanimously supported the proposed change, but a few expressed reservations.

Four commenters asserted that the word "joint" has two separate meanings in the gas industry: (1) A length of pipe; and (2) the connection between two lengths of pipe. They argued that this duality of meaning could in rare cases lead to misinterpretation of the exception from testing. RSPA disagrees with their contention. The word "joint"

is used unambiguously throughout Part 192 to mean the connection between two pipeline segments, which may be two lengths of pipe, a length of pipe and a pipeline component, or two components. (See, e.g., § 192.283). Thus, in the context of the regulations, there is no justification for anticipating that confusion will result from use of the word "joint" to mean the connection that ties in a test segment with another pipeline segment.

One commenter recommended that the following language be added to the proposed new text of § 192.503(d):

> However, all such exempted joints must be nondestructively tested, where proven technology exists, and comply with 192.243 for welded joints and 192.273 for non-welded joints.

RSPA does not agree with this recommendation. DOT's gas pipeline incident data do not suggest a need to require nondestructive testing (so far as technology permits) of all joints used to tie in test segments. High stress welds that tie in test segments are already required to be nondestructively tested under § 192.243, while the acceptability of other welds that tie in test segments is governed by § 192.241(a). Non-welded joints that tie in test segments must meet the joining requirements of § 192.273. RSPA believes that compliance with these existing requirements is sufficient to assure the integrity of joints that tie in test segments without the additional testing the commenter suggested.

This commenter also recommended that any exception from pressure testing be limited to strength testing rather than both strength and leak testing. RSPA believes this comment has merit. Post-installation strength testing is impracticable for joints that tie in test segments because strength testing requires raising the pressure beyond the operating pressure of the pipeline. However, such joints can be leak tested at the pipeline's operating pressure without any of the difficulties that gave rise to the proposed exception. It is only prudent to leak test joints used to tie in test segments either before or at the time they are placed in service. RSPA believes that most operators follow this practice for both welded and non-welded tie-in joints. Therefore, RSPA is revising the final rule to require that each tie-in joint excepted from the test requirements of Subpart J be leak tested at not less than its operating pressure. Under this requirement, joints used to tie in test segments must be checked for potentially hazardous leaks in accordance with § 192.503(a)(2). The "soap test" that operators often use to detect leaks would be an acceptable way to conduct the test, although other effective methods may be used.

Section 192.503(d) now provides that welds which tie in test segments are excepted from all pressure test requirements, including leak test requirements. Notice 1 did not propose to change this exception. However, since leak testing such welds at operating pressure is a prudent, simple and common procedure in the interest of safety, RSPA believes it is unnecessary to provide prior notice and opportunity for comment on the issue of leak testing welded joints used to tie in test segments. Therefore, in accordance with the Administrative Procedure Act, the requirement to test these welded joints is final as published.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), requires that each proposed amendment to a safety standard established under this statute be submitted to the Technical Pipeline Safety Standards Committee for its consideration. This Committee, composed of persons knowledgeable about transportation of gas by pipeline, discussed the proposed rule at a meeting held September 22, 1987. The Committee voted unanimously that the proposal was technically feasible, reasonable and practicable. The Committee's official report for the meeting is in the docket. The Committee recommended that a final rule be adopted as proposed. However, for the reasons discussed above, the final rule is changed from the version proposed.

Impact Assessment

This final rule is considered to be nonmajor under Executive Order 12291 and is not significant under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). Since the rule codifies existing compliance procedures, it will have a minimal effect on the economy, and further evaluation of this effect is unnecessary. Based on the facts available concerning the impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act that the action will not have a significant economic impact on a substantial number of small entities. RSPA has analyzed this action in accordance with the principles and criteria contained in E.O. 12612, and has determined that it does not have sufficient federalism implications to warrant preparing a Federalism Assessment.

List of Subjects in 49 CFR Part 192

Pipeline Safety, Test, Tie-in, Joint.

In view of the foregoing, RSPA amends 49 CFR Part 192 as follows:

PART 192—[AMENDED]

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 App. U.S.C. 1672 and 1804; 49 CFR 1.53.

2. Section 192.503(d) is revised to read as follows:

§ 192.503 General requirements.

* * * * *

(d) Each joint used to tie in a test segment of pipeline is excepted from the specific test requirements of this subpart, but it must be leak tested at not less than its operating pressure.

Issued in Washington, DC on September 13, 1988.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 88-21216 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine Five Texas Cave Invertebrates To Be Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status under the authority of the Endangered Species Act of 1973, as amended, for five species of cave-dwelling, invertebrate animals in Texas. The five species are the Tooth Cave pseudoscorpion (*Microcreagris texana*), the Tooth Cave spider (*Leptoneta myopica*), the Bee Creek Cave harvestman (*Texella reddelli*), the Tooth Cave ground beetle (*Rhadine persephone*), and the Kretschmarr Cave mold beetle (*Texamaurops reddelli*). Each of these species is known from only six or fewer small, shallow, dry caves near Austin in Travis and Williamson Counties, Texas. Urban, industrial, and highway expansion are planned or ongoing in the area containing the cave habitat of these species. This development could result in filling or collapse of these shallow caves, disturbances of water drainage patterns that affect cave habitat, introduction of exotic competitive and predatory insects and other organisms,

and pollution of the cave systems with pesticides, fertilizers, oils, and other harmful substances. Final determination that these five species are endangered implements for them the protections provided by the Endangered Species Act.

EFFECTIVE DATE: September 16, 1988.

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, 500 Gold Avenue SW., Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Dr. Steven M. Chambers, Fish and Wildlife Biologist, U.S. Fish and Wildlife Service Regional Office, Albuquerque, New Mexico (See ADDRESSES above) (505/766–3972 or FTS 474–3972).

SUPPLEMENTARY INFORMATION:

Effective Date

The usual 30-day delay between date of publication of a final rule and its effective date may be waived for cause, as provided by 50 CFR 424.18(b)(1) and by the Administrative Procedure Act (5 U.S.C. 553(d)(3)). The Service finds that this period be waived for this rule because immediate protection is needed to meet the ongoing threat of construction activities that are taking place on land that includes all or a major portion of each of the subject species' habitat.

Background

The Tooth Cave pseudoscorpion, *Microcreagris texana* (family Neobisiidae), was first described by Muchmore (1969) from a specimen collected in Tooth Cave, Travis County, by James Reddell in 1965. It reaches a length of about 4 millimeters (mm) (about 3/16 inch) and resembles a tiny, tailless scorpion. Pseudoscorpions lack a stinger and are harmless to humans. They use their pincers to prey on small insects and other arthropods. The Tooth Cave pseudoscorpion is eyeless and troglobitic (lives only in caves). It is known only from Tooth and Amber Caves, both in Travis County, Texas.

The Tooth Cave spider, *Leptoneta myopica* (family Leptonetidae), was first collected by James Reddell in 1963, and later described by Gertsch (1974). It has been found only in Tooth Cave, Travis County, Texas. This spider is very small, up to 1.6 mm (about 1/16 inch) in total length, pale colored, and has relatively long legs. It is a troglobite, although reduced eyes are present. The Tooth Cave spider is sedentary and spins webs from the ceiling and walls of Tooth Cave.

The Bee Creek Cave harvestman, *Texella reddelli* (family Phalangodidae), was first described by Goodnight and Goodnight (1967) from a specimen collected by James Reddell and David McKenzie from Bee Creek Cave (erroneously reported as "Pine Creek Cave"), Travis County. This light yellowish-brown harvestman has relatively long legs that extend from a small body (2 mm, or less than 1/8 inch, in length). It is an eyeless troglobite and is probably predatory. The Bee Creek Cave harvestman lives in Tooth, Bee Creek, McDonald, Weldon, and Bone Caves in Travis and Williamson Counties, Texas. The *Texella* reported by Reddell (1984) from Root Cave, Travis County, may also be this species.

The Tooth Cave ground beetle, *Rhadine persephone* (family Carabidae), was first described by Barr (1974) from specimens collected in the Tooth Cave by W.M. Andrews, R.W. Mitchell, and T.C. Barr in 1965. This species is a small (7–8 mm or about 5/16 inch in length), reddish-brown beetle. It is troglobitic and has only rudimentary eyes. It probably feeds on cave cricket eggs, which have been determined to be a major food of another troglobite species of *Rhadine* (Mitchell 1968). The Tooth Cave ground beetle is known only from Tooth and Kretschmarr Caves, Travis County, Texas.

The Kretschmarr Cave mold beetle, *Texamaurops reddelli*, was first described by Barr and Steeves (1963) from a specimen collected in Kretschmarr Cave by James R. Reddell and David McKenzie in 1963. This species is a very small (less than 3 mm, or about 1/8 inch, in length) dark-colored, short-winged, beetle with elongated legs. This member of the family Pselaphidae is an eyeless troglobite and is known only from Kretschmarr, Amber, Tooth, and Coffin Caves in Travis and Williamson Counties, Texas.

The caves inhabited by these five species are relatively small. The largest, McDonald Cave, consists of less than 60 meters (m) (about 200 feet) of passage, and most of the others are considerably smaller. These caves occur in isolated "islands" of the Edwards Limestone formation that were separated from one another when stream channels cut through the overlying limestone to lower rock layers. This fragmentation of habitat has resulted in the isolation of groups of caves that have developed their own, highly localized faunas.

In addition to the five species that are the subject of this final rule, these caves and others in the area support a number of other uncommon and scientifically significant species. Available habitat of this type is very limited, and many of these caves have been lost or are threatened with imminent loss.

The Service was first notified of the possible status of these five species by an August 20, 1984, letter from the Travis Audubon Society, Austin, Texas. The Conservation Committee of the Travis Audubon Society then petitioned the Service on February 8, 1985, to list these five and one other species (the Tooth Cave rove beetle, *Cylindropsis* sp.) as endangered. The Service evaluated this petition and on May 1, 1985, found that the petition did present substantial information indicating that the requested action may be warranted. A notice of that finding was published in the **Federal Register** on July 18, 1985 (50 FR 29238). On February 19, 1986, the Service found that the petitioned action was warranted but that such action was precluded by work on other pending proposals, in accordance with section 4(b)(3)(iii) of the Act. A notice of that finding was published on August 20, 1986 (51 FR 29672). On July 1, 1987 (52 FR 24487), the Service published a notice that the petitioned action was again warranted but precluded for the five species addressed in the present final rule. That same notice also announced the finding that listing was not warranted for the sixth species named in the petition, the Tooth Cave blind rove beetle (*Cylindropsis* sp.). This conclusion was based on the determination that the single known specimen was in such poor condition that it could not provide adequate material for taxonomic evaluation and description; furthermore, the best available scientific information indicates that the taxon it represents is extinct. Endangered status for these five species was proposed on April 19, 1988 (53 FR 12787).

Summary of Comments and Recommendations

In the April 19, 1988, proposed rule (53 FR 12787) 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. A newspaper notice was published in the *American Statesman* (Austin, Texas) on May 25, 1988, which invited general public comment. Nine comments were received and are discussed below. The proposal is supported by the City of Austin, three organizations, and four individuals. A letter from the U.S. Department of Housing and Urban

Development contained no substantive comments on the proposed listings. No public hearing was requested or held.

Four commenters urged that the Service prepare an emergency listing for the five Texas cave invertebrates. The Service's expedited preparation and review of this final rule is in lieu of an emergency listing.

The City of Austin, three organizations, and three individuals requested that critical habitat be designated for these five species. The Services's reasons for not designating critical habitat are explained in the Critical Habitat section of this rule. Designation of critical habitat would not be prudent at this time because any benefits from that designation would be outweighed by the increase in unauthorized visitation and vandalism of the caves that would result from publication of precise critical habitat descriptions and maps. Although the Service agrees with one commenter that listing itself draws attention, to some extent, to the localities of these species, publication of maps and descriptions in local newspapers, which is required when designating critical habitat, would disseminate exact locality information to a much larger segment of the public. The Service notes that, even without critical habitat designation, the habitats of these species receive protection under section 7 of the Act.

Eight commenters provided information on development activities in the area, such as deep trenching, road and utility construction, and cave destruction. They expressed concern about these serious threats to the five species. The Service recognizes the potential negative impacts of these activities and the present listings are in response to them. Both direct effects, such as those mentioned above, and indirect effects, such as alteration of drainage patterns, have been considered.

Three commenters discussed the threat of fire ants and their effect on native cave fauna. The Service recognized the threat of exotic insects in the original proposal (Factor C).

One commenter urged emergency buying of an easement or actual purchase of the cave areas. These options will be considered by the Service in development of a recovery plan for these species.

Two commenters expressed support for placing grates over cave entrances, but expressed concern that grates be properly designed. The Service agrees that grates are needed and that their design must take into account the biological needs of the species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Tooth Cave pseudoscorpion (*Microcreagris texana*), Tooth Cave spider (*Leptoneta myopica*), Bee Creek Cave harvestman (*Texella reddelli*), Tooth Cave ground beetle (*Rhadine persephone*), and Kretschmarr Cave mold beetle (*Texamaurops reddelli*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The primary threat to the five species comes from potential loss of habitat owing to ongoing development activities. Proximity of the caves inhabited by these species to the City of Austin makes them vulnerable to the continuing expansion of the Austin metropolitan area. Road, industrial, residential, and commercial developments that would adversely affect these species have already begun. Tooth, Amber, Kretschmarr, Kretschmarr Salamander, McDonald, and Root Caves are in an area for which a major residential, commercial, and industrial development has been proposed, and preliminary clearing and digging has begun. This area includes the entire known ranges of the Tooth Cave pseudoscorpion, the Tooth Cave spider, and the Tooth Cave ground beetle, all but one known locality of the Kretschmarr Cave mold beetle, and a large portion of the habitat of the Bee Creek Cave harvestman. Unless proper safeguards can be devised, this development could result in the filling in or collapsing of caves during road and building site preparation, and in alteration of drainage patterns that could affect the cave habitat. These species inhabit dry cave habitats that depend on some infiltration of groundwater. Disruption of this input would be harmful, as would excess input of water that would flood the caves. Flooding of habitat could also result from proposed no-discharge sewage effluent irrigation. Development of this area could also increase the flow of sediment, pesticides, fertilizers, and general urban runoff into the caves. Land alterations in this area were noted earlier (Reddell 1984), and have recently intensified. Landmarks have been altered so that it is difficult to relocate some caves, and large boulders have been placed in the entrance of Kretschmarr Cave on two occasions (Reddell 1984). This cave is an important habitat for the beetles included in this proposal. Development in this area is also likely to increase human visitation and vandalism in the caves, which are so small that even occasional episodes could adversely alter the cave habitat.

Tooth Cave is near one alternative route for a proposed water pipeline from Lake Travis. Even if it is bypassed by the direct path of the pipeline, operation of heavy construction equipment or blasting could adversely affect Tooth Cave and other caves in the area inhabited by these species.

Weldon Cave, which supports a population of the Bee Creek Cave harvestman, is in or very near the path of a recent road extension, and may no longer exist. Residential development is also occurring in this area, and is likely to be stimulated by the improved access provided by this road.

It is likely that most, if not all, of the five cave species occupied other caves that have already been lost to earlier development. This may have been the fate of Coffin Cave, which is historic habitat of the Tooth Cave mold beetle. Recent attempts to relocate this cave have not been successful.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* No threat from overutilization of these species is known to exist at this time. Collection for scientific or educational purposes could become a threat if localities become generally known.

C. *Disease or predation.* As the human population of the area around these caves increases, the problems of predation by and competition with exotic (non-native) species also increases. Human habitation introduces a complement of exotic invertebrate species into many areas, particularly in semiarid areas such as the plateaus northwest of Austin. These predatory species are transported into the area in various accompaniments of human occupation, including landscaping plants. Buildings, lawns, and shrubbery provide habitat from which these highly adaptable species can disperse. The relative accessibility of the shallow caves leaves them especially vulnerable to invasion by introduced invertebrate predators or competitors such as sowbugs, cockroaches, and fire ants.

D. *The inadequacy of existing regulatory mechanisms.* There are currently no laws that protect any of these species or that directly address

protection of their habitat. Cave protection laws of the City of Austin do not apply because these areas are all outside the city limits.

E. *Other natural or manmade factors affecting its continued existence.* These species are extremely vulnerable to losses because of their severely limited range and habitat and because of the naturally limited ability to colonize new habitats. These troglobitic species have little or no ability to move appreciable distances on the surface. The division of the limestone habitat into "islands" limits the mobility of the species through channels within the limestone. Moisture regimes, food supply, and other factors may also limit subsurface migrations and may account for the different distribution patterns seen among these five species.

The specific climatic factors within the caves, such as humidity, are affected by input through the cave entrance, the overlying soils, and the rocks in which the caves are formed. As discussed under factor A above, surface alterations can affect these conditions, as well as facilitate the flow of pollutants into the habitat.

The very small size of these habitats, in addition to the fragile nature of cave ecosystems in general, make these species vulnerable to even isolated acts of vandalism. As the human population of the area increases, the likelihood of such acts also increases.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Tooth Cave pseudoscorpion, the Tooth Cave spider, the Bee Creek Cave harvestman, the Tooth Cave ground beetle, and the Kretschmarr Cave mold beetle as endangered species. These species require the maximum possible protection provided by the Act because their extremely small, vulnerable, and limited habitats are within an area that can be expected to experience continued pressures from economic and population growth. Critical habitat has not been determined for reasons given in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for these species at this time. Their cave habitats are at the edge of an expanding urban area with a growing population. Increased human population density increases the likelihood of acts of vandalism that could irreversibly damage the caves. All involved parties and land owners will be notified of the location and importance of protecting these species' habitats. Protection of these habitats will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not be prudent to determine critical habitat for these species at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal involvement has been identified at this time. As development progresses, the Federal Department of Housing and Urban Development, the Federal Highway Administration, and the Environmental Protection Agency may become involved in funding or permitting projects. Any involvement by these agencies in development in the area of these caves would be a subject of consultation with the Service.

Section 9 of the Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered fish and wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions would apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

National Environmental Policy Act

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

References Cited

Barr, T.C., Jr. 1974. Revision of *Rhadine* LeConte (Coleoptera, Carabidae). I. The *subterranean* group. American Museum Noivitates No. 2539. 30 pp.

Barr, T.C., Jr. and H.R. Steeves, Jr. 1963. *Texamaurops*, a new genus of pselaphids from caves, in central Texas (Coleoptera: Pselaphidae). The Coleopterists' Bulletin 17:117–120.

Gertsch, W.J. 1974. The spider family Leptonetidae in North America. The Journal of Arachnology 1:145–203.

Goodnight, C.J. and M.L. Goodnight. 1967. Opilionids from Texas caves (Opiliones, Phalangodidae). American Museum Novitates No. 2301. 8 pp.

Mitchell, R.W. 1968. Food and feeding habits of the troglobitic carabid beetle *Rhadine subterranean*. International Journal of Speleology 3:249–270.

Muchmore, W.B. 1969. New species and records of cavernicolous pseudoscorpions of the genus *Microcreagris* (Arachnida, Chelonethida, Neobisiidae, Ideobisiinae). American Museum Novitates No. 2932. 21 pp.

Reddell, J.R. 1984. Report on the Caves and Cave Fauna of the Parke, Travis County, Texas. Unpublished report to the Texas System of Natural Laboratories. 25 pp.

Author

The primary authors of this final rule are Dr. Steven M. Chambers, Fish and Wildlife Biologist, and Ms. Sonja Jahrsdoerfer, Wildlife Biologist, Office of Endangered Species, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

List of Subjects in 50 CFR Part 17

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

Final Regulations Promulgation

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

PART 17—[AMENDED]

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.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by establishing a new taxonomic group, "Arachnids", with its entries, to follow the taxonomic group, "Insects", on the List of Endangered and Threatened Wildlife.

3. Section 17.11(h) is further amended by adding the following entries for Beetles, in alphabetical order under the taxonomic group heading, "Insects", to the List of Endangered and Threatened Wildlife.

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Insects							
*	*	*	*	*		*	
Beetle, Kretschmarr Cave mold	*Texamaurops reddelli*	U.S.A. (TX)	NA	E	327	NA	NA
*	*	*	*	*		*	
Beetle, Tooth Cave ground	*Rhadine persephone*	U.S.A. (TX)	NA	E	327	NA	NA
*	*	*	*	*		*	
Arachnids							
Harvestman, Bee Creek Cave	*Texella reddelli*	U.S.A. (TX)	NA	E	327	NA	NA
Pseudoscorpion, Tooth Cave	*Microcreagris texana*	U.S.A. (TX)	NA	E	327	NA	NA
Spider, Tooth Cave	*Leptoneta myopica*	U.S.A. (TX)	NA	E	327	NA	NA
*	*	*	*	*		*	

Dated: September 8, 1988.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-21301 Filed 9-14-88; 3:21 pm]

BILLING CODE 4310-55-M

50 CFR Part 20

Final Frameworks for Late Season Migratory Bird Hunting Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule prescribes final late-season frameworks from which States may select season dates, limits and other options for the 1988-89 migratory bird hunting season. The earliest of these seasons generally commences on or about October 1, 1988, and include most of those for waterfowl.

The Service annually prescribes hunting regulations frameworks to the States. The effects of this final rule are to facilitate the selection of hunting seasons by the States and to further the establishment of the late-season migratory bird hunting regulations for 1988-89. State selections will be published in the **Federal Register** as amendments to §§ 20.104 through 20.107 and § 20.109 of Title 50 CFR Part 20.

EFFECTIVE DATE: This rule takes effect on September 16, 1988.

ADDRESSES: Send State season selections to: Director (FWS/MBMO), U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Comments received on the proposed late-season frameworks are available for public inspection during normal business hours in Room 536, Matomic Building, 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building, Room 536, Washington, DC 20240. Telephone (202) 254-3207.

SUPPLEMENTARY INFORMATION: The Migratory Bird Treaty Act of July 3, 1918 (40 Stat. 755; 16 U.S.C. 703 *et seq.*), as amended, authorizes and directs the Secretary of the Interior, having due regard for the zones of temperature and for the distribution, abundance, economic value, breeding habits, and times and lines of flight of migratory game birds, to determine when, to what extent, and by what means such birds or any part, nest or egg thereof may be taken, hunted, captured, killed, possessed, sold, purchased, shipped, carried, exported or transported.

On March 9, 1988, the U.S. Fish and Wildlife Service (hereinafter the Service) published for public comment in the **Federal Register** (53 FR 7702) a proposal to amend 50 CFR Part 20, with comment periods ending June 22, 1988, for Alaska, Hawaii, Puerto Rico, and the Virgin Islands; July 18, 1988, for other early-season proposals; and August 25, 1988, for the late-season proposals. The March 9 document dealt with the establishment of hunting seasons, hours, areas and limits for migratory game birds under § 20.101 through 20.107, 20.109 and 20.110 of Subpart K. On June 7, 1988, the Service published in the **Federal Register** (53 FR 20874) a second document consisting of a supplemental proposed rulemaking dealing with both the early- and late-season frameworks. On July 11, 1988, the Service published for public comment in the **Federal Register** (53 FR 26198) a third document consisting of a proposed rulemaking dealing specifically with frameworks for

early-season migratory bird hunting regulations. That document also reopened and extended the comment period for the proposed frameworks for Alaska, Puerto Rico and Virgin Islands from June 22, 1988, to July 20, 1988. All three documents, March 9, June 7, and July 11, indicated that special consideration was being given to possible restrictive regulations for all aspects of the1988–89 hunting season dependent upon the continuing poor status of ducks. On August 9, 1988, the Service published a fourth document (53 FR 29897) containing final frameworks for early migratory bird hunting seasons from which wildlife conservation agency officials from the States, Puerto Rico and the Virgin Islands selected early-season hunting dates, hours, areas and limits for 1988–89. The fifth document in the series, published August 12, 1988, in the **Federal Register** (53 FR 30622), deals specifically with proposed frameworks for the 1988–89 late-season migratory bird hunting regulations. On August 31, 1988, the Service published in the **Federal Register** (53 FR 33792) a sixth document consisting of a final rule amending Subpart K of Title 50 CFR Part 20 to set hunting seasons, hours, areas and limits for mourning doves, white-winged and white-tipped doves, band-tailed pigeons, rails, woodcock, common snipe, and common moorhen and purple gallinules; sea ducks in certain defined areas of the Atlantic Flyway; wood ducks in September in Florida, Kentucky and Tennessee; Canada geese in September in portions of Illinois, Michigan and Minnesota; sandhill cranes in the Central and Pacific Flyways; a special Canada goose season in southwestern Wyoming; migratory game birds in Alaska, Hawaii, Puerto Rico and the Virgin Islands; and extended falconry seasons. The seventh in the series is this document which establishes final frameworks for late-season migratory bird hunting regulations for the 1988–89 season.

Review of Comments and the Service's Response

Twenty-four verbal comments on the late-season migratory bird hunting regulations were received at the public hearing in Washington, DC, August 3, 1988. A total of 1,971 written comments, including a petition containing 1,100 signatures and 110 signed form letters (hereafter called petitioners), were received through August 29, 1988. Summaries of these comments and the Service's responses are listed below by categories identified in the March 9, 1988, **Federal Register** (53 FR 7702). The proposed frameworks published in the August 12, 1988, **Federal Register** (53 FR 30622) contained several regulatory changes not reviewed at the public hearing, namely daily shooting hours, suspension of the point system, modification of mallard bag limits in the Pacific Flyway, and a limited season on pintails, therefore, the public hearing comments do not address these issues.

Regulations Process

Public Hearing Comments—Mr. Brian O'Neil, a trial lawyer retained by the Humane Society of the United States, announced that he intends to explore the Service's process for establishing hunting regulations to insure compliance with the National Environmental Policy Act (NEPA), the Migratory Bird Treaty Act, and other applicable laws and regulations. Questions will be posed such as: does the hunting season structure provide adequate protection to species such as black ducks, pintails, canvasbacks, and others, and does the decision process take a hard look at a "no season" alternative to protect ducks? He stated that the Supplemental Environmental Impact Statement (SEIS–88) on migratory bird hunting, completed in 1988, does not do this, and this alternative must be considered. He further stated that annual consideration of a "no season" alternative may relieve some hunting pressure and tells the hunting public that business is not "as usual."

Written Comments—The Central Flyway Council, the States of Missouri, Colorado, Michigan, Mississippi, Rhode Island, Nebraska and Texas, 1,100 petitioners, and 88 individuals were critical of the process by which the late-season frameworks were developed this year. They collectively faulted the process because: (1) They allegedly had not received prior notification that certain changes in frameworks were in the offing, (2) the Service Regulations Committee's recommendations were more restrictive than those suggested as being necessary by the Office of Migratory Bird Management, and (3) the Director proposed regulations more restrictive than these recommended to him by the Service Regulations Committee. Of particular concern were proposed changes in frameworks pertaining to shooting hours, suspension of the point system, reduced bag limits on mallards, and a complicated split season for pintails.

One individual requested that the Service reevaluate the process for receiving public comments because some Mississippi waterfowl hunters reported they were denied the opportunity to comment via telephone.

Response. A "no season" alternative for migratory bird hunting is always a consideration; this alternative has been employed when the status of a species or population warrants such action. For example, a season on canvasbacks has not been permitted since 1985 in the Atlantic, Mississippi and Central Flyways, and this year the closure is expanded to include the Pacific Flyway. The requirements of NEPA, the Endangered Species Act, and other laws and regulations are annually considered and reviewed in the **Federal Register** (53 FR 30627). The 1975 Environmental Impact Statement (EIS) on the Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FES–75) addressed a no season alternative. The Supplemental Environmental Impact Statement (SEIS–88) on Migratory Bird Hunting completed earlier this year was developed to supplement, not replace, the original EIS. Since the no season alternative was not included in the SEIS–88, the discussion of this option in the orginal EIS is still applicable. In addition, an environmental assessment entitled *EA—Waterfowl Hunting Regulations for 1988* addresses this rulemaking and a Finding of No Significant Impact was signed on September 1, 1988. This EA includes complete season closure as one alternative for this year.

The Service continues to support the annual process whereby Flyway Councils, through consultants to the Service, provide input to the development of regulations frameworks. The Councils, States, the general public, organizations, and agencies, are provided opportunity to offer comments and recommendations during public hearings and open comment periods. The Director must consider these often diverse recommendations as well as recommendations from his own staff before establishing the frameworks. The Director has the legal and ultimate responsibility for safeguarding the migratory bird resource. Overall, the process calls for the Director to receive information through the established process and assess the long-term welfare of the resource. Such a role frequently leads to decisions which cannot please all parties equally. In this case the emphasis is to err on the side of the duck resource.

The Service accepts and considers all written comments received during the open comment period, as well as oral comments given at the public hearing, which are transcribed by a court stenographer. It would be an undue burden upon the Service to accurately transcribe oral comments received by telephone or to accept such comments without the possibility of verifying the

identity of the commenter, which otherwise is possible by signature on a written document. Further, such summaries of oral comments may or may not accurately reflect the views and emphasis of commentors. For these reasons, comments other than those at public hearings can be accepted in writing only.

1. Shooting hours

Public Hearing Comments—Mr. John Anderson, representing the National Audubon Society, suggested that starting the duck season at noon on opening day and thereafter begin shooting at sunrise, rather than one-half hour before sunrise, would reduce the harvest of ducks.

Written Comments—The Atlantic and Central Flyway Councils, the States of Missouri, Oklahoma, New York, Maryland, Utah, Nebraska, Colorado, New Hampshire, Massachusetts, Rhode Island, and Maine, two regional waterfowl organizations, 126 individuals, and 1,100 petitioners opposed changing shooting hours to start at sunrise instead of one-half hour before sunrise. Reasons cited include enforcement problems, hunter dissatisfaction, a shift to evening hunting would place more harvest pressure on wood ducks, and doubt that the change would significantly reduce harvest. The State of Illinois, The Wildlife Society, the Humane Society of the United States, and 10 individuals supported the change to a sunrise beginning. The National Wildlife Federation endorsed a review of the effect of allowing shooting to begin one-half hour before sunrise, with emphasis on identification of waterfowl by hunters and impact on total duck harvest. The State of Massachusetts recommended that a one-half hour before sunrise beginning be allowed during seasons outside the regular duck season, and 130 individuals suggested that shooting hours open at sunrise for ducks and one-half hour before sunrise for geese. Seven individuals and 110 petitioners suggested shooting hours of one-half hour before sunrise to noon.

Response. Although the Service announced in the June 7, 1988, **Federal Register** that no change in shooting hours was planned, field studies by the Service suggest that about 15 percent of the duck harvest may occur during the period from 30 minutes before sunrise to sunrise. The change to sunrise-sunset shooting hours is in addition to other changes to help assure a significant reduction in duck harvest. Heretofore shooting hours under Federal regulations have been one-half hour before sunrise to sunset. The Service intends to review this issue further with the States and Councils prior to setting the 1989–90 hunting regulations.

The Service believes that different shooting hours for ducks and geese would unnecessarily complicate the regulations since ducks and geese are hunted in the same locations in many areas of the country. Further, a change in shooting hours for geese outside the duck season would give disparate advantage to States where geese winter and are hunted later and for longer periods. Consistency in shooting hours will aid hunters in complying with regulations and will clarify enforcement by State and Federal officers.

2. Frameworks for Ducks in the Conterminous United States—Outside Dates, Season Length and Bag Limits

a. General Harvest Strategy

Public Hearing Comments—Of the 22 persons addressing the recommended strategy for reducing duck harvest, 11 offered qualified support, 8 believed that the recommended frameworks should be more restrictive, and 3 believed frameworks proposed for the Atlantic Flyway were inappropriate and too restrictive.

Mr. Eldridge Hunt, representing the Pacific Flyway Council, believed the recommended frameworks for ducks were reasonable for protecting waterfowl wintering in the Pacific Flyway. Mr. Dale Strickland, representing the Central Flyway Council, Mr. Hugh Bateman, representing the Mississippi Flyway Council's Southern Region, and Mr. Ken Babcock, representing the Mississippi Flyway Council's Northern Region, supported restrictive regulations but were dissatisfied that the Service had not indicated earlier that special strategies should be developed to further reduce harvest of midcontinent mallards. They indicated that if the Service had provided such direction the Councils could have addressed this need during their deliberations. Modifications of Council recommendations by the Service Regulations Committee would result in inequities in harvest opportunities, an erosion of the point system, and potential for increased harvests of several species. Mr. Leon Kirkland, representing the Atlantic Flyway Council, generally supported a strategy of reducing harvests on most duck species, but did not believe that the degree of reduction should be as great for the Atlantic Flyway as for other Flyways since a smaller proportion of Atlantic Flyway ducks are derived form the areas most stressed by drought and poor nesting conditions. Mr. Charles Potter, representing the North American Wildlife Foundation, stated that ducks need protection now more than ever and if major restrictions are not implemented, credibility with hunters will be lost. He suggested that a level of protection at least equal to that given during the drought years of 1961 and 1964 would be appropriate this year. Mr. Jack Lorenz, representing the Izaak Walton League, supported the recommendations of the North American Wildlife Foundation. Mr. Jim Phillips, writer and duck hunter, believed that the proposed harvest strategy is not restrictive enough and recommended a general harvest reduction of about 50 percent. Mr. George Reiger, outdoor editor for *Field & Stream* magazine, voiced concern by his readership over the status of ducks and need for restrictive measures, perhaps even season closures. Mr. Doug Inkley, National Wildlife Federation, generally supported the season reductions proposed by the Service. Mr. Mike Berger, representing Ducks Unlimited, Inc., Mr. Steve Miller, representing the Wisconsin Department of Natural Resources, and Mr. Roger Holmes, representing the Minnesota Department of Natural Resources, all expressed general support for the proposed strategy to reduce duck harvests. On behalf of the National Audubon Society, Mr. John Anderson supported the strategy to reduce hunting opportunity by at least 25 percent, but suggested the some alternative measures to accomplish this reduction. Mr. James Yoos and Mr. Stanley Nadler, representing the New Jersey Waterfowler's Association, expressed concern that the proposed strategy unfairly restricted the Atlantic Flyway and suggested that harvest reductions should be focused on areas where specific problems are occurring. Mr. John Viser, representing the Berry Brooks Foundation, and citizen Grayson Chesser both suggested that the strategy of reducing duck harvest by 25 percent, while commendable, is not adequate and both suggested a reduction of 50 percent would be more appropriate.

Written Comments—The Atlantic and Central Flyway Councils, the States of New York, Florida, Massachusetts, Maryland, Delaware, Vermont, Minnesota, Wisconsin, Michigan, Illinois, Kentucky and Mississippi, the Wildlife Management Institute, The Wildlife Society, the National Wildlife Federation, 63 individuals, and 110 petitioners expressed general support for the objective of reducing duck harvests during the 1988–89 hunting season. Fifty-six individuals and 1,100

petitioners commented in opposition to this harvest strategy. The Atlantic Flyway Council, the States of New York, Vermont, Rhode Island, Florida and Massachusetts, and one regional waterfowl organization commented that restrictions on harvest are more severe than the situation warrants in the Atlantic Flyway and that a broad-brush approach to regulations is a movement away from flyway and species management. Missouri questioned whether regulations changes that suspend the point system, restrict shooting hours, establish partial season closures on pintails, and propose possible duck season closures in local areas are necessary in order to achieve the desired harvest reduction.

One hundred individuals and 1,100 petitioners expressed concern that severly restrictive regulations would contribute to a general decline in duck hunters, reduce revenues for State and Federal habitat programs, and reduce the incentive for maintenance of private waterfowl habitats.

Response. The Service is encouraged by the widespread support for restrictive harvest strategies for the 1988–89 season. The Service recognizes that hunting is not the principal cause of the current decline in duck numbers, but faced with the continuing drought, poor production this year, and an expected small fall flight, further harvest reductions are necessary. The Service believes that the inclusion of the Atlantic Flyway in this conservative harvest strategy is warranted. Some stocks of ducks that winter in the Atlantic Flyway are less affected by drought on the prairie breeding grounds, but many ducks important to the Flyway harvest are derived from areas showing declining populations.

The Service earlier explained publicly in press releases and a widely distributed video that the poor outlook for ducks was based on widespread and persistent declining habitats and populations. The likelihood of a rapid population rebound is poor because of depleted soil moisture, lack of water in marshes, habitat clearance since 1980, and reduced populations. Further, information from August duck banding in the United States and Canada has documented continuing dry conditions and very low production by primary duck species. The situation may well deteriorate further before it improves, and strong action is required to try to avoid even more drastic measures in the near future.

The Service recognizes the concern for maintaining hunter interest and private habitat management programs during times of restrictive regulations. However, the Service believes that both hunters and private habitat managers understand the need to reduce harvest during years of low duck populations, especially when production is poor. All State and Federal organizations are urged to work with hunters and landowners to increase their appreciation of the need for these restrictive measures to benefit the duck resource on a long-term basis.

b. Framework Dates

Public Hearing Comments—Mr. Steve Miller, representing the Wisconsin Department of Natural Resources, endorsed the proposed October 8–January 8 framework opening and closing dates for duck hunting. Mr. Doug Inkley, representing the National Wildlife Federation, endorsed the January 8 closing date. Mr. Leon Kirkland, representing the Atlantic Flyway Council, recommended that the framework closing date be January 15 instead of January 8, stating that the best hunting opportunity in the southern part of the flyway occurs after January 1, and citing previous experience with a January 13 closing date which resulted in reduced harvests.

Written Comments—The States of Wisconsin, Illinois, Kentucky and Oklahoma, the National Wildlife Federation, and the Wildlife Society endorsed the proposed framework opening and closing dates. The Atlantic Flyway Council, the States of New York, Florida, Maine, Mississippi, Rhode Island, Vermont and Maryland, and 34 individuals recommended framework dates different from those proposed, either an earlier opening date, a later closing date, or both.

Response. The Service notes the comments supporting the proposed framework dates. In view of the poor production experienced by duck populations this year, the Service's primary objective for the 1988–89 hunting season is to reduce duck harvests in order to help maintain basic breeding populations. To accomplish this objective, hunting opportunity must be reduced. The period of time during which hunting seasons can be held is an important component of hunting-season regulations and acts in concert with other regulations to influence harvest levels. If changes in the opening and closing framework dates are not considered, even greater restrictions in other regulations such as season length, bag limits, etc., would be necessary to accomplish the desired harvest reduction. A minor change in the Atlantic Flyway adopts October 7 as the opening framework date. The Service believes the combination of regulations proposed this year is appropriate to achieve the harvest-reduction objective while still providing an adequate amount of hunting opportunity.

c. Season Length

Public Hearing Comments—Representatives of eight organizations commented on the season lengths proposed by the Service. Mr. Doug Inkley, representing the National Wildlife Federation, Mr. Charles Potter, representing the North American Wildlife Foundation, and Mr. Jack Lorenz, representing the Izaak Walton League, generally supported the Service recommendations for shorter seasons. Mr. Leon Kirkland, representing the Atlantic Flyway Council, while supporting some reduction in season length, disagreed with a 25 percent reduction for the Atlantic Flyway, citing the comparatively small proportion of prairie-nesting mallards, blue-winged teal and pintails (species most are affected by the drought), that are harvested in the Atlantic Flyway. Mr. Kirkland stated that only 2.8 percent of the harvest of prairie-nesting mallards occurs in the Atlantic Flyway, and percentages are similar to this for blue-winged teal and pintails. He noted that the predicted fall flight into the Atlantic Flyway is not forecast to be significantly changed from that in 1987. He recommended that the season length in the Atlantic Flyway be 35 days, which would be a 12.5 percent reduction from 1987. Jim Phillips, writer and duck hunter, recommended a 30-day season nationwide, while Mr. John Anderson of the National Audubon Society recommended a 25-day season nationwide. Mr. Roger Holmes, representing the Minnesota Department of Natural Resources, asked that an additional 5-day reduction in season length in the Mississippi and Central Flyways, over and above the 25 percent reduction proposed by the Service, be considered if mallard point values were returned to 35. Mr. Richard Bishop, representing the Iowa Department of Natural Resources, suggested that further reductions in season length would be preferable to further reductions in the mallard bag limit.

Written Comments—The State of Illinois, one regional waterfowl organization, and four individuals recommended reducing the length of the hunting season to help reduce the harvest of ducks. One individual and one regional waterfowl organization recommended longer seasons in the Atlantic Flyway to compensate for hunting days lost because Sunday hunting is prohibited in many States.

One individual and one regional waterfowl organization recommended longer seasons in 1988–89. The States of New York, Rhode Island, Florida, and Massachusetts, two regional waterfowl organizations, and several individuals recommended a 35-day season in the Atlantic Flyway to (1) compensate for days lost to prohibition by many States of Sunday hunting and (2) because duck populations in the flyway have been less affected by this year's drought. Also, they maintained that a 25-percent reduction in season length is not warranted since the fall flight of ducks into the Atlantic Flyway is expected to be similar to that of 1987. One regional waterfowl organization commented that since 1983 the duck season in California has been reduced from 93 to 59 days. One regional waterfowl organization, 41 individuals and 1,100 petitioners recommended longer seasons in 1988–89. Most recommended a 50- or 51-day season in Texas.

Response. The Service believes that reductions in season length are of primary importance in reducing the harvest by limiting hunting opportunity. Consequently, season lengths have been reduced proportionally in all flyways. The Service acknowledges that the harvest of ducks in the Atlantic Flyway that originate from the surveyed areas is small when compared with other flyways, but these birds represent a significant proportion of the harvest in the Atlantic Flyway and the Service believes it is important to protect these stocks of birds. Due to the overflight of ducks to more northern areas in response to the drought, the Service's fall flight estimate to the Atlantic Flyway is less precise this year than in years with better habitat conditions. Also, this year's production from northern areas is estimated to have been poor. Hunting days in California have been reduced proportionally as in other flyways. Many ducks important in the Pacific Flyway harvest are derived from mid-continent breeding areas. The Service believes the season reductions in all flyways are warranted in view of the overall poor status of many duck species.

d. Closed Season

Public Hearing Comments—Mr. Charles Potter, representing the North American Wildlife Foundation, Mr. Jack Lorenz, representing the Izaak Walton League, and Mr. Doug Inkley, representing the National Wildlife Federation, endorsed a season closure on canvasbacks and pintails. Mr. Bill Nickel, representing the Eastern Shore Waterfowl Trust, called for planned closures in future years to stockpile breeding ducks.

Written Comments—The State of Florida, the Wildlife Management Institute, 21 individuals and 110 petitioners suggested that a closed season on pintails should at least be considered. The Humane Society of the United States called for closed seasons on seven species of ducks, including pintails, most of which have populations substantially below long-term averages. A regional waterfowl organization and 18 individuals called for a closed season on all ducks, while five others suggested either a total closure or a very restricted season. One individual opposed closing the season until harvest plans have been developed with Canada and Mexico.

Missouri commented on the statement by the Director in the proposed rule (53 FR 30621) that additional closures would be considered if unusally large concentrations of waterfowl occur during migration and wintering periods, suggesting such closures would be difficult to justify and perceived as arbitrary unless specific criteria are developed before closures would be proposed.

Response. The restrictive regulations established for the 1988–89 hunting season are expected to reduce overall duck harvests by at least 25 percent. For pintails, this percentage may be considerably larger. While populations are seriously depressed and a reduced fall flight is expected, the data available do not suggest the need for a closed season for all ducks. See also responses to earlier comments on the Regulations Process.

The Service actively considered closure for black ducks (March 9, 1988, **Federal Register**, 53 FR 7702), and took that action for canvasbacks. The evidence available for mallard and pintail populations suggests lack of recruitment due to continuing habitat depletion as a more major problem. While the closure of seasons on those species was not decided upon, strong additional restrictions were placed on harvest in all flyways and closure is acknowledged as a possible future action depending upon habitat and populations. Many correspondents noted that a closed season would eliminate most of the revenue that is currently received from license and stamp sales, as well as eliminate private-landowner incentives to maintain habitat. The Service has attempted to balance all the arguments in its proposed action. With regard to possible area closures during the migration and wintering periods, the Service will work with the States to monitor major concentration areas and will consult with the States if closures appear to be needed.

e. Bag Limits

Public Hearing Comments—Messrs. Kenneth Babcock and Hugh Bateman, representing the Mississippi Flyway Council, Mr. Dale Strickland, representing the Central Flyway Council, and Mr. Richard Bishop, representing the Iowa Department of Natural Resources, while recognizing the need for harvest reductions in mallards and other species, opposed a reduced bag limit for mallard drakes. They generally believe that such a change in not warranted because other restrictions being proposed, such as reduced season lengths and constricted framework dates, would accomplish the desired reduction in mallard harvest. They further believe that an increase in point values of drakes would actually redirect hunting pressure toward female mallards and other species of concern, and may force States to shift from the point system of bag limits which, they believe, would result in a higher kill of mallard hens than under the point system. Mr. John Anderson, representing the National Audubon Society, recommended a simplified 2-duck daily bag limit with no species or sex restrictions. Mr. Anderson noted that, while such a bag limit would seem to be a liberalization on species and sexes for which only one is allowed at present, this would be preferable to a complicated point system and would eliminate identification problems. Mr. Anderson cited studies that suggested high-point birds were discarded by hunters at a greater rate than low-point birds and indicated that Federal law-enforcement agents generally believe that the point system is unenforceable. He further cited a recent analysis which concluded that the point system regulations have not successfully directed harvest away from mallard females and toward males. *Field & Stream* Conservation Editor George Reiger identified a number of problems with enforcement of and compliance with the point system and suggested that the system is not working as intended.

Written Comments—The Central Flyway Council, the States of Colorado, Oklahoma and Rhode Island, 110 individuals, and 1,210 petitioners recommended higher bag limits, particularly for species whose status is relatively good. The most common recommendation was for a daily bag limit of 4 species at or above long-term average population levels. The State of

Texas requested that the recommendations of the Central Flyway Council be adopted. The States of New York, Maryland, Florida, Maine, Illinois and Kentucky, the National Wildlife Federation and the Wildlife Management Institute supported the bag-limit reduction proposed by the Service.

The Central Flyway Council and the States of Missouri, Nebraska, Colorado, Oklahoma, and Florida opposed the suspension of the point system, suggesting that elimination of the point system will direct greater harvest pressure toward species and sexes requiring greater protection. The State of Illinois and the Humane Society of the United States supported suspension of the point system. Forty-eight individuals called for elimination of the point system, while 187 individuals (including 110 petitioners) requested that it continue to be offered.

The Central Flyway Council and the State of Oklahoma recommended that the drake mallard bag limit be retained at 3 and that the hen mallard possession limit for the Central Flyway be 2, as it is with the other flyways. The State of Alabama recommended retention of a 3-drake mallard bag limit for the Mississippi Flyway. The States of California, Arizona, Idaho and Utah requested that a 4-drake mallard limit be retained in the Pacific Flyway rather than the proposed reduction to 3. The Wildlife Management Institute supported a continued daily bag limit of one mallard hen, as did essentially all others who commented on mallard bag limits. Two regional waterfowl organizations requested a 4-drake mallard bag limit in the Pacific Flyway.

Numerous comments were received on the proposal to split and severely restrict the season on pintails. The Atlantic and Central Flyway Councils, the States of Michigan, Missouri, Colorado, Illinois, New York, Florida, Massachusetts, Maryland, Vermont, Arizona, Idaho, Utah, Oklahoma, Delaware and California, the National Wildlife Federation, 2 waterfowl organizations, 63 individuals and 1,100 petitioners indicated that, while restrictions on pintail harvest are needed, such a regulation would be confusing, difficult to enforce, unnecessarily complicate regulations, and result in a substantial number of wasted ducks. Most of these recommended a simplified regulation of 1 pintail of either sex daily throughout the season or, alternatively, 1 pintail of either sex during part of the season and 1 drake pintail during the rest of the season.

The Humane Society of the United States specifically recommended that mergansers be included in the duck bag limit due to lack of information on status of mergansers.

Response. The Service agrees that populations of some species such as gadwall, wigeon, shovelers and green-winged teal are above long-term averages, although all have been adversely affected by the severe drought and reduced habitat quality this year. However, due to the drought and poor production from most prairie and parkland-nesting species and the depressed status of some important species, the Service desires to reduce hunting opportunity in general to effect an additional reduction in harvest of ducks comparable to that which occurred upon implementation of restrictive regulations in 1985 and continued through 1987. In the Service's view, a 4-bird versus a 3-bird bag limit likely would lessen the effectiveness of additional restrictions on certain species and sexes, resulting in larger harvests of all species.

The Service is suspending the point system this year and will conduct a full review of the system as a bag limit option. Law-enforcement agents and hunter-observation studies in the past suggested that wanton waste of high-point birds and reordering of bags may be serious problems in some situations. Reordering is unique to the point system and is a violation that is, in many cases, unenforceable.

With regard to requests that a 4-drake mallard bag limit be allowed in the Pacific Flyway, the harvest of mallards in that flyway is derived from many areas, some more influenced by the recent and persistent drought than others. Mallards from the various breeding areas mix to varying degrees in migration and wintering areas and cannot be differentiated; therefore, differential harvests are neither practical nor, in most cases, possible. The current strategy of providing added protection to mallards, pintails, and ducks in general is prudent until the status of duck populations improves. Thus, the Service believes a reduction of one drake in the mallard bag for the Pacific Flyway is warranted.

The Service concurs with the comments regarding the possession limit of mallard hens in the Central Flyway, and a 2-bird possession limit is provided in these final frameworks. However, the Service does not concur with retaining last year's 3-drake mallard bag limit in the Central Flyway. The mallard fall flight index this year is the second lowest on record. This critical status warrants significant additional harvest reductions which will require lower bag limits for all ducks.

Regarding the numerous comments about the proposed split and restricted pintail season, the Service acknowledges the enforcement problems as well as hunter confusion and wanton waste it may create. The proposal was an attempt to drastically curtail harvest of this species while still providing some opportunity for harvest and incentive for private landowners to maintain habitat late in the season for this and other waterfowl species. After considering the comments, the Service concurs that the proposal should be modified, thus, this final rule permits a 1 pintail daily bag limit of either sex, with 2 in possession, throughout the season in all flyways. The Service believes this action will still achieve a significant reduction in harvest while reducing the enforcement and wanton-waste problems associated with the original proposal.

Concerning comments that mergansers should be included in the regular duck bag limit, the Service has no information to suggest that the population status or harvest of any merganser species warrants additional restrictions at this time. While the utility of annual surveys in assessing the status of mergansers is limited, data from various surveys and studies being conducted in the United States and Canada suggest that the combined breeding populations of the three merganser species exceeds 1 million, while recent harvests in the United States have averaged less than 100,000 (SEIS–88). Such data do not suggest that hunting under the current regulations is likely to adversely affect any species of mergansers. A 1-bird bag limit restriction on hooded mergansers is already in place in the three eastern flyways.

3. Black Ducks

Written Comments—Two regional waterfowl organizations and one individual commented that regulations on black ducks for the 1988–89 season should remain similar to last year or should be liberalized to 2 birds daily with a shortened season. The Wildlife Management Institute recommended the Service continue to control the black duck harvest in the United States to accelerate a rebuilding of the population. They urged Canada to take further harvest restrictions on black ducks. The Humane Society called for a closed season on black ducks and one individual called for a closed season on hen black ducks.

Response. The Service believes that black duck populations can support the level of harvest obtained during the 1988–89 season. There are plans to coordinate future black duck harvest strategies with Canada. Regulation frameworks for all ducks during the 1988–89 hunting season will be more restrictive which will likely further reduce harvest of black ducks. Therefore, these frameworks provide for a continuation of the restrictive black duck regulations established in recent years.

7. Extra Teal Option

Public Hearing Comments—Mr. Leon Kirkland, representing the Atlantic Flyway Council, recommended that blue-winged teal be suspended as part of the teal bonus but requested that green-winged teal continue to be offered with 2 birds daily for the first 9 consecutive hunting days. He stated that greenwings have been part of the extra teal bag in the flyway since 1979 without adverse effects and breeding populations are 46 percent above objective levels.

Written Comments—The States of New York, Rhode Island, and Florida, and one regional waterfowl organization expressed their support for continuing the bonus on green-winged teal during the first 9 days of the regular season. They argue that greenwings have been a bonus species in the Atlantic Flyway since 1979 without adverse effects and breeding populations are above objective levels.

Response. The extra teal option was originally established to increase harvest opportunity on blue-winged teal which were abundant and lightly harvested. However, bluewing populations have declined in recent years. The Service has moved to reduce hunting opportunity in all flyways through restrictive regulations. The greenwing bonus, unique to the Atlantic Flyway, is also being suspended to give added protection to bluewings and all ducks because the Service is concerned whether greenwings can be selectively harvested. The Service believes that virtually no special harvest opportunities for ducks are warranted in the 1988–89 season.

9. Special Scaup Season

Written Comments—The States of New York and Rhode Island, one regional waterfowl organization, and one individual requested a continuation of the 16-day special scaup season outside the regular duck season. The State of Vermont urged the Service to consider continuance of the 16-day special scaup-goldeneye season for Lake Champlain with a bag limit of 3 goldeneyes only to protect scaup. They maintain that goldeneyes are a lightly-harvested resources and would provide late-season hunters more opportunity to enjoy their sport.

Response. Special scaup seasons were suspended this year because population estimates have remained below objective levels in recent years. The Service believes it is inconsistent to continue special harvest opportunities until scaup populations recover. With reference to the special scaup-goldeneye season on Lake Champlain, the season was established primarily to harvest scaup. Little information is available about the status of goldeneyes. However, mid-winter survey indices for goldeneyes in the Atlantic Flyway suggest a decline similar to that exhibited by scaup.

10. Extra Scaup Option

Written Comments—The States of Florida and Rhode Island recommended no change in the bonus-scaup option. The State of New York recommended that alternatives to a complete suspension be considered. Both States suggest reducing the bonus to 1 bird, reducing the season length, and restricting the harvest to areas containing only greater scaup.

Response. The extra scaup option has been suspended for reasons similar to those for suspension of special scaup seasons. The Service believes that harvest opportunity during the regular season is warranted; however, in view of the beginning status of the species, special harvest opportunities are not appropriate at this time.

12. Canvasback and Redhead Ducks

Written Comments—Numerous States, the Wildlife Management Institute, the Wildlife Society, the National Wildlife Federation, and numerous individuals endorsed the closure of the canvasback season nationwide. No comments were received opposing the closure.

Response. The Service notes the support of the actions taken to close the season in all flyways.

13. Duck Zones

Written Comments—Wyoming asked that zones be dropped in their State to simplify regulations and that they be allowed to split their season 3 ways. Kansas expressed their opposition to the Service's position on zoning. They believe that if zoning has been allowed in some States, it should then be available to other States pending an evaluation based on the established criteria. The State of Louisiana and one individual expressed opposition to the Service's action to keep the western zone of Louisiana in the Mississippi Flyway. They stated that this position is not justified based on results of an extensive research study and that the final decision was based arbitrarily on political motives. New York supported continuation of zoning in the Atlantic Flyway, with zoning in Vermont considered operational. One regional waterfowl organization requested the continued use of zones in Massachusetts.

Response. The final frameworks herein include the option for Wyoming to split their hunting season 3 ways in lieu of zoning. The Service still believes that no new zones for duck hunting should be permitted and present zones should not become operational prior to the consideration of zoning in the reevaluation of harvest systems mentioned in the August 12, 1988, **Federal Register** (53 FR 30623). The final frameworks herein include provision for continuation of present zones. The Service has considered comments about Louisiana zones and reiterates its position stated in the June 7, 1988, **Federal Register** (53 FR 20876). The use of zones in Louisiana under Mississippi Flyway regulations is continued pending the reevaluation of harvest systems mentioned above.

14. Frameworks for Geese in the Conterminous United States—Outside Dates, Season Length and Bag Limits

Atlantic Flyway

Written Comments—The State of New York, one regional waterfowl organization and one individual recommended that the brant season be increased to 50 days. One regional waterfowl organization recommended a longer Canada goose season. One individual recommended that goose hunting be permitted only during the latter part of each week. One individual recommended that the goose bag limit be increased to 3 in 1989–90. The State of Pennsylvania recommended that the Canada goose bag limit be increased to 3 in the northwestern part of the State around Pymatuning Reservoir. The State of Delaware recommended a special 13-day snow goose season in October on and around Bombay Hook National Wildlife Refuge. The State of New Jersey recommended they be permitted to select brant and snow goose seasons separately within their respective duck zones. The State of New York asked that the Service select an option to harvest Canada geese with a 90-day season with 1 bird daily through October 15 and 3

birds daily thereafter or an 80-day season with 2 birds daily throughout as was recommended by the Flyway Council. The State of Florida expressed support of regulations designed to protect Tennessee Valley Population (TVP) Canada geese in the flyway.

Response. The Service concurs with the recommendation to increase the season length to 50 days on Atlantic brant. In response to recent declines of migrant Canada geese in the Atlantic Flyway, the Service concurs with Council recommendations to reduce overall harvest in the flyway. In northwestern Pennsylvania, the Canada goose bag limits will be 2 rather than 3 birds daily pending an appraisal of the migration patterns and harvest distribution of Canada geese wintering in southern areas of the flyway. The Service concurs with the 13-day special snow goose season in Delaware but notes that the habitat problems on Bombay Hook National Wildlife Refuge cannot be eliminated fully by a hunting program on snow geese and will require further attention. In New York, New Jersey, and parts of Pennsylvania, the Service is providing frameworks for Canada geese it believes most likely to protect southern migrants.

Mississippi Flyway

Public Hearing Comments—Mr. Richard Elden, representing the Michigan Department of Natural Resources, opposed a reduction in Canada goose bag limits in the southeastern portion of the State to provide added protection to Tennessee Valley Population (TVP) Canada geese. Recent data suggest that some of these geese migrate to wintering areas in southern portions of the Atlantic Flyway, where populations are declining. Mr. Elden stated that Michigan has previously taken measures to protect TVP geese by selecting shorter hunting seasons than the flyway frameworks permit and establishing a quota zone in one of the principal harvest areas to control harvest. Further, the State is establishing a new quota zone in another important harvest area this year. He requested that the bag limits be the same as last year.

Written Comments—One individual supported the special early and late seasons to harvest local giant Canada geese in Michigan. One individual recommended that if longer goose seasons are provided for Illinois, the same season length be made available for the entire State rather than part of the State.

Response. The Service concurs with Mr. Eden's request and the final frameworks herein contain the same limits as in 1987. Prior to the establishment of 1989 hunting regulations the Service will work with States in the Atlantic and Mississippi Flyways to clarify the migration patterns and harvest distribution of Canada geese wintering in the southern region of the Atlantic Flyway. The Service notes the support of special Canada goose seasons in Michigan. These experimental seasons are being continued this year. The final frameworks herein provide the same goose season length statewide in Illinois.

Pacific Flyway

Written Comments—Numerous organizations and individuals endorsed continued harvest restrictions on various Pacific Flyway geese that have declined in recent decades. One agricultural organization and four individuals recommended a February 15 extended framework for Canada goose seasons in Oregon. The Wildlife Management Institute called for additional actions beyond those in 1987–88 to rebuild the dusky Canada goose population and reduce the harvest of Pacific brant.

Response. Support for continued restrictions for depressed populations of Pacific Flyway geese is acknowledged. Regarding an extended framework for Canada geese in Oregon, the Service sees little justification at this time, but if such proposal is believed to be necessary and warranted, it should be addressed by the Pacific Flyway Council in order to determine its relationship to the management plans for Canada geese in question and the impact on all States that utilize these geese, including Alaska. The Service acknowledges recommendations that additional actions be taken to build dusky Canada geese and Pacific brant populations; however, we believe that actions identified in the respective management plans other than additional hunting restrictions should be emphasized at this time. Additional hunting restrictions would produce little or no positive effect on these populations above that occurring with the existing regulations which are already highly restrictive.

15. Tundra Swans

Public Hearing Comments—Ms. Jennifer Lewis, representing the Humane Society of the United States, stated that there is no justification for tundra swan seasons in the Atlantic Flyway. She indicated that the overall good population status and depredation on grain fields by tundra swans should not be used as reasons for encouraging hunting seasons on this species.

Mr. Doug Inkley, representing the National Wildlife Federation, expressed support for tundra swan seasons proposed in New Jersey and Virginia and the existing season in North Carolina.

Written Comments—One regional waterfowl organization offered support for a limited season on tundra swans in New Jersey to reduce crop losses. The State of Rhode Island and the National Wildlife Federation endorsed the proposed season expansion on the eastern population of tundra swans in the Atlantic Flyway. Twenty individuals, in addition to the nearly 2,000 noted in the August 12, 1988, **Federal Register** (53 FR 30627), voiced their opposition to tundra swan seasons.

Response. The Service notes the concern regarding the hunting of tundra swans but finds no biological reason to prohibit swan hunting. Presently, tundra swans exceed objective levels and a management plan and harvest strategy have been developed to give adequate protection to the species. Therefore, the Service has approved experimental seasons with a limited number of permits in North Carolina, New Jersey, Virginia and Alaska, as well as operational seasons in Montana, North Dakota, South Dakota, Utah and Nevada.

Nontoxic Shot Regulations

In the June 28, 1988, **Federal Register** (53 FR 24284), the Service published a final rule describing zones in which use of lead shot would be prohibited for hunting waterfowl, coots and certain other species in the 1988–89 hunting season. Waterfowl hunters are advised to become familiar with State and local regulations regarding the use of nontoxic shot for waterfowl hunting.

NEPA Consideration

NEPA considerations are covered by the programmatic document, "Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14)", filed with CEQ on June 9, 1988. Notices of Availability were published in the **Federal Register** on June 16, 1988 (53 FR 22582), and June 17, 1988 (53 FR 22727), and the Service's Record of Decision was published on August 18, 1988 (53 FR 31341).

Endangered Species Act Consideration

Section 7 of the Endangered Species Act provides that, "The Secretary shall review other programs administered by him and utilize such programs in furtherance of the purposes of this Act"

[and shall] "insure that any action authorized, funded or carried out * * * is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or modification of [critical] habitat * * *"

Subsequently, the Service initiated section 7 consultation under the Endangered Species Act for the proposed hunting season frameworks.

On June 17, 1988, the Division of Endangered Species and Habitat Conservation gave a biological opinion that the proposed actions were not likely to jeopardize the continued existence of listed species or result in the destruction or adverse modification of their critical habitats.

As in the past, hunting regulations this year are designed, among other things, to remove or alleviate chances of conflict between seasons for migratory game birds and the protection and conservation of endangered and threatened species.

The Service's biological opinion resulting from its consultation under section 7 is considered a public document and is available for inspection in the Office of Endangered Species and the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

Regulatory Flexibility Act, Executive Order 12291 and the Paperwork Reduction Act

In the **Federal Register** dated March 9, 1988 (53 FR 7702), the Service reported measures it had undertaken to comply with requirements of the Regulatory Flexibility Act and the Executive Order. These included preparing a Determination of Effects and an updated Final Regulatory Impact Analysis, and publication of a summary of the latter. These regulations have been determined to be major under Executive Order 12291 and they have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act. This determination is detailed in the aforementioned documents which are available upon request from the Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240. These regulations contain no information collections subject to Office of Management and Budget under the Paperwork Reduction Act of 1980.

Memorandum of Law

The Service published its Memorandum of Law, required by section 4 of Executive Order 12291, in the **Federal Register** dated August 9, 1988 (53 FR 29897).

Authorship

The primary author of this rule is Morton M. Smith, Office of Migratory Bird Management, working under the direction of Rollin D. Sparrowe, Chief.

Regulations Promulgation

The rulemaking process for migratory bird hunting must, by its nature, operate under severe time constraints. However, the Service is of the view that every attempt should be made to give the public the greatest possible opportunity to comment on the regulations. Thus, when the proposed late hunting season rulemakings were published on August 9, 1988, the Service established what it believed was the longest period possible for public comment. In doing this the Service recognized that at the close of the comment period, time would be of the essence. That is, if there was a delay in the effective date of these regulations after this final rulemaking, the Service is of the opinion that the States would have insufficient time to select season dates, shooting hours and limits; to communicate these selections to the Service; and to establish and publicize the necessary regulations and procedures that implement their decisions.

Therefore, the Service under authority of the Migratory Bird Treaty Act of July 3, 1918, as amended (40 Stat. 755; 16 U.S.C. 703 *et seq.*), prescribes final frameworks setting for the species to be hunted, the daily bag and possession limits, the shooting hours, the season lengths, the earliest opening and closing season dates, and hunting areas, from which State conservation agency officials may select hunting season dates and other options. Upon receipt of the season and option selections from State officials, the Service will publish in the **Federal Register** a final rulemaking amending 50 CFR Part 20 (§§ 20.104 through 20.107 and § 20.109) to reflect seasons, limits and shooting hours for the conterminous United States for the 1988–89 season.

The Service therefore finds "good cause" exists, within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and these frameworks will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Transportation, Wildlife.

The rules that eventually will be promulgated for the 1988–89 hunting season are authorized under the Migratory Bird Treaty Act of July 3, 1918, (40 Stat. 755; 16 U.S.C. 701–708h); the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 712); and the Alaska Game Act of 1925 (43 Stat. 739; as amended, 54 Stat. 1103–04).

Final Regulations Frameworks for 1988–89 Late Hunting Seasons on Certain Migratory Game Birds

Pursuant to the Migratory Bird Treaty Act, the Secretary of the Interior has approved final frameworks for season lengths, shooting hours, bag and possession limits and outside dates within which States may select seasons for hunting waterfowl and coots.

Frameworks are summarized below.

General

Split Season: States in all Flyways may split their season for ducks, geese or brant into two segments. States in the Atlantic and Central Flyways may, in lieu of zoning, split their season for ducks or geese into three segments. Exceptions are noted in appropriate sections.

Shooting Hours: From sunrise to sunset daily, for all species and seasons, including falconry seasons.

Deferred Season Selections: States that did not select rail, woodcock, snipe, sandhill cranes, common moorhens and purple gallinules and sea duck seasons in July should do so at the time they make their waterfowl selections.

Frameworks for open seasons and season lengths, bag and possession limit options, and other special provisions are listed below by Flyway.

Atlantic Flyway

The Atlantic Flyway includes Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and West Virginia.

Ducks, Coots and Mergansers

Hunting Seasons and Duck Limits:

Outside Dates: Between October 7, 1988, and January 8, 1989.

Hunting Season: Not more than 30 days.

Canvasbacks: The season on canvasbacks is closed.

Duck Limits: The daily bag limit of ducks is 3 and may include no more than 3 mallards (only 1 may be a hen), 2 wood ducks, 2 redheads, 1 black duck, 1 mottled duck, 1 pintail, and 1 fulvous tree duck. The possession limit is twice the daily bag limit.

Merganser Limits: Throughout the Flyway the daily bag limit of mergansers is 5, only 1 of which may be a hooded

merganser. The possession limit is 10, only 2 of which may be hooded mergansers.

Coot Limits: Throughout the Flyway daily bag and possession limits of coots are 15 and 30, respectively.

Early Wood Duck Season Option: Virginia, North Carolina, South Carolina and Georgia may split their regular hunting season so that a hunting season not to exceed 9 consecutive days occurs between October 7 and October 15. During this period, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks. For other ducks, daily bag and possession limits shall be the same as established for the Flyway.

Zoning:—New York: New York may, for the *Long Island Zone,* select season dates and daily bag and possession limits which differ from those in the remainder of the State.

Upstate New York (excluding the Lake Champlain zone) may be divided into three zones (West, North, South) for the purpose of setting separate duck, coot and merganser seasons. A 2-segment split season may be selected in each zone.

The *West Zone* is that portion of Upstate New York lying west of a line commencing at the north shore of the Salmon River and its junction with Lake Ontario and extending easterly along the north shore of the Salmon River to its intersection with Interstate Highway 81, then southerly along Interstate Highway 81 to the Pennsylvania border.

The *North* and *South Zones* are bordered on the west by the boundary described above and are separated from each other as follows: starting at the intersection of Interstate Highway 81 and State Route 49 and extending easterly along State Route 49 to its junction with State Route 365 at Rome, then easterly along State Route 365 to its junction with State Route 28 at Trenton, then easterly along State Route 28 to its junction with State Route 29 at Middleville, then easterly along State Route 29 to its intersection with Interstate Highway 87 at Saratoga Springs, then northerly along Interstate Highway 87 to its junction with State Route 9, then northerly along State Route 9 to its junction with State Route 149, then easterly along State Route 149 to its junction with State Route 4 at Fort Ann, then northerly along State Route 4 to its intersection with the New York/Vermont boundary.

Connecticut may be divided into two zones as follows:

a. *North Zone*—That portion of the State north of Interstate 95.

b. *South Zone*—That portion of the State south of Interstate 95.

Maine may be divided into two zones as follows:

a. *North Zone*—Game Management Zones 1 through 5.

b. *South Zone*—Game Management Zones 6 through 8.

New Hampshire—Coastal Zone—That portion of the State east of a boundary formed by State Highway 4 beginning at the Maine-New Hampshire line in Rollinsford west to the city of Dover, south to the intersection of State Highway 108, south along State Highway 108 through Madbury, Durham and Newmarket to the junction of State Highway 85 in Newfields, south to State Highway 101 in Exeter, east to State Highway 51 (Exeter-Hampton Expressway), east to Interstate 95 (New Hampshire Turnpike) in Hampton, and south along Interstate 95 to the Massachusetts line.

Inland Zone—That portion of the State north and west of the above boundary.

West Virginia may be divided into two zones as follows:

a. *Allegheny Mountain Upland Zone*—The eastern boundary extends south along U.S. Route 220 through Keyser, West Virginia, to the intersection of U.S. Route 50; follows U.S. Route 50 to the intersection with State Route 93; follows State Route 93 south to the intersection with State Route 42 and continues south on State Route 42 to Petersburg; follows State Route 28 south to Minnehaha Springs; then follows State Route 39 west to U.S. Route 219; and follows U.S. Route 219 south to the intersection of Interstate 64. The southern boundary follows I–64 west to the intersection with U.S. Route 60, and follows Route 60 west to the intersection of U.S. Route 19. The western boundary follows: Route 19 north to the intersection of I–79, and follows I–79 north to the intersection of U.S. Route 48. The northern boundary follows U.S. Route 48 east to the Maryland State line and the State line to the point of beginning.

b. Remainder of the State—That portion outside the above boundaries.

Zoning Experiments: Vermont will continue a Lake Champlain Zone in 1988. The Lake Champlain Zone of New York must follow the waterfowl season, daily bag and possession limits, and shooting hours selected by Vermont. *Massachusetts, New Jersey,* and *Pennsylvania* may continue zoning experiments now in progress as shown in the sections that follow. *Massachusetts* and *New Jersey* may be divided into three zones, *Pennsylvania* into four zones and *Vermont* into two zones all on an experimental basis for the purpose of setting separate duck, coot and merganser seasons. A two-segment split season without penalty may be selected. The basic daily bag limit of ducks in each zone and the restrictions applicable to the regular season for the Flyway also apply.

Zone Definitions:—Massachusetts—Western Zone—That portion of the State west of a line extending from the Vermont line at Interstate 91, south to Route 9, west on Route 9 to Route 10, south on Route 10 to Route 202, south on Route 202 to the Connecticut line.

Central Zone—That portion of the State east of the Western Zone and west of a line extending from the New Hampshire line at Interstate 95 south to Route 1, south on Route 1 to I–93, south on I–93 to Route 3, south on Route 3 to Route 6, west on Route 6 to Route 28, west on Route 28 to I–195, west to the Rhode Island line. *EXCEPT* the waters, and the lands 150 yards along the high-water mark, of the Assonit River to the Route 24 bridge, and the Taunton River to the Center St.-Elm St. bridge shall be in the Coastal Zone.

Coastal Zone—That portion of the State east and south of the Central Zone.

New Jersey—Coastal Zone—That portion of New Jersey seaward of a continuous line beginning at the New York State boundary line in Raritan Bay; then west along the New York boundary line to its intersection with Route 440 at Perth Amboy; then west on Route 440 to its intersection with the Garden State Parkway; then south on the Garden State Parkway to the shoreline at Cape May and continuing to the Delaware boundary in Delaware Bay.

North Zone—That portion of New Jersey west of the Coastal Zone and north of a boundary formed by Route 70 beginning at the Garden State Parkway west to the New Jersey Turnpike, north on the turnpike to Route 206, north on Route 206 to Route 1, Trenton, west on Route 1 to the Pennsylvania State boundary in the Delaware River.

South Zone—That portion of New Jersey not within the North Zone or the Coastal Zone.

Pennsylvania—Lake Erie Zone—The Lake Erie waters of Pennsylvania and a shoreline margin along Lake Erie from New York on the east to Ohio on the west extending 150 yards inland, but including all of Presque Isle Peninsula.

North Zone—That portion of the State north of I–80 from the New Jersey State line west to the junction of State Route 147; then north on State Route 147 to the junction of Route 220, then west and/or south on Route 220 to the junction of I–

80, then west on I–80 to its junctions with the Allegheny River, and then north along but not including the Allegheny River to the New York border.

Northwest Zone—That portion of the State bounded on the north by the Lake Erie Zone and the New York line, on the east by and including the Allegheny River, on the south by Interstate Highway I–80, and on the west by the Ohio line.

South Zone—The remaining portion of the State.

Vermont—Lake Champlain Zone—Includes the United States portion of Lake Champlain and those portions of New York and Vermont which includes that part of New York lying east and north of boundary running south from the Canadian border along New York Route 9B to New York Route 9 south of Champlain, New York; New York Route 9 to New York Route 22 south of Keeseville; along New York Route 22 to South Bay, along and around the shoreline of South Bay to New York Route 22; along New York Route 22 to U.S. Highway 4 at Whitehall; and along U.S. Highway 4 to the Vermont border. From the New York border at U.S. Highway 4, along U.S. Highway 4 to Vermont Route 22A at Fair Haven; Route 22A to U.S. Highway 7 at Vergennes; U.S. Highway 7 to the Canadian border.

Interior Vermont Zone—The remaining portion of the State.

Sea Ducks: The daily bag and possession limit for sea ducks in special sea duck areas is in addition to the limits applying to other ducks during the regular duck season. In all areas outside of special sea duck areas, sea ducks are included in the regular duck season daily bag and possession limits.

Canada Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1988, and January 20, 1989, Maine, New Hampshire, Vermont, Massachusetts, Pennsylvania, and West Virginia may select 70-day seasons for Canada geese with a daily bag and possession limit of 3 and 6 geese, respectively, except in Pennsylvania Counties of Erie, Mercer, Butler, and Crawford, where the daily bag and possession limits are 2 and 4, respectively. In Maryland, Delaware and Virginia (except Back Bay) the Canada goose season may be 70 days with an opening date of October 31, 1988, and a closing date of January 31, 1989, with 2 geese daily and 4 in possession. In New York (including Long Island), New Jersey, and that portion of Pennsylvania lying east and south of a boundary beginning at Interstate Highway 83 at the Maryland border and extending north to Harrisburg, then east on I–81 to Route 443, east on 443 to Leighton, then east via 208 to Stroudsburg, then east on I–80 to the New Jersey line, the Canada goose season length may be 90 days with the opening framework date of October 1, 1988, and the closing framework date extended to January 31, 1989. In addition, that portion of the Susquehanna River from Harrisburg north to the confluence of the west and north branches at Northumberland, including a 25-yard zone of land adjacent to the waters of the river, is included in the 90-day zone. The daily bag and possession limits within this area will be 1 and 2, respectively through October 15, 1988, and 3 and 6, respectively thereafter. In Rhode Island, and Connecticut (North Zone) season length will be 90 days between October 1, 1988, and January 31, 1989, with a daily bag and possession limit of 3 and 6, respectively. In the South Zone of Connecticut (that portion south of Interstate 95), the Canada goose season length may be 90 days with the closing framework date extended to February 5, 1989. The daily bag limit and possession limit will be 3 and 6, respectively, through January 14, and 5 and 10 respectively from January 15 to February 5, 1989.

This season in the south Zone of Connecticut is experimental. The Back Bay of Virginia, North Carolina (that portion south of Interstate Highway 95), and South Carolina may select an 11-day season for Canada geese within a January 20–31, 1989, framework; the daily bag and possession limits are 1 and 2 Canada geese, respectively. In the Coastal Zone of Massachusetts, a special resident Canada goose season may be held during January 21, 1989, to February 5, 1989; the daily bag and possession limits are 5 and 10, respectively.

Closures on Canada geese: The season for Canada geese is closed in Florida and Georgia.

Snow Geese

Outside Dates, Season Lengths, and Limits: Between October 1, 1988, and January 31, 1989, States in the Atlantic Flyway may select a 90-day season for snow geese (including blue geese); the daily bag and possession limits are 4 and 8, respectively. Between October 17, 1988, and October 29, 1988, a special snow goose season may be held in Delaware on Bombay Hook National Wildlife Refuge and immediate area (as described in State regulations) at the discretion of the Refuge Manager. Daily bag and possession limits are 4 and 8, respectively. This season is in addition to the 90-day regular season.

Atlantic Brant

Outside Dates, Season Lengths, and Limits: Between October 1, 1988, and January 20, 1989, States in the Atlantic Flyway may select a 50-day season for Atlantic brant; the daily bag and possession limits are 2 and 4 brant, respectively.

Tundra Swans

In New Jersey, Virginia and North Carolina an experimental season for tundra swans may be selected with 200, 600 and 6,000 permits, respectively, subject to the following conditions: (a) the season may be 90 days and must run concurrently with the snow goose season; (b) the State agency must issue permits and obtain harvest and hunter participation data; and (c) each permittee is authorized to take 1 tundra swan per season.

MISSISSIPPI FLYWAY

The Mississippi Flyway includes Alabama, Arkansas, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Ohio, Tennessee and Wisconsin.

Ducks, Coots, and Mergansers

Outside Dates: Between October 8, 1988, and January 8, 1989, in all States.

Hunting Season: Not more than 30 days.

Canvasbacks: The season on canvasbacks is closed.

Limits: The daily bag limit of ducks is 3, and may include no more than 2 mallards (no more than 1 of which may be a female), 1 black duck, 1 pintail, 2 wood ducks, and 1 redhead. The possession limit is twice the daily bag limit.

Merganser Limits: The daily bag limit of mergansers is 5, only 1 of which may be a hooded merganser. The possession limit is twice the daily bag limit.

Coot Limits: The daily bag and possession limits are 15 and 30, respectively.

Early Wood Duck Season Option: Arkansas, Louisiana, Mississippi and Alabama may split their regular duck hunting seasons in such a way that a hunting season not to exceed 9 consecutive days may occur between October 8 and October 16. During this period, no special restrictions within the regular daily bag and possession limits established for the Flyway shall apply to wood ducks. For other species of ducks, daily bag and possession limits shall be the same as established for the Flyway. This exception to the daily bag and

possession limits for wood ducks shall not apply to that portion of the duck hunting season that occurs after October 16.

Pymatuning Reservoir Area, Ohio: The waterflowl seasons, limits and shooting hours in the Pymatuning Reservoir area of Ohio will be the same as those selected by Pennsylvania. The area includes Pymatuning Reservoir and that part of Ohio bounded on the north by county Road 306 known as Woodward Road, on the west by Pymatuning Lake Road, and on the south by U.S. Highway 322.

Zoning: Alabama, Illinois, Indiana, Iowa, Louisiana, Michigan, Missouri, Ohio, Tennessee, and *Wisconsin* may select hunting seasons for ducks, coots and mergansers by zones described as follows:

Alabama: South Zone—Mobile and Baldwin Counties. North Zone—The remainder of Alabama. The season in the South Zone may be split into two segments.

Illinois: North Zone—That portion of the State north of a line running east from the Iowa border along Illinois Highway 92 to I–280, east along I–280 to I–80, then east along I–80 to the Indiana border. Central Zone—That portion of the State between the North and South Zone boundaries. South Zone—That portion of the State south of a line running east from the Missouri border along the Modoc Ferry route to Randolph County Highway 12, north along Highway 12 to Illinois Highway 3, north along Illinois Highway 3 to Illinois Highway 159, north along Illinois Highway 159 to Illinois Highway 161, east along Illinois Highway 161 to Illinois Highway 4, north along Illinois Highway 4 to I–70, then east along I–70 to the Indiana border.

Indiana: North Zone: That portion of the State north of a line extending east from the Illinois border along State Highway 18 to U.S. Highway 31, then north along U.S. 31 to U.S. Highway 24, then east along U.S. 24 to Huntington, then southeast along U.S. Highway 224 to the Ohio border. Ohio River Zone: That portion of Indiana south of a line extending east from the Illinois border along Interstate Highway 64 to New Albany, then east along State Highway 62 to State Highway 56, then east along State Highway 56 to Vevay, then on State Highway 156 along the Ohio River to North Landing, then north along State Highway 56 to U.S. Highway 50, then northeast along U.S. 50 to the Ohio border. South Zone: That portion of the State between the North and Ohio River Zone boundaries. The season in each zone may be split into two segments.

Iowa: North Zone—That portion of Iowa north of a line running west from the Illinois border along I–80 to U.S. 59, north along U.S. 59 to State Highway 37, northwest along State Highway 37 to State Highway 175, then west along State Highway 175 to the Nebraska border. South Zone—The remainder of the State.

Louisiana: West Zone—That portion of the State west of a boundary beginning at the Arkansas-Louisiana border on Louisiana Highway 3, then south along Louisiana Highway 3 to Bossier City, east along Interstate 20 to Minden, south along Louisiana Highway 7 to Ringgold, east along Louisiana Highway 4 to Jonesboro, south along U.S. Highway 167 to Lafayette, southeast along U.S. Highway 90 to Houma, south along the Houma Navigation Channel to the Gulf of Mexico through Cat Island Pass. East Zone—The remainder of Louisiana. The season in each zone may be split into two segments.

Note: No additional days are offered for the West Zone since Louisiana is considered part of the Mississippi Flyway as announced in June 7, 1988, **Federal Register** (53 FR 10876).

Michigan: North Zone—The Upper Peninsula. South Zone—That portion of the State south of a line beginning at the Wisconsin border in Lake Michigan due west of the mouth of Stony Creek in Oceana County; then due east to, and east and south along the south shore of, Stony Creek to Webster Road, east and south on Webster Road to Stony Lake Road, east on Stony Lake and Garfield Roads to M–20, east on M–20 to U.S.–10B.R. in the city of Midland, east on U.S.–10B.R. to U.S.–10, east on U.S.–10 and M–25 to the Saginaw River, downstream along the thread of the Saginaw River to Saginaw Bay, then on a northeasterly line, passing one-half mile north of the Corps of Engineers confined disposal island offshore of the Carn powerplant, to a point one mile north of the Charity islands, then continuing northeasterly to the Ontario border in Lake Huron. Middle Zone—The remainder of the State. Michigan may split its season in each zone into two segments.

Missouri: North Zone—That portion of Missouri north of a line running east from the Kansas border along U.S. Highway 54 to U.S. Highway 65, south along U.S. 65 to State Highway 32, east along State Highway 32 to State Highway 72, east along State Highway 72 to State Highway 21, south along State Highway 21 to U.S. Highway 60, east along U.S. 60 to State Highway 51, south along State Highway 51 to State Highway 53, south along State Highway 53 to U.S. Highway 62 to I–55, north along I–55 to State Highway 34, then east along State Highway 34 to the Illinois border. South Zone—The remainder of Missouri. Missouri may split its season in each zone into two segments.

Ohio: The counties of Darke, Miami, Clark, Champaign, Union, Delaware, Licking, Muskingam, Guernsey, Harrison and Jefferson and all counties north thereof. In addition, the North Zone also includes that portion of the Buckeye Lake area in Fairfield and Perry Counties bounded on the west by State Highway 37, on the south by State Highway 204, and on the east by State Highway 13. Ohio River Zone—The counties of Hamilton, Clermont, Brown, Adams, Scioto, Lawrence, Gallia and Meigs. South Zone—That portion of the State between the North and Ohio River Zone boundaries. Ohio may split its season in each zone into two segments.

Tennessee: Reelfoot Zone—Lake and Obion Counties, or a designated portion of that area. State Zone—The remainder of Tennessee. Seasons may split into two segments in each zone.

Wisconsin: North Zone—That portion of the State north of a line extending northerly from the Minnesota border along the center line of the Chippewa River to State Highway 35, east along State Highway 35 to State Highway 25, north along State Highway 25 to U.S. Highway 10, east along U.S. Highway 10 to its junction with the Manitowoc Harbor in the city of Manitowoc, then easterly to the eastern State boundary in Lake Michigan. South Zone—The remainder of Wisconsin. The season in the South Zone may be split into two segments.

Geese

Definiton: For the purpose of hunting regulations listed below, the term "geese" also includes brant.

Note: The various zones and areas identified in this section are described in the respective States' regulations.

Outside Dates, Season Lengths and Limits: Between October 1, 1988, and January 22, 1989 (January 31 in Kentucky, Arkansas, Tennessee, Mississippi, and Alabama), States may select 70-day seasons for geese, with a daily bag limit of 5 geese, to include no more than 2 white-fronted geese. The possession limit is 10 geese, to include no more than 4 white-fronted geese. Regulations for Canada geese and exceptions to the above general provisions are shown below by State.

Outside Dates and Limits on Snow and White-fronted Geese in Louisiana:

Between October 1, 1988 and February 14, 1989, Louisiana may hold 70-day seasons on snow (including blue) and white-fronted geese by zones established for duck seasons. Daily bag and possession limits are as described above.

Minnesota. In the:

(a) West Central Goose Zone—the season for Canada geese may extend for 30 days. In the Lac Qui Parle Goose Zone the season will close after 30 days or when 4,000 birds have been harvested, whichever occurs first. Throughout the 5-county area the daily bag limit is 1 Canada goose and the possession limit is 2.

(b) Southeast Goose Zone—the season for Canada geese may extend for 70 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4. In selected areas of the Metro Goose Management Block and in Olmsted County, experimental 10-day late seasons may be held during December to harvest Giant Canada geese. During the seasons, the daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Remainder of the State—the season for Canada geese may extend for 40 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Iowa: The season may extend for 45 consecutive days. The daily bag limit is 2 Canada geese and the possession limit is 4. The season for geese in the Southwest Goose Zone may be held at a different time than the season in the remainder of the State.

Missouri. In the:

(a) Swan Lake Zone—the season for Canada geese closes after 40 days or when 10,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southeast Zone—A 50-day season on Canada geese may be selected, with a daily bag limit of 2 Canada geese and a possession limit of 4.

(c) Remainder of the State—the season for Canada geese may extend for 40 days in the respective duck hunting zones. The daily bag limit is 1 Canada goose, and the possession limit is 2.

Wisconsin: The total harvest of Canada geese in the State will be limited to 68,200 birds. In the:

(a) Horicon Zone—The framework opening date for Canada geese is September 24, and the harvest of Canada geese is limited to 46,100 birds. The season may not exceed 70 days. All Canada geese harvested must be tagged and the total number of tags issued will be limited so that the quota of 46,100 birds is not exceeded.

(b) Theresa Zone—The harvest of Canada geese is limited to 3,000 birds. The season may not exceed 50 days. The bag limit is 1 Canada goose per permittee per 5-day period, with a season limit of 4.

(c) Pine Island Zone—The harvest of Canada geese is limited to 1,000 birds. The season may not exceed 40 days. All Canada geese harvested must be tagged. The daily bag limit is 1 Canada goose per permittee and the season limit is 4. The total number of tags issued will not exceed 1,980.

(d) Collins Zone—The harvest of Canada geese is limited to 2,000 birds. The season may not exceed 40 days. All Canada geese harvested must be tagged. The daily bag limit is 1 Canada goose and the season limit is 4. The total number of tags issued will not exceed 3,900.

(e) Exterior Zone—The harvest of Canada geese is limited to 16,100 birds. The season may not exceed 35 days, except as noted below. Limits are 1 Canada goose daily and 2 in possession, except as noted below. In the Mississippi River Zone, the season for Canada geese may extend for 70 days. Limits are 1 Canada goose daily and 2 in possession through November 19, and 2 daily and 4 in possession thereafter. In the Brown County Zone, a special late season to control local populations of giant Canada geese may be held during December 1–31. The daily bag and possession limits during this special season are 2 and 4 birds, respectively. In the Rock Prairie Zone, a special late season to harvest giant Canada geese may be held between November 5 and December 11. During the late season, the daily bag limit is 1 Canada goose and the possession limit is 2.

In Wisconsin, the progress of the Canada goose harvest must be monitored by zone, and the respective zone's season closed, if necessary, to insure that the harvest does not exceed the quota stated above.

Illinois: The total harvest of Canada geese in the State will be limited to 74,000 birds. In the:

(a) Southern Illinois Quota Zone—The season for Canada geese will close after 50 days or when 37,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Rend Lake Quota Zone—The season for Canada geese will close after 50 days or when 11,100 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) Tri-County Zone—The season for Canada geese may not exceed 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(d) Remainder of State—Seasons for Canada geese up to 50 days may be selected by zones established for duck hunting seasons. The daily bag limit is 2 Canada geese and the possession limit is 4.

Michigan: The total harvest of Canada geese in the State will be limited to 79,400 birds. In the:

(a) North Zone—The framework opening date for geese is September 26 and the season for Canada geese may extend for 40 days, except in the Superior Counties Goose Management Area (GMA), where the season will close after 40 days or when 8,000 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Middle Zone—The season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(c) South Zone:

(1) Allegan County GMA—the season for Canada geese will close after 50 days or when 4,500 birds have been harvested, whichever occurs first. The daily bag limit is 1 Canada goose and the possession limit is 2.

(2) Muskegon Wastewater GMA—the season for Canada geese will close after 50 days or when 500 birds have been harvested whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(3) Saginaw County GMA—the season for Canada geese will close after 50 days or when 4,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(4) Fish Point GMA—the season for Canada geese will close after 50 days or when 2,500 birds have been harvested, whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4.

(5) Remainder of South Zone—the season for Canada geese may extend for 40 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(d) Southern Michigan GMA—A late Canada goose season of up to 30 days may be held between January 7 and February 5, 1989. The daily bag limit is 2 Canada geese and the possession limit is 4.

Ohio: The daily bag limit is 2 Canada geese and the possession limit is 4.

Indiana: The total harvest of Canada geese in the State will be limited to 28,400 birds. In:

(a) Posey County—The season for Canada geese will close after 50 days or when 8,300 birds have been harvested,

whichever occurs first. The daily bag limit is 2 Canada geese and the possession limit is 4. The season may extend to January 31, 1989.

(b) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Kentucky: In the:

(a) Western Zone—The season for Canada geese may extend for 50 days, and the harvest will be limited to 22,500 birds. Of the 22,500-bird quota, 14,200 birds will be allocated to the Ballard Reporting Area and 4,500 birds will be allocated to the Henderson/Union Reporting Area. If the quota in either reporting area is reached prior to completion of the 50-day season, the season in that reporting area will be closed. If this occurs, the season in those counties and portions of counties outside of, but associated with, the respective subzone (listed in State regulations) may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Remainder of the State—The season may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Tennessee: In the:

(a) Northwest Tennessee Zone—The season for Canada geese may extend for 50 days, and the harvest will be limited to 8,900 birds. Of the 8,900-bird quota, 6,200 birds will be allocated to the Reelfoot Subzone. If the quota in the Reelfoot Quota Zone is reached prior to completion of the 50-day season, the season in the quota zone will be closed. If this occurs, the season in the remainder of the Northwest Tennessee Zone may continue for an additional 7 days, not to exceed a total of 50 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

(b) Southwest Tennessee Zone—The season for Canada geese may extend for 15 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

(c) Remainder of the State—The season for Canada geese may extend for 70 days. The daily bag limit is 2 Canada geese and the possession limit is 4.

Arkansas: The total harvest of Canada geese in the State will be limited to 2,400 birds. The season for Canada geese may extend for 16 days. The daily bag is 1 Canada goose and the possession limit is 2.

Louisiana: The season for Canada geese is closed.

Mississippi: In the:

(a) Sardis Zone—The season for Canada geese may extend for 30 days, 10 days of which must occur before December 15, 1988. The daily bag limit is 1 Canada goose and possession limit is 2.

(b) Remainder of the State—The season for Canada geese may not exceed 15 days. The daily bag limit is 1 Canada goose and the possession limit is 2.

Alabama: The daily bag limit is 2 Canada geese and the possession limit is 4.

Missouri, Illinois, Indiana, Kentucky and Tennessee Quota Zone Closures: When it has been determined that the quota of Canada geese allotted to the Southern Illinois Quota Zone, the Rend Lake Quota Zone in Illinois, the Swan Lake Zone in Missouri, Posey County in Indiana, the Ballard and Henderson-Union Subzones in Kentucky and the Reelfoot Subzone in Tennessee will have been filled, the season for taking Canada geese in the respective area will be closed by the Director upon giving public notice through local information media at least 48 hours in advance of the time and date of closing, or by the State through State regulations with such notice and time (not less than 48 hours) as they deem necessary.

Shipping Restriction: In Illinous and Missouri and in the Kentucky counties of Ballard, Hickman, Fulton and Carlisle, geese may not be transported, shipped or delivered for transportation or shipment by common carrier, the Postal Service, or by any person except as the personal baggage of licensed waterfowl hunters, provided that no hunter shall possess or transport more than the legally-prescribed possession limit of geese. Geese possessed or transported by persons other than the taker must be labeled with the name and address of the taker and the date taken.

CENTRAL FLYWAY

The Central Flyway includes Colorado (east of the Continental Divide), Kansas, Montana (Blaine, Carbon, Fergus, Judith Basin, Stillwater, Sweetgrass, Wheatland and all counties east thereof), Nebraska, New Mexico (east of the Continental Divide except that the entire Jicarilla Apache Indian Reservation is in the Pacific Flyway), North Dakota, Oklahoma, South Dakota, Texas and Wyoming (east of the Continental Divide).

Ducks (including mergansers) and Coots

Outside Dates: October 8, 1988, through January 8, 1989.

Canvasbacks: The season on canvasbacks is closed.

Hunting Season: Seasons in the Low Plains Unit may include no more than 39 days. Seasons in the High Plains Mallard Management Unit may include no more than 51 days, provided that the last 12 days may start no earlier than December 10, 1988. The High Plains Unit, roughly defined as that portion of the Central Flyway which lies west of the 100th meridian, shall be described in State regulations.

States may split their seasons into 2 or, in lieu of zoning, 3 segments.

Daily Bag and Possession Limits: The daily bag limit is 3 ducks, including no more than 2 mallards, no more than 1 of which may be a female, 1 mottled duck, 1 pintail, 1 redhead, 1 hooded merganser, and 2 wood ducks. The possession limit is twice the daily bag limit.

Daily bag and possession limits for coots are 15 and 30, respectively.

Zoning: Duck and coot hunting seasons may be selected independently in existing zones as described in the following States:

Montana (Central Flyway portion):

Experimental Zone 1. The counties of Bighorn, Blaine, Carbon, Daniels, Fergus, Garfield, Golden Valley, Judith Basin, McCone, Musselshell, Petroleum, Phillips, Richland, Roosevelt, Sheridan, Stillwater, Sweetgrass, Valley, Wheatland and Yellowstone.

Experimental Zone 2. The counties of Carter, Custer, Dawson, Fallon, Powder River, Prairie, Rosebud, Treasure and Wibaux.

Nebraska (Low Plains portion):

Zone 1. Keya Paha County east of U.S. Highway 183 and all of Boyd County including the adjacent waters of the Niobrara River.

Zone 2. The area bounded by designated highways and political boundaries starting on U.S. 73 at the State Line near Falls City; north to N–67; north through Nemaha to U.S. 73–75; north to U.S. 34; west to the Alvo Road; north to U.S. 6; northeast to N–63; north and west to U.S. 77; north to N–92; west to U.S. 81; south to N–66; west to N–14; south to I–80; west to U.S. 34; west to N–10; south to the State Line; west to U.S. 283; north to N–23; west to N–47; north to U.S. 30; east to N–14; north to N–52; northwesterly to N–91; west to U.S. 281; north to Wheeler County and including all of Wheeler and Garfield Counties and Loup County east of U.S. 183; east on N–70 from Wheeler County to N–14; south to N–39; southeast to N–22; east to U.S. 81; southeast to U.S. 30; east to U.S. 73; north to N–51; east to the State Line; and south and west along the State Line to the point of beginning.

Zone 3. The area, excluding Zone 1, north of Zone 2.

Zone 4. The area south of Zone 2.

New Mexico:

Experimental Zone 1. The Central Flyway portion of New Mexico north of Interstate Highway 40 and U.S. Highway 54.

Experimental Zone 2. The remainder of the Central Flyway portion of New Mexico.

Oklahoma:

Zone 1. That portion of northwestern Oklahoma, except the Panhandle, bounded by the following highways: starting at the Texas-Oklahoma border, OK 33 to OK 47, OK 47 to U.S. 183, U.S. 183 to I–40, I–40 to U.S. 177, U.S. 177 to OK 33, OK 33 to I–35, I–35 to U.S. 60, U.S. 60 to U.S. 64, U.S. 64 to OK 132, and OK 132 to the Oklahoma-Kansas state line.

Zone 2. The remainder of the Low Plains.

South Dakota (Low Plains portion):

South Zone. Bon Homme, Yankton and Clay Counties south of S.D. Highway 50; Charles Mix County south and west of a line formed by S.D. Highway 50 from Douglas County to Geddes, Highways CFAS 6198 and FAS 6516 to Lake Andes, and S.D. Highway 50 to Bon Homme County; Gregory County; and Union County south and west of S.D. Highway 50 and Interstate Highway 29.

North Zone. The remainder of the Low Plains.

Wyoming (Central Flyway portion): In lieu of its previous four zones, Wyoming may split their season in the Central Flyway portion of the State into three segments of equal or unequal length.

Geese

Definitions: In the Central Flyway, "geese" includes all species of geese and brant, "dark geese" includes Canada and white-fronted geese and black brant, and "light geese" includes all others.

Outside Dates: October 1, 1988, through January 22, 1989, for dark geese and October 1, 1988, through February 14, 1989 (February 28, 1989, in New Mexico), for light geese.

Possession Limits: Goose possession limits are twice the daily bag limits (see exception for light geese in the Rio Grande Valley Unit of New Mexico).

Hunting Seasons: Seasons in States, and independently in described goose management units within States, may be as follows:

Colorado: No more than 95 days with a daily limit of 5 geese that may include no more than 2 dark geese.

Kansas: For dark geese, no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 27 and no more than 1 Canada goose and 1 white-fronted goose during the remainder of the season.

For Light Goose Unit 1 (that area east of U.S. 75 and north of I–70), no more than 86 days with a daily limit of 5.

For Light Goose Unit 2 (the remainder of Kansas), no more than 86 days with a daily limit of 5.

Montana: No more than 95 days with daily limits of 2 dark geese and 3 light geese in Sheridan County and 3 dark geese and 3 light geese in the remainder of the Central Flyway portion of the State.

Nebraska: For Dark Goose Unit 1 (Boyd, Cedar west of U.S. 81, Keya Paha east of U.S. 183, and Knox Counties), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 11 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 2 (the remainder of the State east of the following highways starting at the South Dakota line; U.S. 183 to NE 2, NE 2 to U.S. 281, and U.S. 281 to Kansas), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 20 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For Dark Goose Unit 3 (that part of the State west of Units 1 and 2), no more than 72 days with daily limits of 2 Canada geese or 1 Canada goose and 1 white-fronted goose through November 20 and no more than 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

New Mexico: For dark geese, no more than 95 days with a daily limit of 2.

For light geese in the Rio Grande Valley Unit (the Central Flyway portion of New Mexico west of highways starting at the Texas line north of El Paso: U.S. 54 to U.S. 60, U.S. 60 to U.S. 285, and U.S. 285 to the Colorado line), no more than 107 days with a daily limit of 5 and a possession limit of 20.

For light geese in the remainder of the Central Flyway portion of New Mexico, no more than 95 days with a daily limit of 5.

North Dakota: For dark geese, no more than 72 days with daily limits of 1 Canada goose and 1 white-fronted goose or 2 white-fronted geese through October 30 and no more than 2 dark geese during the remainder of the season.

For light geese, no more than 86 days with a daily limit of 5.

Oklahoma: For dark geese, no more than 72 days with a daily limit of 2 Canada geese or 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

South Dakota: For dark geese in the Missouri River Unit (the Counties of Bon Homme, Brule, Buffalo, Campbell, Charles Mix, Corson east of SD Highway 65, Dewey, Gregory, Haakon north of Kirley Road and east of Plum Creek, Hughes, Hyde, Lyman north of Interstate 90 and east of U.S. Highway 183, Potter, Stanley, Sully, Tripp east of U.S. Highway 183, Walworth, and Yankton west of U.S. Highway 81), no more than 79 days with daily limits of 1 Canada goose and 1 white-fronted goose through November 11 and no more than 2 Canada geese or 1 Canada goose and 1 white-fronted goose for the remainder of the season.

For dark geese in the remainder of the State, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese, no more than 86 days with a daily limit of 5.

Texas: West of U.S. 81, no more than 95 days with a daily limit of 5 geese which may include no more than 2 dark geese.

For dark geese east of U.S. 81, no more than 72 days with a daily limit of 1 Canada goose and 1 white-fronted goose.

For light geese east of U.S. 81, no more than 86 days with a daily limit of 5.

Wyoming: No more than 95 days with a daily limit of 2.

Tundra Swans

The following States may issue permits authorizing each permittee to take no more than one tundra swan, subject to guidelines in a current, approved management plan and general conditions that each State determine hunter participation and harvest, and specified conditions as follows:

Montana: (Central Flyway portion): no more than 500 permits with the season dates concurrent with the season for taking geese.

North Dakota: No more than 1,000 permits with the season dates concurrent with the season for taking light geese.

South Dakota: No more than 500 permits with the season dates concurrent with the season for taking light geese.

PACIFIC FLYWAY

The Pacific Flyway includes Arizona, California, Colorado (west of the Continental Divide), Idaho, Montana

(including and to the west of Hill, Chouteau, Cascade, Meagher and Park Counties), Nevada, New Mexico (the Jicarilla Apache Indian Reservation and west of the Continental Divide), Oregon, Utah, Washington and Wyoming (west of the Continental Divide including the Great Divide Basin).

Ducks, Coots, Common Moorhens, and Common Snipe

Outside Dates: Between October 8, 1988, and January 8, 1989.

Hunting Seasons: Seasons may be split into two segments. Concurrent 59-day seasons on ducks (including mergansers), coots, common moorhens (gallinules) and common snipe may be selected except as subsequently noted. In the Oregon counties or Morrow and Umatilla and in Washington all areas lying east of the summit of the Cascade Mountains and east of the Big White Salmon River in Klickitat County, the seasons may be an additional 7 days.

Canvasback: The season on canvasbacks is closed.

Duck Limits: The basic daily bag limit is 4 ducks, including no more than 3 mallards, no more than 1 of which may be a female, 1 pintail, and 2 redheads. The possession limit is twice the daily bag limit.

Coot and Common Moorhen (Gallinule) Limits: The daily bag and possession limit of coots and common moorhens is 25 singly or in the aggregate.

Common Snipe Limits: The daily bag and possession limit of common snipe is 8 and 16, respectively.

California—Waterfowl Zones: Season dates for the Colorado River Zone of California must coincide with season dates selected by Arizona. Season dates for the Northeastern and Southern Zones of California may differ from those in the remainder of the States.

Idaho—Waterfowl Zones: Duck and goose season dates for Zone 1 and Zone 2 may differ. Zone 1 includes all lands and waters within the Fort Hall Indian Reservation and Bannock County; Bingham County except that portion within the Blackfoot Reservoir drainage; and Power County east of State Highway 37 and State Highway 39. Zone 2 includes the remainder of the State.

Nevada—Clark County Waterfowl Zone: Season dates for Clark County may differ from those in the remainder of Nevada.

Colorado, Montana, New Mexico and Wyoming—Common Snipe: For States partially within the Flyway a 93-day season for common snipe may be selected to occur between September 1, 1988, and February 28, 1989, and need not be concurrent with the duck season.

Geese (including Brant)

Outside dates, season lengths and limits on geese (including brant): Seasons may be split into two segments. Between October 1, 1988, and January 22, 1989, a 93-day season on geese (except brant in Washington, Oregon and California) may be selected, except as subsequently noted. The basic daily bag and possession limit is 6, provided that the daily bag limit includes no more than 3 white geese (snow, including blue, and Ross' geese) and 3 dark geese (all other species of geese). In Washington and Idaho, the daily bag and possession limits are 3 and 6 geese, respectively. Washington, Oregon and California may select an open season for brant with daily bag and possession limits of 2 and 4 brant, respectively. Brant seasons may not exceed 16-consecutive days in Washington and Oregon and 30-consecutive days in California.

Aleutian Canada goose closure: There will be no open season on Aleutian Canada geese. Emergency closures may be invoked for all Canada geese should Aleutian Canada goose distribution patterns or other circumstances justify such actions.

California, Oregon, Washington—Cackling Canada goose closure: There will be no open season on cackling Canada geese in California, Oregon and Washington.

California—Canada goose and dark goose closures: Three areas in California, described as follows: are restricted in the hunting of certain geese:

(1) In the counties of Del Norte and Humboldt there will be no open season for Canada geese.

(2) In the Sacramento Valley in that area bounded by a line beginning at Willows in Glenn County proceeding south on Interstate Highway 5 to the junction with Hahn Road north of Arbuckle in Colusa County; then easterly on Hahn Road and the Grimes-Arbuckle Road to Grimes on the Sacramento River; then southerly on the Sacramento River to the Tisdale By-pass; then easterly on the Tisdale By-pass to where it meets O'Banion Road; then easterly on O'Banion Road to State Highway 99; then northerly on State Highway 99 to its junction with the Gridley-Colusa Highway in Gridley in Butte County; then westerly on the Gridley-Colusa Highway to its junction with the River Road; then northerly on the River Road to the Princeton Ferry; then westerly across the Sacramento River to State Highway 45; then northerly on State Highway 45 to its junction with State Highway 162; then continuing northerly on State Highway 45–162 to Glenn; then westerly on State Highway 162 to the point of beginning in Willows, there will be no open season for Canada geese. In this area, the season on dark geese must end on or before November 30, 1988.

(3) In the San Joaquin Valley in that area bounded by a lien beginning at Modesto in Stanislaus County proceeding west on State Highway 132 to the junction of Interstate Highway 5; then southerly on Interstate Highway 5 to the junction of State Highway 152 in Merced County; then easterly on State Highway 152 to the junction of State Highway 59; then northerly on State Highway 59 to the junction of State Highway 99 at Merced; then northerly and westerly on State Highway 99 to the point of beginning; the hunting season for Canada geese will close no later than November 23, 1988.

California (Northeastern Zone)—geese: In the Northeastern Zone of California the season may be from October 8, 1988, to January 8, 1989, except that white-fronted geese may be taken only during October 8 to November 1, 1988. Limits will be 3 geese per day and 6 in possession, of which not more than 1 white-fronted goose or 2 Canada geese shall be in the daily limit and not more than 2 white-fronted geese and 4 Canada geese shall be in possession.

California (Balance of the State Zone)—geese: In the Balance of the State Zone the season may be from October 30, 1988, through January 22, 1989, except that white-fronted geese may be taken only during October 30, 1988, to January 1, 1989. Limits shall be 3 geese per day and in possession, of which not more than 1 may be a dark goose. The dark goose limits may be expanded to 2 provided that they are Canada geese (except Aleutian and cackling Canada geese for which the season is closed).

Western Oregon: In those portions of Coos and Curry Counties lying west of U.S. Highway 101 and that portion of Western Oregon west and north of a line starting at Oregon-Washington State line on the Columbia River; south on Interstate Highway 5 to its junction with State Highway 22 at Salem; east on State Highway 22 to the Stayton cutoff; south on the Stayton cutoff through Stayton and straight south to the Santiam River; west (downstream) on the Santiam River to Interstate Highway 5; south on Interstate Highway 5 to State Highway 126 at Eugene; west on State Highway 126 and ending at the Oregon coast, except for designated areas, there shall be no open season on Canada geese. In the remainder of Western

Oregon, the season and limits shall be the same as those for the Pacific Flyway, except the seasons in the designated area must end upon attainment of their individual quotas which collectively equal 210 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a state-issued permit authorizing them to do so.

Oregon (Lake and Klamath Counties)—geese: In the Oregon counties of Lake and Klamath the season on white-fronted geese will not open before November 1.

Washington and Oregon (Columbia Basin Portions)—geese: In the Washington counties of Adams, Benton, Douglas, Franklin, Grant, Kittitas, Klickitat, Lincoln, Walla Walla and Yakima, and in the Oregon counties of Gilliam, Morrow, Sherman, Umatilla, Union, Wallowa and Wasco, the goose season may be an additional 7 days.

Western Washington: In Clark, Cowlitz, Wahkiakum, and Pacific Counties, except for areas to be designated by the State, there shall be no open season on Canada geese. For designated areas the seasons must end upon attainment of individual quotas which collectively will equal 90 dusky Canada geese. Hunting of Canada geese in those designated areas shall only be by hunters possessing a state-issued permit authorizing them to do so.

Idaho, Oregon and Montana—Pacific Population of Canada geese: In that portion of Idaho lying west of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border (except Boundary, Bonner, Kootenai, Benewah, Shoshone, Latah, Nez Perce, Lewis, Clearwater and Idaho Counties); in the Oregon counties of Baker and Malheur; and in Montana (Pacific Flyway portion west of the Continental Divide), the daily bag and possession limits are 2 and 4 Canada geese, respectively; and the season for Canada geese may not extend beyond January 8, 1989.

Montana and Wyoming—Rocky Mountain Population of Canada Geese: In Montana (Pacific Flyway portion east of the Continental Divide) and Wyoming the season may not extend beyond January 8, 1989. In Lincoln, Sweetwater and Sublette Counties, Wyoming, the combined special sandhill crane-Canada goose seasons and the regular goose season shall not exceed 93 days.

Idaho, Colorado and Utah: In that portion of Idaho lying east of the line formed by U.S. Highway 93 north from the Nevada border to Shoshone, thence northerly on Idaho State Highway 75 (formerly U.S. Highway 93) to Challis, thence northerly on U.S. Highway 93 to the Montana border; in Colorado; and in Utah, except Washington County, the daily bag and possession limits are 2 and 4 Canada geese, respectively, and the season for Canada geese may be no more than 86 days and may not extend beyond January 8, 1989.

Nevada: Nevada may designate season dates on geese in Clark County and in Elko County and that portion of White Pine County within Ruby Lake National Wildlife Refuge differing from those in the remainder of the State. In Clark County the season on Canada geese may be no more than 86 days. Except for Clark County the daily bag and possession limits are 2 and 4 Canada geese, respectively. In Clark County the daily bag and possession limits are 2 Canada geese.

Arizona, California, Utah and New Mexico: In California, the Colorado River Zone where the season must be the same as that selected by Arizona and the Southern Zone; in Arizona; in New Mexico; and in Washington County, Utah; the season for Canada geese may be no more than 86 days. The daily bag and possession limit is 2 Canada geese except in that portion of California Department of Fish and Game District 22 within the Southern Zone (i.e., Imperial Valley) where the daily bag and possession limits for Canada geese are 1 and 2, respectively.

Tundra Swans

In Utah, Nevada and Montana, an open season for tundra swans may be selected under the following conditions: (a) between October 1, 1988, and January 22, 1989, a 93-day season may be selected, and seasons may be split into two segments; (b) appropriate State agency must issue permits and obtain harvest and hunter participation data; (c) in Utah, no more than 2,500 permits may be issued, authorizing each permittee to take 1 tundra swan; (d) in Nevada, no more than 650 permits may be issued, authorizing each permittee to take 1 tundra swan in either Churchill, Lyon, or Pershing Counties; (e) in Montana, no more than 500 permits may be issued authorizing each permittee to take 1 tundra swan in either Teton, Cascade, Hill, Liberty, Toole or Pondera Counties.

SPECIAL FALCONRY FRAMEWORKS

Extended Seasons: Falconry is a permitted means of taking migratory game birds in any State meeting Federal falconry standards in 50 CFR 21.29(k). These States may select an extended season not exceeding 107 days for taking migratory game birds in accordance with the following:

Framework Dates: Seasons must fall between September 1, 1988 and March 10, 1989.

Daily Bag and Possession Limits: Falconry daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 6 birds, respectively, singly or in the aggregate, during both regular hunting seasons and extended falconry seasons.

Regulations Publication: Each State selecting the special season must inform the Service of the season dates and publish said regulations.

Regular Seasons: General hunting regulations, including seasons, hours, and limits, apply to falconry in each State listed in 50 CFR 21.29(k) which does not select an extended falconry season.

Note: In no instance shall the total number of days in any combination of duck seasons (regular duck season, sea duck season, September seasons, or falconry season) exceed 107 days for a species in one geographical area. The extension of this falconry framework to include the period September 1, 1988–March 10, 1989, is considered tentative, and will be reviewed in cooperation with States offering such extensions after a period of several years.

Date: September 8, 1988.

Susan Recce,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 88-21249 Filed 9-15-88; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 53, No. 180
Friday, September 16, 1988

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

[TB-88-048]

Tobacco Inspection; Subpart C—Standards

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Agricultural Marketing Service proposes to amend the Official Standard Grades for flue-cured tobacco to more accurately describe tobacco as it presently appears at the marketplace. This proposed rule would revise the specifications of seven grades of nondescript tobacco in order to consistently apply the descriptive terms injury and waste, as elements of quality, in making grade determinations and also make minor changes of a technical nature.

DATE: Comments are due on or before October 17, 1988.

ADDRESS: Send comments to the Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502 Annex Building, P.O. Box 96456, Washington, DC 20090–6456. Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, P.O. Box 96456, Washington, DC 20090–6456, telephone: (202) 447–2567.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to revise the regulations governing the Official Standard Grades for Flue-Cured Tobacco, U.S. Types 11–14 and Foreign Type 92, pursuant to the Tobacco Inspection Act, as amended (7 U.S.C. 511–511q) and the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r).

The current standards for flue-cured tobacco contain eight groups; these are B (Leaf); H (Smoking Leaf); C (Cutters); X (Lugs); P (Primings); M (Mixed Group); N (Nondescript); and S (Scrap). Nondescript tobacco is extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any of the groups except Scrap. In the terminology used in the industry, nondescript tobacco is said to "come out of" the lowest grade of another group in which is would have been graded had it not exceeded in the tolerance levels or otherwise failed to meet the minimum specifications for that grade. In order to consistently apply the appropriate grade to nondescript tobacco, the same factors should be considered which caused the tobacco to be placed in the nondescript group. The elements of quality "injury" and "waste" are the primary factors involved. Injury is defined as hurt or impairment from any cause except the fungus or bacterial diseases which attack tobacco in its cured state, but which is not serious enough to be classified as waste. Waste is defined as the portions of the web of tobacco leaves which are dead, lifeless and do not have sufficient strength or stability to hold together in the normal manufacturing process due to excessive injury of any kind.

Grade NIK (Best Nondescript from the B or H Groups) presently has a tolerance of 50 percent for waste but no tolerance for injury. Because tobacco graded NIK comes out of grades B5KR, B6L, B6F, B6FR, B6K, H6FR, and H6K, which have tolerances for injury or waste, NIK should also. In order to be consistent with the specifications for other nondescript grades, the tolerance should be 50 percent injury or waste.

Grade N1KV (Best, Variegated, Medium-bodied Greenish Nondescript from the B Group) presently has a tolerance of 50 percent injury or waste. The tolerance should be limited to waste only because this tobacco comes out of grade B6KV (Poor Quality Variegated Greenish Leaf), which has no injury tolerance.

Grade N1GL (Best, Thin, Crude Nondescript from the P or X Groups) presently has a tolerance of 50 percent crude, injury or waste. The tolerance should be limited to crude or waste because this tobacco comes from 5th quality green tobacco from the P (Primings) and X (Lugs) group, and these grades have no limit on injury.

The specifications for grade N1GF (Best, Medium-bodied, Medium-colored, Crude Green Nondedescript from the B and C Groups) should be revised to refer to the B (Leaf) group only because green tobacco from the C (Cutter) group moves through the X (Lugs) group and then to nondescript. For Example, grades C4G and C4GK allow 20 percent injury, including 5 percent waste. When this tolerance is exceeded, tobacco would to to grades X4G or X4GK, which allows up to 30 percent of waste, then to 5th quality, which allows up to 40 percent, and then to nondescript. Also, nondescript tobacco may come out of the B (Leaf) group because it is lower than 6th quality, and some of the grades in the B (Leaf) group allow fleshy body. Since tobacco is more similar to N1GF (Best, Medium-bodied, Medium-colored, Crude Green Nondescript from the B Group) than to N1GR (Best, Heavy, Dark-colored, Crude Green Nondescript from the B Group) where it would presently be classified. Accordingly, the grade name and specification N1GF should be revised by replacing "medium body" with "fleshy body" (this would allow the presence of the higher quality medium body).

Grades N1PO (Oxidized Tobacco from the P Group) and N1XO (Oxidized Tobacco from the X or C Groups) presently have tolerances of 50 percent injury or waste. These tolerances should be revised to 50 percent waste only because the grades in the P (Primings) and X (Lug) groups below 3rd quality have no stated injury tolerance.

Finally, grade N2 (Poorest Nondescript of any Group or Color) should be clarified by adding that crude or green tobacco containing 10 percent or less of oxidized shall be graded N2; this provision is presently contained in Rule 25. This proposed rule also revises the authority citation for Subpart C by consolidating the authority citations at the beginning of Subpart C.

This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be "nonmajor" because it does not meet any of the criteria established for major rules under the Executive Order. Initial review of the regulations contained in 7 CFR Part 29 for need, currentness,

clarity and effectiveness has been completed.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business of this proposed rule. The proposed changes would not affect the normal movement of the commodity in the marketplace. Compliance with the proposed revision would not impose any substantial direct economic costs, record keeping or personnel workload changes on small entities, and would not alter the market share or competitive position of small entities relative to large entities. A number of firms which would be affected by this proposed rule do not meet the definition of small business. The Administrator, Agricultural Marketing Service, has determined that this action would have no significant economic impact upon a substantial number of small entities.

All persons who desire to submit written data, views or arguments for consideration in connection with this proposal may file them with the Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, P.O. Box 96456, United States Department of Agriculture, Washington, DC 20090–6456.

List of Subjects in 7 CFR Part 29

Administrative practices and procedures, Tobacco.

For the reasons set forth in the preamble, it is proposed that the regulations at 7 CFR Part 29, Subpart C, be amended as follows:

PART 29—TOBACCO INSPECTION

1. The authority citation for Subpart C is revised to read as follows:

Authority: 7 U.S.C. 511b, 511m, and 511r.

2. Section 29.1168 is revised to read as follows:

§ 29.1168 Nondescript (N Group).

Extremely common tobacco which does not meet the minimum specifications or which exceeds the tolerance of the lowest grade of any other group except Scrap.

Grades	Grade names, minimum specifications, and tolerances
N1L	Best Nondescript from the P Group; Tolerance: 50 percent waste.
N1XL	Best Nondescript from the X Group; Tolerance: 50 percent waste.
N1K	Best Nondescript from the B or H Groups; Tolerance: 50 percent injury or waste.
N1R	Best, Heavy, Dark-colored Nondescript from the B Group; Tolerance: 50 percent injury or waste.
N1KV	Best, Variegated, Medium-bodied Greenish Nondescript from the B Group; Tolerance: 50 percent waste.
N1GL	Best, Thin, Crude Green Nondescript from the P or X Groups; Tolerance: 50 percent crude or waste.
N1GF	Best, Heavy, Medium-colored, Crude Green Nondescript from the B Group; Tolerance: 50 percent crude, injury or waste.
N1GR	Best, Heavy, Dark-colored, Crude Green Nondescript from the B Group; Tolerance: 50 percent crude, injury or waste.
N1GG	Best, Crude, Gray Green Nondescript from the B Group; Tolerance: 50 percent crude, injury or waste.
N1PO	Oxidized Tobacco from the P Group; Tolerance: 50 percent injury or waste.
N1XO	Oxidized Tobacco from the X or C Groups; Tolerance: 50 percent waste.
N1BO	Oxidized Tobacco from the B or H Groups; Tolerance: 50 percent injury or waste.
N2	Poorest Nondescript of any Group or Color; Tolerance: Over 50 percent crude, injury or waste. Pursuant to Rule 25, this grade also includes crude or green tobacco containing 10 percent or less of oxidized.

Dated: September 7, 1988.

J. Patrick Boyle,

Administrator.

[FR Doc. 88–21141 Filed 9–15–88; 8:45 am]

BILLING CODE 3410–02–M

7 CFR Part 981

[AMS–FV–88–120PR]

Handling of Almonds Grown in California; Proposed Salable, Reserve, and Export Percentages for the 1988–89 Crop Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This action gives notice of a proposal to establish salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, for marketable California almonds received by handlers during the 1988–89 crop year, which began July 1, 1988. This action is taken under the marketing order for almonds grown in California and is intended to avoid unreasonable fluctuations in shipments and prices in view of projected record large California and worldwide almond supplies.

DATE: Comments must be received by October 3, 1988.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Room 2085, South Building, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the Federal Register and will be available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, Room 2525, South Building, F&V, AMS, USDA, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This proposed rule is issued under marketing agreement and Order No. 981, both as amended (7 CFR Part 981), regulating the handling of almonds grown in California and hereinafter referred to as the "order." The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the "Act."

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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

There are an estimated 115 handlers of almonds subject to regulation under the marketing order for California almonds during the current season. There are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This proposal would require handlers of California almonds to withhold, as a reserve, from normal domestic and export markets 25 percent of merchantable almonds received from growers during the 1988–89 crop year. The remaining 75 percent (the salable percentage) of the crop could be sold by handlers in any market. Total 1988 crop marketable production is expected to be 556.8 million kernel weight pounds—the third largest crop in history. Total 1988–89 crop year supplies (1988 crop marketable production plus marketable production carried in from the 1987–88 crop year) are projected at a record large 782.4 million kernel weight pounds—11.3 percent larger than last year's previous record supply of 702.8 million kernel weight pounds. Worldwide supplies for 1988 are also expected to be a record high. Domestic and export trade demand for 1988–89 is estimated at 530 million kernel weight pounds.

Reserve almonds could be released to the salable category at a later date if it is found that the salable percentage is insufficient to satisfy 1988–89 trade demand, including desirable carryover requirements for use during the 1989–90 crop year (if it appears that the 1989 crop will be insufficient to meet 1989–90 trade demand needs). Otherwise, reserve almonds would be diverted to secondary outlets.

While this rule may restrict the amount of almonds which handlers may sell in normal domestic and export markets, the proposed salable and reserve percentages are needed to lessen the impact of the oversupply situation facing the industry and to promote stronger marketing conditions, thus avoiding unreasonable fluctuations in prices and supplies and improving grower returns. Further, this proposed action could help provide market stability during the 1989–90 crop year by reserving 25 percent of this year's production for shipment during the 1989–90 season in the event that 1989 production is below trade demand.

Based on the above, the Administrator of the AMS has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

The authority to establish salable, reserve, and export percentages is pursuant to § 981.47 of the order. The proposal is based on a recommendation of the Almond Board of California, hereinafter referred to as the "Board," which is the agency responsible for local administration of the order, and upon other available information.

Pursuant to §§ 981.47 and 981.49 of the order, the Board based its recommendation for salable, reserve, and export percentages of 75 percent, 25 percent, and 0 percent, respectively, on estimates of marketable supply and combined domestic and export trade demand for the 1988–89 crop year. The Board's 1988 marketable production estimate of 556.8 million kernel weight pounds is based on its 1988 crop estimate of 580.0 million kernel weight pounds, minus an estimated weight loss of 23.2 million kernel weight pounds resulting from the removal of inedible kernels by handlers and losses during manufacturing.

Trade demand is estimated at 530.0 million kernel weight pounds—160.0 million pounds for domestic needs and 370.0 million pounds for export needs. An inventory adjustment is made to account for supplies of salable almonds carried in from the 1987–88 crop year on July 1, 1988, for 1987–88 crop year reserve released to the salable category effective August 1, 1988, and for supplies of salable almonds deemed desirable to be carried out on June 30, 1989, for early season shipment during the 1989–90 crop year until the 1989 crop is available for market. After adjusting for inventory, the trade demand is calculated at 417.6 million kernel weight pounds, the quantity of almonds from the estimated 1988 marketable production necessary for trade demand needs. The proposed salable percentage of 75 percent would meet those needs.

The remaining 25 percent (139.2 million kernel weight pounds) of the 1988 crop marketable production would be withheld by handlers to meet their reserve obligations. All or part of these almonds could be released to the salable category if it is found that the supply made available by the salable percentage is insufficient to satisfy 1988–89 trade demand, including desirable carryover requirements for use during the 1989–90 crop year. The Board is required to make any recommendations to the Secretary to increase the salable percentage prior to May 15, 1989. Alternatively, reserve almonds would be sold by the Board, or by handlers under agreement with the Board, to governmental agencies or charitable institutions or for diversion into almond oil, almond butter, animal feed, or other outlets which the Board finds are noncompetitive with existing normal markets for almonds.

The order permits the Board to include normal export requirements with domestic requirements in its estimate of trade demand when recommending the establishment of salable, reserve, and export percentages for any crop year. For the 1988–89 crop year, estimated exports are included in the trade demand. Thus, an export percentage of 0 percent is proposed. Therefore, reserve almonds would not be eligible for export to normal export outlets.

A tabulation of the estimates and calculations used by the Board in arriving at its recommendation is as follows:

MARKETING POLICY ESTIMATES—1988 CROP

[Kernel Weight Basis]

	Million pounds	Percent
Estimated production:		
1. 1988 Production	580.0	
2. Loss and Exempt—4.0%	23.2	
3. Marketable Production	556.8	
Estimated trade demand:		
4. Domestic	160.0	
5. Export	370.0	
6. Total	530.0	
Inventory adjustment:		
7. Carryin 7/1/88	112.8	
8. Additional Carryin 8/1/88	112.8	
9. Desirable Carryover 6/30/89	113.2	
10. Adjustment (Item 9 minus item 7 minus item 8)	(112.4)	
Salable/Reserve:		
11. Adjusted Trade Demand (Item 6 plus item 10)	417.6	
12. Reserve (Item 3 minus item 11)	139.2	
13. Salable % (Item 11—item 3 x 100)		75
14. Reserve % (100% minus item 13)		25

This proposed action would help avoid unreasonable fluctuations in shipments and prices as the industry faces its third largest crop and largest total supply in history. The projected 1988–89 crop year supply of 782.4 million marketable kernel weight pounds would be 39.4 percent larger than the 561.4 million kernel weight pound average annual supply for the last five years (1983–84 through 1987–88). World production is forecast by the Board at 788.3 million kernel weight pounds—second only to last year's record high production of 871.4 million kernel weight pounds. Worldwide supply for the period September 1, 1988, through August 31, 1989, is forecast by the Board at a record 940.0 million kernel weight pounds.

The 1982 Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders (Guidelines) specify that 110 percent of recent years' sales be made available to primary markets each season. This proposed action would provide an estimated 643.2 million kernel weight pounds of California almonds for unrestricted sales (1988

crop salable production plus carryin from the 1987 crop) to meet increasing domestic and world almond consumption demands. This amount exceeds the actual 1987–88 record for delivered sales of California almonds by 32.9 percent. Thus, the guidelines requirement would be met.

Interested persons are invited to submit their views and comments on this proposal. A 15-day comment period is considered adequate because the current crop year to which the proposed percentages would be applicable began on July 1, 1988. Late summer and early fall are usually active times for almond sales. Handlers and buyers should know as soon as possible the extent to which volume regulation will be put into effect this crop year.

List of Subjects in 7 CFR Part 981

Almonds, California, Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR Part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

Subpart—Salable, Reserve, and Export Percentages

2. Add a new § 981.236 to read as follows.

Note: This section will not appear in the annual Code of Federal Regulations.

§ 981.236 Salable, reserve, and export percentages for almonds during the crop year beginning July 1, 1988.

The salable, reserve, and export percentages during the crop year beginning July 1, 1988, shall be 75 percent, 25 percent, and 0 percent, respectively.

Dated: September 13, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88–21144 Filed 9–15–88; 8:45am]

BILLING CODE 3410-02-M

---

7 CFR Part 981

Expenses and Assessment Rate for Almonds Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would authorize expenditures and establish an assessment rate for the 1988–89 crop year under the marketing agreement and order for California almonds. The almond marketing order requires that the assessment rate for a particular crop year shall apply to all assessable almonds handled from the beginning of such year. An annual budget of expenses is prepared by the Almond Board of California (Board) and submitted to the U.S. Department of Agriculture for approval. The members of the Board are handlers and producers of regulated almonds. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of assessable almonds. The proposed assessment rate is applied to actual shipments and is expected to produce sufficient income to pay the Board's expected expenses during the 1988–89 crop year. Funds to administer this program are derived from assessments on handlers.

DATES: Comments must be received by September 26, 1988.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, Room 2085–S, P.O. Box 96456, Washington, DC 20090–6456. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This rule is proposed under marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, regulating the handling of almonds grown in California and hereinafter referred to as the "order". This order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this proposed rule on small entities.

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

There are approximately 115 handlers of California almonds, and there are approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having average gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of almond handlers and producers may be classified as small entities.

The marketing order requires that the assessment rate for a particular crop year shall apply to all assessable almonds handled from the beginning of such year. An annual budget of expenses is prepared by the Board and submitted to the U.S. Department of Agriculture for approval. The members of the board are handlers and producers of regulated almonds. They are familiar with the Board's needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate an appropriate budget. The budget is formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by the Board is derived by dividing anticipated expenses by expected shipments of assessable almonds. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the Board's expected expenses. The recommended budget and rate of assessment are usually acted upon by the Board before July 1 of each crop year. Since Board expenses are incurred on a continuous basis, budget and assessment rate approvals must be expedited so that the Board will have funds to pay its expenses.

The Board met on July 20, 1988, and unanimously recommended 1988–89 marketing order program expenditures of $16,130,309, and an assessment rate for the 1988–89 crop year of 2.65 cents per pound (kernelweight basis).

The 2.65 cent per pount 1988–89 assessment rate compares with a 1987–88 assessment rate of 2.8 cents per pound. While the 2.5 cent per pound creditable rate is the same as the 1987–88 rate, the .15 cent per pound non-creditable portion of the total assessment, which handlers must pay to the Board, is one-half of the .3 cent per pound 1987–88 rate.

Projected expenses of $16,130,309 for 1988–89 compare with 1987–88 budgeted expenses of $15,995,334. Budget categories for 1988–89 are $894,300 for administrative expenses, $257,309 for production research, $996,900 for public relations, and $56,800 for the 1989 crop estimate. Comparable actual expenditures for the 1987–88 crop were $676,789, $169,776, $744,428, and $54,100, respectively. The remaining $13,925,000 of proposed 1988–89 expenses is the estimated amount which handlers will spend on their own marketing promotion activities based on a projected 1988–89 marketable California almond production of 557,000,000 kernelweight pounds and assumes that all handlers receive full credit against the 2.5 cent per pound creditable assessment obligations. For the 1987–88 crop year, $14,250,000 was budgeted for handler marketing promotion activities based on a projected marketable production of 570,000,000 kernelweight pounds. An actual figure is not yet available because handlers have until December 31, 1988, to complete marketing promotion activities for which they may receive credit toward their 1987–88 crop year creditable assessment obligations.

While this proposed action would impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. Further, these costs would be significantly offset by the benefits derived from the operation of the marketing order. Therefore, the Administrator of the AMS has determined that this action would not have a significant economic impact on a substantial number of small entities.

Based on the foregoing, it is found and determined that a comment period of less than 30 days is appropriate because the budget and assessment rate approvals for this program need to be expedited. The Board must have sufficient funds to pay its expenses, which are incurred on a continuous basis.

List of Subjects in 7 CFR Part 981

Almonds, California, Marketing agreements and orders.

For the reasons set forth in the preamble, § 981.337 is proposed to be added as follows:

PART 981—[AMENDED]

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

2. Section 981.337 is added to read as follows:

Almonds Grown in California

§ 981.337 Expenses and assessment rate.

Expenses of $16,130,309 by the Almond Board of California are authorized for the crop year ending June 30, 1989. An assessment rate for that crop year payable by each handler in accordance with § 981.81 is fixed at 2.65 cents per pound of almonds (kernelweight basis) less any amount credited pursuant to § 981.41, but not to exceed 2.5 cents per pound of almonds (kernelweight basis).

Dated: September 13, 1988.

William J. Doyle,

Deputy Associate Director, Fruit and Vegetable Division.

[FR Doc. 88–21220 Filed 9–15–88; 8:45 am]

BILLING CODE 3410–02–M

---

7 CFR Part 1137

[DA–88–121]

Milk in the Eastern Colorado Marketing Area; Notice of Proposed Suspension of Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed suspension of rule.

SUMMARY: This notice invites written comments on a proposal to suspend for the months of September 1988 through February 1989 portions of the Eastern Colorado Federal milk order. The provisions proposed to be suspended were also suspended for the same months of 1986–87 and 1987–88. Provisions proposed to be suspended relate to the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during a previous September through February period. Also proposed to be suspended for the same period is the "touch-base" requirement that each producer's milk be received at least three times each month at a pool distributing plant. Suspension of the provisions was requested by a cooperative association representing producers supplying the market in order to prevent uneconomic movements of milk.

DATE: Comments are due no later than September 23, 1988.

ADDRESS: Comments (two copies) should be filed with the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building; P.O. Box 96456, Washington, DC 20090–6456.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 447–7183.

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

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

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), the suspension of the following provisions of the order regulating the handling of milk in the Eastern Colorado marketing area is being considered for the months of September 1988 through February 1989:

1. In the second sentence of § 1137.7(b), the words "plant which has qualified as a", and "of March through August".

2. In the first sentence of § 1137.12(a)(1), the words "from whom at least three deliveries of milk are received during the month at a distributing pool plant".

All persons who want to send written data, views or arguments about the proposed suspension should send two copies of them to the USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090–6456, by

the 7th day after publication of this notice in the **Federal Register.** The period for filing comments is limited to 7 days because a longer period would not provide the time needed to complete the required procedures and include September 1988 in the suspension period.

The comments that are sent will be made available for public inspection in the Dairy Division office during normal business hours (7 CFR 1.27(b)).

Statement of Consideration

Mid-America Dairymen, Inc. (Mid-Am), an association of producers that supplies some of the market's fluid milk needs and handles some of the market's reserve milk supplies, requested the suspension. For the months of September 1988 through February 1989, the suspension would remove the limit on the period of automatic pool plant status for a supply plant which met pool shipping standards during a previous September through February, and suspend the requirement that three deliveries of each producer's milk be received at a pool distributing plant each month.

Mid-Am states that the volume of producer milk pooled on the Eastern Colorado order during the first six months of 1988 increased 5.4 percent over year-earlier levels. During the same period, according to the cooperative, producer milk used in Class I has increased only 3.9 percent over the previous year. Mid-Am states that the impact of existing drought conditions and the resulting higher feed and hay prices on the amount of producer milk pooled on the Eastern Colorado order is impossible to determine at this time, but projects that there will be ample supplies of locally produced milk to meet the fluid requirements of Eastern Colorado distributing plants.

Mid-Am observes that suspension of the order's "touch-base" delivery requirement for each producer would not allow for additional milk supplies to be pooled, but would provide for more efficient disposition of producer milk not needed for fluid requirements of Eastern Colorado distributing plants.

Without the suspension action, Mid-Am states that the cooperative will be required to ship milk from the western Nebraska and western Kansas area to Denver-area distributing plants, displacing locally-produced milk and resulting in shipments from the Denver area to surplus handling plants increasing by an identical amount. Both movements, according to Mid-Am, would represent uneconomic movements of milk. Without the requested continued suspension, the cooperative expects to incur substantial unnecessary costs for the movement of its milk solely for the purpose of pooling the milk of its members currently associated with the Eastern Colorado market.

List of Subjects in 7 CFR Part 1137

Milk marketing orders, Milk, Dairy products.

The authority citation for 7 CFR Part 1137 continues to read as follows:

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

Signed at Washington, DC, on: September 13, 1988.

J. Patrick Boyle,

Administrator.

[FR Doc. 88–21143 Filed 9–15–88; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88–CE–25–AD]

Airworthiness Directives; Piper PA–60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This action proposes to adopt a new Airworthiness Directive (AD), applicable to Piper PA–60 series airplanes, which would require a one-time inspection of the cabin door for proper rigging, installation of cabin door placards and modification of the cabin door system by installation of a door ajar warning system. The FAA has learned of twelve accidents/incidents in which it was reported that the upper cabin entry door opened in flight. The actions of this proposed AD would help insure that the upper cabin door is properly secured and preclude loss of control of the airplane.

DATES: Comments must be received on or before October 17, 1988.

ADDRESSES: Piper Service Letter (SL) 980, dated February 7, 1985, Piper Maintenance Manual (Part Number 761 732), Revision IR860920, dated September 20, 1986, and Piper Service Bulletin (SB) 600–74, dated July 3, 1978, may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; telephone (407) 567–4361. This information also may be examined at the Rules Docket at the address below. Send comments on the proposal in triplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88–CE–25–AD, Room 1558, 601 East 12th Street, Kansas City Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Charles L. Perry, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, ACE–120A, 1669 Phoenix Parkway, Suite 210C, Atlanta, Georgia 30349; Telephone (404) 991–2910.

SUPPLEMENTARY INFORMATION: .

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contract concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 88–CE–25–AD, Rom 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The FAA has learned that since 1980, there have been twelve incidents/accidents involving cabin door openings on Piper PA–60 series airplanes. The FAA has determined that these incidents and accidents were caused by failure to insure that the door was closed prior to takeoff or improper latching due to misrigging, or a lack of attention to the mechanical condition of the system. Further investigation has

shown that in addition to the rigging instructions available in the Piper Maintenance Manual for these airplanes, Piper has issued other service information pertaining to the cabin door system. Specifically, Piper issued SB 600–74, dated July 3, 1978, which provides instructions for installation of a placard on the D-ring door handle that will indicate the direction of handle rotation for locking the door. In addition this SB provides instructions for installation of index decals to indicate position of locking pins. Piper also issued SL 980, dated February 7, 1985, that announces the availability of an Entrance Door Ajar Warning System. This system will alert the pilot when the door is not secured by providing a warning light on the instrument panel.

Since the condition described is likely to exist or develop in other Piper PA–60 series airplanes of the same type design, the FAA proposes to issue an AD requiring a one-time inspection of the cabin door for proper rigging in accordance with Piper Maintenance Manual (Part Number 761 732), Revision IR860920, dated September 20, 1986; installation of main cabin door placards in accordance with Piper SB 600–74, dated July 3, 1978; and modification of the cabin door system by installation of a warning system in accordance with Piper SL 980, dated February 7, 1985. These actions will alert the pilot of an improperly secured cabin door.

The FAA has determined there are approximately 1020 airplanes affected by the proposed AD. The cost of inspecting and modifying these airplanes as required by the proposed AD is estimated to be $830 per airplane. The total cost is estimated to be $846,600 to the private sector. The cost of complying with the proposal would not have a significant financial impact on any small entities owning the affected airplanes.

The regulations set forth in this notice would be promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, et seq.), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 as follows:

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

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

2. By adding the following new AD:

Piper (Aerostar): Applies to PA–60 series (all serial numbers) airplanes certificated in any category.

Compliance: Required within the next 100 hours time-in-service after the effective date of this AD unless already accomplished.

To prevent the cabin door from opening in flight, accomplish the following:

(a) Inspect the cabin doors for proper rigging in accordance with Piper Maintenance Manual (Part Number 761 732), Revision IR860920, dated September 20, 1986. Prior to further flight, repair any discrepancies.

(b) Install main cabin door placards in accordance with Piper Service Bulletin 600–74, dated July 3, 1978.

(c) Modify the cabin door system by the installation of a door ajar warning kit as prescribed in Piper Service Letter 980, dated February 7, 1985.

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

(e) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Atlanta Aircraft Certification Office, 1669 Phoenix Parkway, Suite 210C, Atlanta GA 30349.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine these documents at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on August 31, 1988.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–21127 Filed 9–15–88; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Ch. V

Worker Adjustment and Retraining Notification Act; Solicitation of Comments in Advance of Proposed Rulemaking

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice; request for comments.

SUMMARY: Section 8 of Pub. L. 100–379, the Worker Adjustment and Retraining Notification Act (WARN) authorizes the Secretary of Labor to prescribe regulations to carry out the Act. Prior to publishing proposed rules, the Department of Labor invites comment from interested parties and the general public on the requirements of WARN, with particular focus on the degree of statutory interpretation that commenters believe is most appropriate for regulations to implement worker advance notification.

DATES: Comments must be submitted on or before October 10, 1988.

ADDRESS: Submit comments to: Dolores Battle, Office of Job Training Programs, Employment and Training Administration Room N–4459, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Robert N. Colombo, Telephone: (202) 535–0577.

SUPPLEMENTARY INFORMATION: WARN generally requires employers with 100 or more employees excluding part time employees to provide 60 days advance notice of a plant closing or mass layoff. Although the Department of Labor (DOL) has no enforcement role under the Act, section 8(a) authorizes the Secretary to prescribe such regulations as may be necessary to carry out the Act. Such regulations are, at a minimum, to include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by the Act. DOL is inviting comment on:

(1) The extent to which the Department should issue interpretative regulations; and

(2) To the extent that regulations are needed the specific views of commenters on how particular sections of the law should be implemented through regulations.

Development of Plant Closing Regulations

With this notice, the Department invites comment after study of Pub. L. 100–379. Following completion of the comment period, DOL will develop a basic policy paper on the implementation of plant closing regulations and will publish this paper in the **Federal Register** for comment. Proposed regulations will be prepared after comments are considered, and are scheduled for late November publication. Final regulations will be written once comments on the proposed regulations are analyzed, and are scheduled to appear in the **Federal Register** in January 1989.

A detailed summary of Pub. L. 100–379, the Worker Adjustment and Retraining Notification Act, is provided below.

Section 1(a) provides that the short title of the Act is the "Worker Adjustment and Retraining Notification Act". Section 1(b) also contains the table of contents.

Section 2(a) contains definitions.

Paragraph (1) of section 2(a) states that the term "employer" means any business enterprise that employs—

(A) 100 or more employees, excluding part-time employees; or

(B) 100 or more employees who in the aggregate work at least 4,00 hours per week (exclusive of hours of overtime);

Paragraph (2) provides that the term "plant closing" means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;

Paragrah (3) defines the term "mass layoff" as a reduction in force which—

(A) Is not the result of a plant closing; and

(B) Results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) At least 33 percent of the employees (excluding any part-time employees); and

(II) At least 50 employees (excluding any part-time employees); or

(ii) At least 500 employees (excluding any part-time employees);

Paragraph (4) provides that the term "representative" means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act (29 U.S.C. 159(a), 158(f) or section 2 of the Railway Labor Act (45 U.S.C. 152);

Paragraph (5) states that the term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer;

Paragraph (6) provides that subject to subsection (b), the term "employment loss" means: (A) An employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

Paragraph (7) defines the term "unit of local government" as any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers; and

Paragraph (8) defines the term "part-time employee" as an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

Section 2(b) contains exclusions from the defintion of employment loss.

Paragraph (1) of section 2(b) provides that in the case of a sale of part or all of an employer's business, the seller shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act, up to and including the effective date of the sale. After the effective date of the sale of part or all of an employer's business, the purchaser shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act. Notwithstanding any other provision of this Act, any person who is an employee of the seller (other than a part-time employee) as of the effective date of the sale shall be considered an employee of the purchaser immediately after the effective date of the sale.

Paragraph (2) states that notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) The employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) The employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

Section 3(a) of the Act states that an employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order—

(1) To each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) To the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

Section 3(b) provides for reductions of the notification period.

Paragraph (1) of Section 3(b) states that an employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

Paragraph (2)(A) provides that an employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

Paragraph (2)(B) provides that no notice under this Act shall be required if the plant closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

Paragraph (3) provides that an employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

Section 3(c) pertains to extension of the layoff period. Under that subsection, a layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) The extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) Notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

Section 3(d) relates to determinations with respect to employment loss. Under that subsection, for purposes of section 3, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2(a) (2) or (3) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

Section 4 contains exemptions. Under this section, the Act shall not apply to a plant closing or mass layoff if—

(1) The closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) The closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act. Nothing in this Act shall require an employer to serve written notice pursuant to section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act: *Provided*, That nothing in this Act shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act.

Section 5 provides for the administration and enforcement of the requirements.

Section 5(a) provides for civil actions against employers.

Paragraph (1) of section 5(a) states that any employer who orders a plant closing or mass layoff in violation of section 3 of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) Back pay for each day of violation at a rate of compensation not less than the higher of—

(i) The average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) The final regular rate received by such employee; and

(B) Benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred.

Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

Paragraph (2) provides that the amount for which an employer is liable under paragraph (1) shall be reduced by—

(A) Any wages paid by the employer to the employee for the period of the violation;

(B) Any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) Any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation.

In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

Paragraph (3) states that any employer who violates the provisions of section 3 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

Paragraph (4) provides that if an employer which has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section.

Paragraph (5) states that a person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under paragraph (1) or (3), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any disrict in which the violation is alleged to have occurred, or in which the employer transacts business.

Paragraph (6) provides that in any such suit, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs.

Paragraph (7) states that for purposes of the subsection, the term, "aggrieved employee" means an employee who has worked for the employer ordering the plant closing or mass layoff and who, as a result of the failure by the employer to comply with section 3, did not receive timely notice either directly or through his or her representative as required by section 3.

Section 5(b) pertains to exclusivity of remedies. It provides that the remedies provided for in this section shall be the exclusive remedies for any violation of this Act. Under this Act, a Federal court shall not have authority to enjoin a plant closing or mass layoff.

Section 6 provides that the rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

Section 7 states that it is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

Section 8(a) provides that the Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

Section 8(b) provides that the mailing of notice to an employee's last known

address or inclusion of notice in the employee's paycheck will be considered acceptable methods for fulfillment of the employer's obligation to give notice to each affected employee under this Act.

Section 9 states that the giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act or the Railway Labor Act.

Section 10 provides that two years after the date of enactment of this Act the Comptroller General shall submit to the Committee on Small Business of both the House and Senate, the Committee on Labor and Human Resources, and the Committee on Education and Labor a report containing a detailed and objective analysis of the effect of this Act on employers (especially small and medium-sized businesses), the economy (international competitiveness), and employees (in terms of levels and conditions of employment). The Comptroller General shall assess both costs and benefits, including the effect on productivity, competitiveness, unemployment rates and compensation, and worker retraining and readjustment.

Section 11 states that the Act shall take effect on the date which is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 8 is effective upon enactment.

Additional Legislative History

The April 1988 House-Senate Conference Report on H.R. 3, the Omnibus Trade and Competitiveness Act of 1988 (House Report 100-576) contains important information for understanding the provisions of Pub. L. 100-379, since many aspects of the final law were developed during the drafting of H.R. 3, and were clarified in the Conference. The text of the Report section describing Subtitle E, advance notification requirements, has therefore been included in this Notice for reference. A number of floor amendments were introduced in June-July Congressional debates on S. 2527, the Worker Adjustment and Retraining Notification Act, which resulted in modifications to the final legislation. These include, among other changes: an explanation of responsibilities of buyers and sellers of a business to notify workers if a plant closing or layoff is decided upon; the identification of natural disasters as the basis for reduced notice or no notice in advance of an employer action; and stipulation that employers are not required to provide notice when permanently replacing "economic strikers."

Excerpt from Conference Report on H.R. 3, the Omnibus Trade and Competitivenesss Act of 1988 (House Report 100-576)

Subtitle E—Advance Notification of Plant Closings and Mass Layoffs

Present Law

There is no present law for this provision.

House Bill

The House bill contains no comparable provision.

1. Short Title (Sec. 6401 of Conference Agreement)

Senate Amendment

The Senate Amendment has no provision for a short title. The advance notification provisions were identified as Part B of the Economic Dislocation and Worker Adjustment Assistance Act.

Conference Agreement

The Conference Agreement separates the advance notification provisions from the worker adjustment provisions of the Economic Dislocation and Worker Adjustment Assistance Act. Section 6401 of the Conference Agreement creates a new subtitle for the advance notification provisions. The short title for this subtitle is the Worker Adjustment and Retraining Notification ("WARN") Act. By separating the advance notification provisions from the worker adjustment provisions, the Conferees intend as an administrative matter for the WARN Act to be an original law, not an amendment to the Job Training Partnership Act. At the same time, the Conferees reaffirm that advance notice is an essential component of a successful worker readjustment program, and they regard the two subtitles as closely interrelated.

2. Definitions/Exclusions From Definitions (Sec. 331, 334 (1), (2) of Senate Amendment; Sec. 6402 of Conference Agreement)

Senate Amendment

The Senate Amendment defines the terms "employer," "plant closing," "mass layoff," "representative," "affected employees," "employment loss," "unit of local government," "part-time employee," and "seasonal employee."

The Senate Amendment includes exemptions from notification for plant closings or mass layoffs resulting from the sale or relocation of a business. Under the exemption for sales, no notice is required if the plant closing or mass layoff results from the sale of all or part of a business and the purchaser agrees, in writing, to hire substantially all affected employees with no more than a six-month break in employment. Under the relocation exemption, no notice is required if the plant closing or mass layoff results from a relocation of a business within a reasonable commuting distance and the employer offers to transfer substantially all affected employees to the new location with no more than a six-month break in employment.

Conference Agreement

The Conference Agreement adopts the definitions in the Senate Amendment with the following modifications:

"Employer". The Conference Agreement retains the Senate Amendment language that the term "employer" means a business enterprise. The Conferees intend that a "business enterprise" be deemed synonymous with the terms company, firm or business, and that it consist of one or more sites of employment under common ownership or control. For example, General Motors has dozens of automobile plants throughout the country. Each plant would be considered a site of employment, but as provided in the bill, there is only one "employer"—General Motors.

"Plant Closing". The Conference Agreement strikes all references to "place of employment" and replaces them with "single site of employment." This change is intended to clarify that geographically separate operations are not to be combined when determining whether the employment threshold for triggering the notice requirement is met. For example, an automobile assembly plant on the east side of town and an assembly plant on the west side of town ordinarily would be two separate "sites of employment." On the other hand, an assembly plant on the east side of town that happens to extend to both sides of a public street is *not* two distinct "sites."

The Conferees otherwise retain the Senate language, but wish to clarify that a "temporary shutdown" triggers the notice requirement only if there are a sufficient number of terminations or layoffs exceeding six months, as specified under the definition of "employment loss."

"Mass Layoff". The Conference Agreement modifies the Senate Amendment so that the 33 percent requirement applies only to a mass layoff that involves more than 49 but fewer than 500 employees. Where the employment loss involves 500 or more employees, the 33 percent requirement would not apply, and notice would be required. The Conferees believe that

layoffs involving 500 or more people are likely to cause significant economic disruption in local communities, as well as the obvious disruption for the individuals involved. Thus, the rationale for advance notice is strong—the need for individuals and communities to begin planning for dislocation before the dislocation occurs. The jurisdiction for a 33 percent requirement for layoffs before notice is required has been the represenation by business interests that small layoffs of 50 or 100 or even 200 employees at a single site with a workforce of perhaps a thousand or more employees are such a regular part of business that requiring notice in these circumstances would be unduly burdensome. Because a layoff of 500 employees at a site of employment is a significant and unusual action, even in a large workforce of 2000 or more employees, the requirement of advance notice in these situations should not place an undue burden on employers.

"Employment Loss". The Senate Amendment includes two kinds of layoffs that would trigger the bill's requirements—those of indefinite duration and those of definite duration exceeding 6 months. The Conference Agreement combines these into a single triggering event—a layoff exceeding 6 months. The Senate Amendment includes within its definition of an employment loss a reduction in hours of more than 50 percent during any 6-month period. The Conference Agreement clarifies that this reduction in hours must occur in each of 6 consecutive months to be considered an employment loss. As an example, an employee who works less than half-time for five consecutive months, but who works full-time in the sixth, would not be considered to have experienced an employment loss.

"Part-time employee". The Senate Amendment defines a "part-time employee" as one who is hired to work an average of fewer than 15 hours per week. It also defines a "seasonal employee" as one who is hired for a period not to exceed 3 months per year to do work that is seasonal in nature. The Conference Agreement combines these concepts into a single definition of "part-time" employee, which includes employees who work fewer than 20 hours per week or who have worked fewer than 6 months in the 12-month period prior to the point at which the employer is required to serve notice. The definition of "seasonal employee" is therefore eliminated.

Exclusions from Definition of Employment Loss. The Conference Agreement incorporates the exemptions from notification for sales and relocations of a business in modified form as exclusions from the definition of "employment loss." Thus, a closing or layoff resulting from the sale of part or all of the employer's business does *not* give rise to an employment loss if

(a) the employee is covered at the time of the sale by a written rehire agreement between the buyer and the seller of the business to which the employee is explicitly made a third party beneficiary with rights against the purchaser under applicable state law; or

(b) the employee within 30 days after the sale is offered employment by the buyer.

In addition, a closing or layoff resulting from the relocation of consolidation of part or all of the employer's business does *not* give rise to an employment loss for a particular employee if, prior to the employee's termination or layoff,

(a) the employer offers to transfer that employee within a reasonable commuting distance; or

(b) the employer offers to transfer the employee to any other site of employment regardless of distance, and the employee accepts within 30 days of the offer or of the termination or layoff, whichever is later.

An example to which this may apply would be a situation where an employer owns five grocery stores in a metropolitan area. After deciding that one of the stores is no longer competitive, the employer decides to shut it down and makes a timely offer to transfer its employees to one or more of the remaining stores with no more than a six-month break in employment.

3. Notice Requirements (Sec. 332(a) of Senate Amendment; Sec. 6403(A) of Conference Agreement)

Senate Amendment

The Senate Amendment requires 60 days notice in advance of a plant closing or mass layoff to affected employees (or their representative), to the State dislocated worker unit designated or created under the Economic Dislocation and Worker Adjustment Assistance Act, and to the chief elected official of the unit of local government where the closing or layoff occurs.

Conference Agreement

The Conference Agreement adopts the Senate provision.

4. Reduction of Notification Period (Sec. 332(b) of Senate Amendment; Sec. 6403(b) of Conference Agreement)

Senate Amendment

The Senate Amendment provides for a reduction of the notification period in two specific circumstances. Under the "faltering company" exception, an employer actively seeking capital or business which would avoid or postpone indefinitely a shutdown, need not give the full 60 days notice if the employer reasonably and in good faith believes that notice would preclude the employer from obtaining the needed capital or business.

Under the second exception, the notice requirement is reduced if the closing or mass layoff is caused by business circumstances not reasonably foreseeable at the time notice would have been required. Both exceptions require the employer to give as much notice as is practicable and provide a brief statement of the basis for reducing the notice period.

Conference Agreement

After some discussion, the Conferees agree to retain both exceptions, but wish to clarify the meaning of the Senate Amendment as follows:

Faltering Company. The provision would permit, under specifically defined circumstances, an employer to shut down one or more sites of employment without providing the full notice required by the bill. The defense is intended as a narrow one applicable only where it was unclear 60 days before the closing whether the closing would occur; the employer was actively pursuing measures that would avoid or indefinitely postpone the closing; and the employer reasonably believed both that it had a realistic opportunity of obtaining the necessary capital or business and that giving notice would prevent the employer's actions from succeeding.

The key phrases are first that the employer was "actively seeking capital or business"; second that, had the employer obtained this capital or business, it "would have enabled the employer" to prevent or forestall the shutdown; and third, that the employer "reasonably and in good faith believed" that giving the notice required would have precluded the employer from obtaining the necessary capital or business that it had a realistic opportunity to obtain. Thus, to avail itself of this defense an employer must prove the specific steps it had taken, at or shortly before the time notice would have been required, to obtain a loan, to

issue bonds or stock, or to secure new business. This duty to seek capital or business falls on the employer, not the single site alone, and assumes that the employer lacks the necessary capital or business. Moreover, the employer must show the reasonable basis for its good-faith belief that giving the required notice would have prevented the employer from obtaining the capital or business that the employer had a realistic opportunity to obtain. Finally, the employer also must show that, upon learning that the workplace would be closed, it promptly notified the employees and explained why earlier notice had not been given.

Unforeseeable Business Circumstances. The Conferees recognize that there may be cases in which unforeseeable events necessitate a plant closing or mass layoff and it is not economically feasible to require the employer to give notice and wait until the end of the notice period before effecting the plant closing or mass layoff. For example, a natural disaster may destroy part of a plant; a principal client of the employer may suddenly and unexpectedly terminate or repudiate a major contract; or an employer may experience a sudden, unexpected and dramatic change in business conditions such as price, cost, or declines in customer orders. In these situations, the employer is required to give notice as soon as the closing or mass layoff becomes reasonably foreseeable, but the employer is permitted to implement the proposed closing or layoff without waiting until the end of the full notice period.

5. Extension of Layoff Period (Sec. 332(c) of Senate Amendment; Sec. 6403(c) of Conference Agreement)

Senate Amendment

The Senate Amendment provides that a layoff of definite duration of less than six months that extends beyond six months shall be treated as a layoff of indefinite duration subject to notification unless (1) the extension is caused by business circumstances not reasonably foreseeable at the time of the initial layoff; and (2) notice is provided as soon as it is reasonably foreseeable that the extension is required.

Conference Agreement

The Conference Agreement has eliminated the concept of a layoff of indefinite duration as was provided in the Senate Amendment. Therefore, the Conferees have modified the language of section 6403(c) to conform that section to the simplified definition in section 6402(a)(6). Employers operating under this provision lawfully may postpone giving notice until some time after a layoff has commenced *only* if they announced when ordering the layoff that the layoff would be for less than six months and if the employer proves that the layoff has been extended due to unforeseeable business circumstances.

6. Determination of Employment Loss (Sec. 333(c) of Senate Amendment; Sec. 6403(d) of Conference Agreement)

Senate Amendment

The Senate Amendment provides for the determination of a plant closing or mass layoff based on aggregation of smaller employment losses. Under the Amendment, employment losses at a single site for 2 or more groups of employees, each of which is less than 50 employees, but which in the aggregate total at least 50 employees, that occur within a 90-day period, will be considered a closing or layoff subject to notification, unless the employer demonstrates the employment losses result from separate and distinct actions and causes and are not an attempt to evade the notice requirements.

Conference Agreement

Language has been added to conform this subsection to the definition of mass layoff that appears in section 6402(a)(3). The Conferees wish to clarify that the requirement that a mass layoff of 50 to 499 employees must effect 33 percent of the employees at a particular employment site also applies to this section. The "33 percent" requirement was inadvertently omitted from the language approved by the Senate. Thus, for example, an employer employing 300 workers at a single site which laid off 25 employees on each of four separate occasions within a 90-day period would presumptively be deemed to have implemented a mass layoff of more than 50 employees affecting 33 percent of the workforce. On the other hand, no such presumption would arise where the same employer laid off 20 employees on each of 4 occasions over the same 90-day period, because the "33 percent" requirement would not have been met.

7. Exemptions (Sec. 334 (3), (4) of Senate Amendment; Sec. 6404 of Conference Agreement)

Senate Amendment

The Senate Amendment exempts particular plant closings and mass layoffs from the notice requirements. No notice is required if the closing is a shutdown of a temporary facility or the mass layoff results from the completion of a particular project so long as the affected employees were hired with the understanding that the job was limited to the duration of the facility or project.

The Senate Amendment also exempts from the notice requirements those closings or layoffs that constitute a strike or a lockout.

Conference Agreement

As discussed earlier in this Report, the Conference Agreement transforms two exemptions in the Senate Amendment—for sale and relocation of a business—into exclusion from the definition of "employment loss." The Conference Agreement retains the remaining two exemptions as exemptions with the following modifications:

Temporary Facility. The Conference Agreement adds language to clarify that this exception applies either to a closing or to a layoff. In addition, the Agreement carifies that the exemption from the notice requirement is available where the closing or layoff is the result of the completion of a particular "undertaking," as well as a particular "project." Use of the term "project" in the Senate Amendment had been read by some as precluding its application to certain other temporary activities. The Senate floor debate included discussion of this exemption, and the Conferees felt that clarification of the intent of the Senate provision would be advisable.

There are two basic requirements for this exemption to apply. First, the employees in question must have been hired with the understanding that their jobs would last only until an obviously limited activity of the employer was completed. This condition must have been clearly stated to the employes at the time they begin work. Second, the work must in fact be temporary or limited. The Conferees do not intend that employers be able to avoid the notice requirement by a formal process of periodically telling workers that their jobs will last only until completion of a particular project or undertaking, when both employer and emplyees expect and intend to continue the employment relationship indefinitely.

Thus, floor statements by the sponsors of the bill in the Senate indicated that the exemption could apply to shipbuilding and overhaul projects where employees were hired with the requisite understanding and where the work is in fact only for the duration of a particular project. Although the precise date on which operations will cease sometimes cannot be specified at the beginning of the undertaking, the employees know that when the work is done, their jobs will lapse. Similarly, this exemption also applies where an

employer hires employees for a specified and obviously limited term and the employees are informed in writing of the exact date of termination either at the outset or at some other point preceding the 60-day notice period.

Lockout. The Senate bill exempts closings and layoffs from the notice requirement when they constitute a strike or lockout. A lockout occurs when, for tactical reasons relating to collective bargaining, an employer refuses to utilize some or all of its employees for the performance of available work. The Conference Agreement clarifies that only lockouts not undertaken for the purpose of evading the notice requirements qualify for the exemption. An employer may not, for example, shut down an establishment and evade the notice requirement by calling the shutdown a lockout.

8. Administration and Enforcement of Notice Requirements (Sec. 333(a), (b) of Senate Amendment, Sec. 6405, 6408 of Conference Agreement)

Senate Amendment

The Senate Amendment establishes enforcement mechanisms against an employer which fails to meet the requirements. An employee who suffers an employment loss and who does not receive timely notice (either directly or through the employee's representative) may bring a civil action against the employer. The employer would be liable for back pay for each day of the violation plus the cost of related fringe benefits for each day of the violation minus any earnings or related fringe benefits received from the employer during the violation period.

If the employer does not provide timely notice to the unit of local government, the employer would be subject to a civil penalty equal to $500 for each day of the violation. If more than one unit of local government has jurisdiction over the area in which the closing or layoff will occur, the employer must notify only the unit of local government to which the employer paid the highest taxes for the year preceding the year when the notice is required.

The Senate Amendment provides that a court may reduce an employer's liability to employees or an employer's penalty to the unit of local government if that employer demonstrates that it acted in good faith and had reasonable grounds for believing it was not violating the notice requirements.

The Senate Amendment includes venue and attorneys' fees provisions. A person seeking to enforce the liability provisions of this part may sue, individually or on behalf of others similarly situated, in any U.S. district court in a district in which the violation occurred or in which the employer transacts business. A court, in addition to any judgment awarded to plaintiffs under this section, may allow a reasonable attorneys' fee.

The remedies provided for in the Senate Amendment are the exclusive remedies available for violation of the notice requirements.

Conference Agreement

The Conference agreement adopts the Senate provision with the following modifications:

Each day of violation. The Senate Amendment provides that an employer which violates the notice provisions of section 6403 is liable for back pay and a civil fine for "each day of violation." The Conferees wish to clarify that "each day of violation" is limited to the requisite notice period. Thus, the maximum violation period is 60 days, and it could be less depending upon the amount of notice given by the employer. For example, if the employer provides 20 days notice, then the maximum violation period for purposes of calculating back pay awards or civil fines would be 40 days. ("Violation period" refers to the period of time after a shutdown or layoff in violation of this Act, and extends for the number of days that notice was required but not given.)

Damage payments to employees. The Conference Agreement modifies the Senate Amendment language pertaining to offset. The Conferees wish to clarify that for each day of violation, an employer is liable to each aggrieved employee for the amount paid in wages and benefits to such employee prior to the layoff, as set forth in section 6405(a)(1). The Conferees also intend that an employer may satisfy its liability with respect to benefits by paying the cash value of such benefits for the period of violation, subject to the offset provisions in section 6405(a)(2).

Under 6405(a)(2), the amount owed by the employer may be reduced through certain payments made by the employer for the period of the violation. An offset would occur if the employer's mass layoff involved a reduction in hours of 75 percent for 6 consecutive months, but the employer continued to pay the affected employees 25 percent of their wages. The offset provision also would apply if an employer offers employees a payment (in the absence of any legal obligation), in a voluntary and unconditional effort to ease the burden of termination or simply as a gesture of goodwill. (The Conferees wish to note here that damages are fully satisfied when an employer makes the payment prescribed in section 6405(3)). If the employer continues to make payments to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan), which are attributable to the employee for the violation period, the payments made also would offset the back pay remedy. Finally, with respect to the portion of benefit liability arising from a defined benefit pension plan, an employer could satisfy that portion of its liability by crediting the employee with service for all purposes for the period of the violation.

By contrast, payments owing because of written or oral agreement, and made on account of the employment loss, would not offset the back pay remedy. Such payments may include severance pay, pension benefits or any other kind of benefit that an employee is entitled to receive. These are benefits that are payable as compensation for past services because a layoff or shutdown has occurred, whether or not the terms of the layoff or shutdown actually violate the Act. In addition, they are benefits that an employee would not receive if employment had continued.

Further, the only payments that may offset the back pay remedy are those made by the violating employer. Wages received from another employer, or unemployment compensation payments received from the State, may not be used to offset the remedy.

Damage payments to local governments. The Conferees intend that employers which violate the notice requirements with respect to the affected unit of local government be subject to a civil penalty of up to $500 per day of violation. Thus, the maximum penalty payable to a local government is $30,000. In the event that a violation is found, a court in determining the amount of the penalty may take into account the severity of the violation, the employer's size, and the employer's ability to pay such a penalty. The Conferees further intend to provide an incentive and a mechanism for employers to satisfy their obligation to their employees in the event they fail to provide 60 days advance notice to their employees. An employer will be relieved of the $500-a-day penalty to the local unit of government if it fully and promptly satisfies any financial liability to its employees under section 6405(a)(1). In order to avoid the payment to the unit of local government, an employer must complete full payment to its employees within 3 weeks from the point at which it orders a shutdown or layoff.

In addition, the Conferees agree that the Secretary of Labor should be authorized to promulgate regulations to ease administration and enforcement of the WARN Act. The Conference Agreement recognizes that interpretive regulations could play a constructive role in the implementation of this legislation.

Although the Department of Labor does not have an enforcement role, the Agreement authorizes the Secretary of Labor to promulgate regulations as he or she deems necessary. At a minimum, these regulations must prescribe standards governing the service of notice to affected employees. The Conferees intend that an employer be diligent in its effort to notify a representative of employees or the employees themselves. At the same time, the Conferees do not expect an employer to go to extraordinary and unreasonable lengths to notify each and every employee. For example, a mailing to the current addresses of employees might suffice, even though a few employees might have moved unbeknownst to the employer.

9. Relation to Other Rights (Sec. 335 of Senate Amendment, Sec. 6406 of Conference Agreement)

Senate Amendment

The Senate Amendment provides that the rights and remedies provided under the advance notification provisions are in addition to any other contractual or federal statutory rights and remedies available to affected employees.

Conference Agreement

The Conference Agreement provides that with one exception the rights and remedies provided under the advance notification provisions do not preempt or displace rights and remedies provided under other statutes or under contractual agreements. The Conferees are aware that many legal issues related to plant closings and mass layoffs currently may be addressed under collective bargaining agreements and some of these same issues also may be dealt with under state or other federal law. *See, e.g., Fort Halifax Packing Company* v. *Coyne*, 107 S. Ct. 2211 (1987) (ERISA does not preempt state law prescribing severance pay). The Conferees intend that the effect of these other laws and contracts should not be disturbed by the new federal provision. The only qualification to this rule involves the length of notice before a plant shutdown, the 60-day requirement contained in this bill will run concurrently with the 90-day requirement under state law. Similarly, if a collective bargaining agreement requires that an employer give 120 days notice before closing a plant, the new 60-day requirement will run concurrently with the longer contractual notice period.

10. Sense of the Congress on Notice (Sec. 336 of Senate Amendment, Sec. 6407 of Conference Agreement)

Senate Amendment

The Senate Amendment expresses the sense of Congress that an employer not required by this Act to provide advance notice of a plant closing or mass layoff is encouraged to provide advance notice irrespective of its obligations under federal law.

Conference Agreement

The Conference Agreement adopts the Senate provision.

11. Effect on Other Laws (Sec. 338 of Senate Amendment, Sec. 6409 of Conference Agreement)

Senate Amendment

The Senate Amendment provides that an employer attempting in good faith to comply with the advance notice provisions of the Act cannot be found in violation of the National Labor Relations Act or the Railway Labor Act.

Conference Agreement

The Conference Agreement adopts the Senate provision.

12. Effective Date (Sec. 337 of Senate Amendment; Sec. 6410 of Conference Agreement)

Senate Amendment

The Senate Amendment provides that the advance notice requirements established by the act shall become effective six months and two days after the date of enactment.

Conference Agreement

The Conference Agreement adopts the Senate provision with two minor changes. The effective date of the advance notice provisions is changed to six months after the date of enactment. In addition, the Conference Agreement provides that the authority granted to the Secretary of Labor to prescribe regulations to carry out the advance notice provisions is effective upon the date of enactment.

Conclusion:

The Department of Labor will greatly appreciate the comments, views and insights of all parties as it moves ahead to implement the Secretary's responsibilities under this legislation.

Signed at Washington, DC, this 14th day of September 1988.

Roberts T. Jones,

Assistant Secretary of Labor.

[FR Doc. 88-21281 Filed 9-15-88; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 103

[Docket No. 86N-0445]

Quality Standards for Foods With No Identity Standards; Bottled Water

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the quality standard for fluoride in bottled drinking water. This action follows a recent rulemaking by the Environmental Protection Agency (EPA) in which EPA revised its regulations for allowable fluoride contaminant levels in public drinking water systems.

DATE: Written comments by November 15, 1988.

ADDRESS: Written comments are to be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kennon M. Smith, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington DC 20204, 202-485-0162.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 2, 1986 (51 FR 11396; corrected July 3, 1986 (51 FR 24328)), EPA published a final rule promulgating a National Revised Primary Drinking Water Regulation establishing a Maximum Contaminant Level (MCL) of 4.0 milligrams per liter (mg/L) for fluoride to protect the public health. In that same **Federal Register** document, EPA promulgated a National Secondary Drinking Water Regulation establishing a Secondary Maximum Contaminant Level (SMCL) of 2.0 mg/L for fluoride to protect the public welfare.

Under section 410 of the Federal Food, Drug, and Cosmetic Act (the Act) (21 U.S.C. 349), FDA is required, whenever EPA prescribes interim or revised national primary drinking water regulations under section 1412 of the

Public Health Service Act (The Safe Drinking Water Act) (42 U.S.C. 300f et seq.), to consult with EPA and, within 180 days after EPA promulgates the drinking water regulations, to "either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register * * * reasons for not making such amendments."

In the Federal Register of January 7, 1987 (52 FR 603), FDA published a notice explaining that legal proceedings involving EPA and its regulation of fluoride in public drinking water systems made it inappropriate at that time for FDA to issue a regulatory response to EPA's recently revised drinking water regulations. On February 27, 1987, the United States Court of Appeals for the District of Columbia Circuit issued an opinion upholding EPA's 4.0 mg/L standard for fluoride in public drinking water. Consequently, FDA believes it is now appropriate to propose to amend the quality standard for fluoride in bottled drinking water.

I. Background

In 1962, the United States Public Health Service (USPHS) promulgated drinking water standards recommending control limits for fluoride that varied from 0.6 mg/L to 1.7 mg/L (27 FR 2152; March 6, 1962). These control limits varied with the annual averages of the maximum daily air temperatures (average maximum temperatures). USPHS recommended six sets of control limits that covered the range of average maximum temperatures occurring throughout the United States. For example, for areas where the average maximum temperatures range between 58.4 °F. and 63.8 °F., USPHS recommended a lower control limit of 0.8 mg/L; an optimum level of 1.0 mg/L; and an upper control limit of 1.3 mg/L. Within the recommended control limits, the USPHS established optimum levels for fluoride that varied from 0.7 mg/L to 1.2 mg/L, depending on the average maximum temperatures.

In addition, the 1962 USPHS standards stated that when fluoride was naturally present in drinking water, the average fluoride concentration should not exceed the upper control limits, i.e., 0.8 mg/L to 1.7 mg/L. However, the standards also stated that water could be rejected if the average fluoride concentration exceeded twice the optimum level—that is, if the average fluoride concentration exceeded 1.4 mg/L to 2.4 mg/L. Further, the standards provided that when fluoride was added to drinking water, the average fluoride concentration could not exceed the upper control limits, i.e., 0.8 mg/L to 1.7 mg/L. USPHS based the fluoride levels in the drinking water standards on air temperatures because it believed that the amount of water, and consequently the amount of fluoride, ingested was primarily influenced by air temperature.

In 1973, FDA promulgated quality standards that established limits on fluoride in bottled water consistent with the earlier USPHS drinking water standards (38 FR 32558; November 26, 1973). These quality standards stated that bottled water could not contain naturally-occurring fluoride in excess of 1.4 mg/L to 2.4 mg/L (twice the USPHS optimum range of 0.7 mg/L to 1.2 mg/L) or added fluoride in excess of 0.8 mg/L to 1.7 mg/L (the upper control limit levels). These allowable fluoride limits varied with the average maximum temperatures at the point of retail sale. In addition, the quality standards required a label statement on bottled water that contained fluoride in excess of the prescribed levels. Such bottled water was deemed to be of substandard quality.

In 1975, EPA established an interim MCL for fluoride in a National Interim Primary Drinking Water Regulation (NIPDWR). The interim MCL for fluoride, which also was based on the 1962 USPHS standards, was set at 1.4 mg/L to 2.4 mg/L (twice to the optimum range of 0.7 mg/L to 1.2 mg/L) and varied according to the average maximum temperatures of the areas served by the public water systems. At that time, EPA considered the use of a temperature scale for fluoride to be appropriate "because of studies available on the fluoride-temperature relationship and because there is a small margin with fluoride between beneficial levels and levels that cause adverse health effects" (40 FR 59566, 59576; December 24, 1975).

Thus, both the original interim MCL for fluoride in public drinking water systems and the current quality standard for fluoride in bottled drinking water evolved from the 1962 USPHS drinking water standards. Both established the allowable concentration of fluoride in drinking water as a function of the average maximum temperatures.

II. EPA's Revised Regulation

Traditionally, EPA has regulated fluoride as a contaminant in public drinking water systems and has established maximum allowable levels for fluoride on the basis of what limits were necessary to protect the public health. EPA has previously set fluoride contaminant levels at twice the optimum fluoride concentrations recommended by USPHS. Recently, however, EPA revised the MCL fluoride to 4.0 mg/L, a level that is four times the USPHS optimum level of 1.0 mg/L for an average maximum temperature range of 58.4 °F. to 63.8 °F. In addition, EPA set the SMCL at 2.0 mg/L, twice the USPHA optimum level of 1.0 mg/L.

In revising its drinking water regulations, EPA reviewed the available data concerning the effect of air temperature on drinking water consumption and concluded:

1. The available data are insufficient to quantitatively incorporate temperature in drinking water regulations (50 FR 47142 at 47145; November 14, 1985);

2. Variations in temperature do not appear to significantly affect tap water consumption for the U.S. population as a whole (50 FR 47149); and

3. Recently developed evidence on the temperature and regional variations in tap water consumption does not support the need for a temperature dependent national drinking water standard (50 FR 47150).

EPA also pointed out that "[t]he National Academy of Sciences did not endorse temperature dependency in their recommendations on fluoride" (50 FR 47150).

EPA's review suggests that the recent data is a more reliable indicator of the relationship between temperature and drinking water consumption than the original data upon which the temperature-dependent fluoride regulation was based. Thus, EPA's revised drinking water regulations for fluoride no longer depend upon variations in temperature.

EPA promulgated the current MCL of 4.0 mg/L for fluoride to protect the public health against the adverse effects of crippling skeletal fluorosis (51 FR 11396 at 11401; April 2, 1986). Skeletal fluorosis (osteofluorosis) is the result of prolonged ingestion of excessive fluoride. The effects of skeletal fluorosis range from asymptomatic radiologic changes to gross crippling changes in the bone structure.

EPA has determined that cosmetically objectionable dental fluorosis may occur as a result of exposure to elevated fluoride levels in drinking water (51 FR 11396, 11401; April 2, 1986). Therefore, EPA promulgated a SMCL of 2.0 mg/L for fluoride in public drinking water systems to protect the public welfare against the effects of dental fluorosis.

In its proposal (50 FR 47164–47165), EPA stated:

> EPA believes that the formation of cosmetically objectionable dental fluorosis results in significant adverse effects on public welfare * * *. Objectional dental fluorosis is

a discoloration and/or pitting of teeth that is caused by fluoride exposures during the teeth's formation in the gums. Dental fluorosis may occur when a child, up to the age of 9, is exposed to fluoride levels in drinking water greater than 1 mg/L, possibly for periods as short as 6 months. At concentrations below 2.0 mg/L, dental fluorosis usually occurs in some individuals, usually in a mild form * * *.

EPA believes that a number of persons have discontinued using public water systems in order to avoid the possibility of their children developing dental fluorosis. The [EPA] received comments * * * suggesting that bottled water was being used to avoid the possibility of dental fluorosis. In addition, [EPA] believes that moderate and severe dental fluorosis, while not an adverse health effect within the meaning of the Safe Drinking Water Act, is an adverse effect on public welfare. Mild fluorosis is not considered a public welfare effect since it is not usually noticeable. At levels of 2.0 mg/L and above, moderate and severe dental fluorosis is likely to occur in a significant and increasing portion of the population and the [EPA] is, therefore, proposing an SMCL for fluoride of 2.0 mg/L (50 FR 47156 at 47165; November 14, 1985).

In the preamble to the final rule that promulgated the SMCL, EPA explained (51 FR 11396 at 11401; April 2, 1986):

The level of the SMCL was set based upon a balancing of the beneficial and undesirable effects of fluoride. Epidemiological studies of dental fluorosis have found that approximately 2.0 mg/L of fluoride in drinking water provides significant protection from dental caries and results in minimal occurrence of moderate to severe dental fluorosis. This level is consistent with recommendations by the Surgeon General, an ad hoc committee headed by the Chief Dental Officer of the U.S. Public Health Service, and the previous MCL which was based on this balance.

Furthermore, EPA is requiring community water systems that exceed the SMCL to notify their consumers of this fact. EPA reasoned: "The adverse effects on public welfare that can result from water-related objectionable dental fluorosis should be avoided and the public should be informed of those effects and be able to choose to take appropriate action" (53 FR 11396 at 11401; April 2, 1986). Moreover, the EPA explained: "[I]t is technologically feasible for systems to reduce their fluoride levels to 2.0 mg/L" (51 FR 11401).

III. FDA Proposal

Traditionally, FDA has regulated fluoride in bottled water by distinguishing fluoride that naturally occurs in the water source from fluoride that is intentionally added to provide the dental health benefit of caries prevention. Based on a rationale similar to that of EPA, FDA has previously established quality standards for naturally-occurring fluoride at twice the optimum fluoride concentrations recommended by USPHS. However, where bottled water is fluoridated (supplemented with fluoride), FDA has followed the recommendation of USPHS and has limited added fluoride by setting quality standards equal to the upper control limits established by USPHS.[1]

FDA believes that the SMCL of 2.0 mg/L recently promulgated by EPA is the appropriate quality standard for fluoride in bottled water in which it is naturally occurring. However, where bottled water is fluoridated, FDA believes that the fluoride concentration should not exceed 1.3 mg/L, which is the recommended USPHS upper control limit corresponding to the optimum level of 1.0 mg/L.

These levels are based on the findings of USPHS's review of fluoride in drinking water. In 1982, at the request of EPA, Surgeon General C. Everett Koop established an internal ad hoc committee, headed by the Chief Dental Officer of the USPHS, to investigate the effects of fluoride ingested through drinking water. The committee defined the optimum concentration of fluoride in drinking water as " * * * that concentration which provides the highest level of protection against dental caries consistent with a minimal prevalence of clinically observable dental fluorosis." The committee found, in part, that "[a]s the natural fluoride concentration in water supplies increases beyond the recommended optimum an increasing percentage of individuals exhibit dental fluorosis which may range from scarcely noticeable color change to confluent pitting of the enamel surface. Whether and to what extent these changes are considered cosmetically objectionable is subjective, varying by individual and community." The committee also found that "[t]o minimize the occurrence of undesireable cosmetic effects, it is most prudent to maintain the upper limit of fluoride in drinking water at two times the recommended optimum concentration."

The Surgeon General concurred with the findings of the committee. He stated:

[A] one concerned about the total well-being of the individual and one dedicated to helping people avoid impediments to their reaching their maximum potential in society, I cannot condone the use of public water supplies that may cause undesireable cosmetic effects to teeth, just as I cannot condone the use of water supplies below the optimum concentration [of fluoride] because of a diminished protection against dental caries. Therefore, I encourage communities having water supplies with fluoride concentrations of over two times optimum to provide children up to age nine with water of optimum fluoride concentration to minimize the risk of their developing esthetically objectionable dental fluorosis. Furthermore, I encourage the dental profession in communities which do not enjoy the benefits of an optimally fluoridated drinking water supply to exercise effective leadership in bringing the concentration to within an optimum level.

Letter from Surgeon General Koop to EPA Deputy Administrator Hernandez, July 30, 1982.

In 1984, the Surgeon General cited his earlier letter of July 30, 1982, and stated: "My recommendations about the advisability of limiting fluoride concentrations to twice the optimum in order to avoid unsightly dental fluorosis still pertain." Letter from Surgeon General Koop to EPA Administrator Ruckelshaus, January 23, 1984.

The agency believes that quality standards should preclude significant adverse effects, whether to the public health or the public welfare, to the extent possible. Establishing a quality standard of 2.0 mg/L for fluoride naturally present in bottled water is consistent with the current position of the Surgeon General. This proposed quality standard is the same as the SMCL for fluoride in drinking water established by EPA. A quality standard of 2.0 mg/L for fluoride naturally present in bottled water will minimize the occurrence of moderate and severe dental fluorosis in children who might use bottled water as their primary source of drinking water and will also protect individuals from the other adverse effects (e.g., crippling skeletal fluorosis) of excessive fluoride ingestion.

Furthermore, the agency believes that it is inappropriate for the quality standard for fluoride intentionally added to bottled water to be set at a level that is significantly higher than the optimum level of 1.0 mg/L. The agency considers the purposeful addition of fluoride to bottled water significantly in excess of the optimum level to be unnecessary and inappropriate, because the optimum level affords high protection against dental caries while minimizing the presence of observable dental fluorosis. In the agency's view, bottled water containing added fluoride

[1] FDA's quality standards for bottled water under 21 CFR 103.35 do not apply to bottled mineral water or soda water (as defined in 21 CFR 165.175). The bottled water quality standards in 21 CFR 103.35 apply only to bottled water that is introduced or delivered for introduction into interstate commerce. However, some States follow the Federal bottled water standards.

that results in fluoride levels significantly in excess of the optimum level is inferior in quality. Therefore, the agency is proposing 1.3 mg/L fluoride as the quality standard when fluoride is added. By proposing this level, the agency is not recommending purposeful addition of fluoride in excess of the optimum level of 1.0 mg/L. The agency believes that the slightly higher level of 1.3 mg/L fluoride is an acceptable variation for compliance purposes because it is the recommended USPHS upper control limit corresponding to the 1.0 mg/L optimum level.

This proposed level is consistent with the current position of the Surgeon General. It is also consistent with the statement by EPA that "[i]n setting this secondary standard, EPA is *not* recommending that systems which fluoridate raise the levels of fluoride added to drinking water above the current recommendations of the Center for Disease Control (HHS, 1985) (0.7–1.2 mg/L)" (51 FR 11396 at 11401).[2]

Thus, the quality standard that FDA is proposing will continue to distinguish between bottled water that contains naturally-occurring fluoride and bottled water that contains added fluoride.

The relationship between air temperatures and drinking water consumption was evaluated by EPA when it revised its drinking water regulations. EPA concluded that the available data did not demonstrate a continued need for a temperature-dependent national drinking water regulation. FDA has no information that would suggest a contrary conclusion with respect to temperature and drinking water consumption. Accordingly, FDA has adopted EPA's conclusion concerning the effect of air temperature on drinking water consumption and is, therefore, proposing an amended quality standard for fluoride in bottled drinking water that is not temperature dependent.

Unlike the current quality standards for bottled water, the proposed quality standards do not distinguish between domestic and imported bottled waters. The difference in fluoride levels in domestic and imported bottled water stemmed from the temperature dependence of the USPHS-recommended control limits. However, different fluoride standards for domestic and imported bottled water are no longer necessary or appropriate because the agency is proposing to remove temperature dependence from the fluoride quality standard.

As noted earlier, EPA is requiring community systems whose water exceeds the SMCL of 2.0 mg/L to notify their consumers of this fact. A similar notice, by way of a labeling statement, is required under 21 CFR 103.35(f) for bottled water that contains fluoride in excess of the quality standard. Such bottled water is substandard in quality. This requirement would be unaffected by this proposal and would continue in effect.

In conjunction with its proposed amendment of the quality standard for bottled water, FDA is proposing to incorporate by reference appropriate analytical methodology for use in determining compliance with the quality standard for fluoride in bottled water. EPA has approved and listed four fluoride analytical methods in the drinking water regulations (see 40 CFR 141.23(f)(10)). These methods are (1) potentiometric ion selective electrode, (2) automated ion selective electrode, (3) colorimetric SPADNS; with distillation, and (4) automated alizarin fluoride blue; with distillation (complexone). FDA has reviewed these methods and is proposing in 21 CFR 103.35(d)(2)(ii) to adopt as the compliance method the potentiometric ion selective electrode method: 413 B Electrode Method, "Standard Methods for the Examination of Water and Wastewater," 16th Ed. (1985). The agency has chosen this method because of its simplicity and because of the general availability of the analytical equipment needed to perform it. FDA has no objection to water bottlers using other methods, including the three other EPA-approved methods, for production monitoring purposes. Should FDA adopt the potentiometric ion selective electrode method as its compliance method, it will use this method as the basis for its enforcement activities. Processors frequently compare the analytical method of their choice to FDA's designated enforcement method and use their method of choice as they see fit.

IV. Environmental Impact

The agency has determined under 21 CFR 25.24(b)(1) that the proposed amendment of the quality standard for fluoride in bottled drinking water is an action 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. The agency has determined under 21 CFR 25.24(a)(11) that the labeling of bottled water that is not in compliance with the quality standard as amended in this proposed rule would also be excluded from further environmental review.

V. Economic Impact

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the proposed quality standard for fluoride in bottled water will not affect the current industry practice of a substantial number of large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal and has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

VI. Comments

Prior to publication of this document, FDA asked USPHS to comment on it. USPHS forwarded the request for comment to the National Institute of Dental Research (NIDR). NIDR submitted its comments in a memorandum to the Chief Dental Officer of the USPHS, who then forwarded the memorandum to FDA. In its memorandum, NIDR discussed various aspects of the fluoridation of water, including the possible sacrifice of dental health protection which might arise from the primary or exclusive use of fluoride-deficient bottled water. The memorandum from NIDR to USPHS dated May 23, 1988, and FDA's response, and a memorandum from the Center for Food Safety and Applied Nutrition to USPHS dated July 1, 1988, may be seen in the Dockets Management Branch (address above).

Interested persons may, on or before November 15, 1988, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

[2] The 0.7 mg/L to 1.2 mg/L range recommended by the Centers for Disease Control is based on the USPHS temperature-dependent range of optimum concentrations of fluoride in drinking water.

List of Subjects in 21 CFR Part 103

Beverages, Bottled water, Food grades and standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 103 be amended as follows:

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

1. The authority citation for 21 CFR Part 103 is revised to read as follows:

Authority: Secs. 401, 403, 701, 52 Stat. 1046–1048 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 341, 343, 371); 21 CFR 5.10.

2. Section 103.35 is amended by revising paragraphs (d)(2)(i) and (d)(2)(ii), adn by removing paragraphs (d)(2)(iii) and (d)(2)(iv) to read as follows:

§ 103.35 Bottled water.

* * * * *

(d) * * *

(2)(i) Bottled water, when a composite of analytical units of equal volume from a sample is examined by the methods described in paragraph (d)(2)(ii) of this section, shall not contain the following inorganic chemical substances in excess of the concentrations specified below:

Inorganic chemical substances	Concentration in milligrams per liter
Fluoride (naturally occurring, containing no added)	2.0
Fluoride (containing any added)	1.3

(ii) Analyses conducted to determine compliance with paragraph (d)(2)(i) of this section shall be made in accordance with the following methods (listed alphabetically by subject inorganic substance):

Fluoride/Electrode Method: 413 B Electrode Method, "Standard Methods for the Examination of Water and Wastewater," 16th Ed. (1985), which is incorporated by reference. Copies of the method may be obtained from the Division of Food Chemistry and Technology (HFF–410), Center for Food Safety and Applied Nutrition, 200 C St. SW., Washington, DC 20204. Copies of the method are available for inspection at the Office of the Federal Register, 1100 L Street NW., Washington, DC 20408.

* * * * *

Dated: August 23, 1988.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 88–21120; Filed 9–15–88; 8:45 am]

BILLING CODE 4160–01–M

---

21 CFR Part 184

[Docket Nos. 82G–0207, 86P–0506, and 87P–0199]

Rapeseed Oil; Revision of Common or Usual Name

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to revise its regulations (21 CFR 184.1555(c)) to recognize "canola oil" as the alternate common or usual name of low erucic acid rapeseed oil. This proposal responds to a citizen petition submitted by the Canola Council of Canada and a request for advisory opinion from the Canadian Government, both of which support the use of the term "canola oil." It also responds to a citizen petition from the American Soybean Association which objects to the use of this term.

DATE: Written comments by November 15, 1988.

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

FOR FURTHER INFORMATION CONTACT: Kennon M. Smith, Center for Food Safety and Applied Nutrition (HFF–302), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–485–0162.

SUPPLEMENTARY INFORMATION:

I. Background

Edible oil has been extracted from rapeseed and used for centuries as a cooking oil and a food. Oil prepared from rapeseed before 1971 contained high levels of a fatty acid known as erucic acid. Although rapeseed oil has a long history of use, it was not generally used in the United States before 1977 because of its high erucic acid content (30 to 60 percent). Erucic acid from rapeseed oil has been associated with cardiac lesions in animal studies. As a result, high erucic acid rapeseed oil has never been used as an edible oil in the United States.

The low erucic acid variety of the rapeseed plant, and the oil produced from this variety, were developed through close collaboration between the Canadian Government and the Canadian agricultural sector. The oil contains very low levels of erucic acid (well below 2 percent). The Canadians have referred to the variety of rapeseed containing this low level of erucic acid as "canola," and efforts were made by the government of Canada to establish "canola oil" as the common or usual name for the oil from this variety of rapeseed. The Canadian Government supported development of canola and pursued its GRAS affirmation in the United States for numerous economic and public health reasons (e.g., the plant flourishes in northern latitudes, is resistant to drought, and produces an oil that has highly desirable technical and nutritional properties).

Before publication of the notice of filing of Canada's GRAS petition for the oil, the Assistant Deputy Minister for Research of Agriculture Canada raised with FDA the question of appropriate nomenclature for purposes of ingredient labeling. He sought acceptance by FDA of "canola oil" because, he asserted, that term had gained widespread consumer acceptance through its extensive use on food labels in Canada.

In a letter dated June 4, 1982, FDA responded that the agency had decided to use the term "low erucic acid rapeseed oil" in its forthcoming GRAS affirmation proposal. This response stated that the term "rapeseed oil" had already been used in the existing FDA regulation permitting limited uses of fully hydrogenated rapeseed oil and fully hydrogenated superglycerinated rapeseed oil (21 CFR 184.1555), and that the term "low erucic acid" was an appropriate modifier of the term "rapeseed oil" in the case of the low erucic acid variety. The agency noted that the term "low erucic acid rapeseed oil" had been adopted by the Codex Alimentarius, and that the term "canola oil" did not have meaning to consumers in the United States. FDA stated that it would not object to the use of the term "canola oil" in parentheses following the term "low erucic acid rapeseed oil" in the ingredient declaration on food labels.

In addition, FDA stated that it would reconsider use of the term "canola oil" as a common or usual name if: (1) The common name of the plant source from which the low erucic acid oil is derived was formally changed to "canola," and (2) consumer recognition of the term "canola oil," through its appearance in parentheses on U.S. food labels, was demonstrated.

In response to a petition filed by Agriculture Canada (47 FR 35342; August 13, 1982), FDA proposed to affirm as GRAS the use of rapeseed oil in which

erucic acid makes up no more than 2 percent of the total fatty acid content. Subsequently, the agency established "low erucic acid rapeseed oil" as the name of the product in the final rule published in the **Federal Register** of January 28, 1985 (50 FR 3745).

II. Requests for Action

A. Agriculture Canada Request for Advisory Opinion

In December 1985, the Research Branch of Agriculture Canada submitted to FDA a request for an advisory opinion that "canola oil" may be used byitself in ingredient statements to declare the presence of the low erucic acid variety of rapeseed oil in the food. By deciding to propose to amend 21 CFR 184.1555(c), FDA is proceeding in a way that renders that request for an advisory opinion moot. FDA understands that Agriculture Canada, which supports the agency's proposed action, withdraws its request for advisory opinion.

B. American Soybean Association Citizen Petition

In December 1986, the American Soybean Association (ASA) petitioned FDA to prohibit use of the term "canola oil" anywhere on food labels (FDA Docket No. 86P–0506/CP). The petition from ASA sought to amend 21 CFR 101.4(b)(14) by inserting the following statement: "The name Canola or Canola Oil shall not be listed as an ingredient on a food label." The petition also requested that the agency send regulatory letters to any concern that uses "canola" or canola oil" on the label and to take regulatory action if correction is not made.

In support of the action requested in its citizen petition, ASA stated:

1. 21 CFR 184.1555 does not mention the term "canola oil."

2. The term "canola oil" is not interchangeable with the term "low erucic acid rapeseed oil."

3. The term "canola oil" represents rapeseed oil with a 5 percent erucic acid content under Canadian standards, while the term "low erucic acid rapeseed oil" as defined by FDA is expressly limited to a 2 percent erucic acid content.

4. 21 CFR 101.4(b)(14) requires that "each individual fat and/or oil * * * shall be declared by its specific common or usual name * * *."

5. Food labels using "canola oil" in conjunction with, or as a substitute for, "low erucic acid rapeseed oil" are therefore misbranded.

The agency finds, however, that the requirements of 21 CFR 101.4(a) and (b)(14) and 184.1555(c) would be met if the term "canola oil" is formally adopted as the alternate common or usual name for low erucic acid rapeseed oil.

The ASA petition also asserts that the canola seed defined by the Canadian Standards has a maximum of 5 percent erucic acid. Thus, oil from these seeds would exceed the 2 percent maximum specified in 21 CFR 184.1555(c). FDA is aware that the original Canadian definition of "canola oil" included the 5 percent criterion. However, the Canadian Government has since lowered the limit of erucic acid allowed in canola oil to 2 percent. Letter to Dr. F. Young from A. O. Olson, Assistant Deputy Minister, Research, Agriculture Canada, February 3, 1987. Therefore, there is no conflict between the Canadian definition of "canola oil" and the American definition of "low erucic acid rapeseed oil."

FDA has carefully considered the ASA petition. For the reasons set forth in this document, the agency has tentatively concluded that the appropriate course of action is to propose to adopt "canola oil" as an alternate common or usual name for low erucic acid rapeseed oil and to deny the ASA petition.

C. Canola Council of Canada Citizen Petition

In June 1987, Canola Council of Canada (CCC) petitioned FDA to amend 21 CFR 184.1555(c) to subsitute the term "canola oil" for the term "low erucic acid rapeseed oil" as the appropriate nomenclature for the vegetable oil whose GRAS status is affirmed by that regulation (FDA Docket No. 87P–0199/CP). Although CCC recognized that American consumers would likely have a limited understanding of the term "canola oil," they also contended that these consumers would likewise have limited familiarity with the term "low erucic acid rapeseed oil" based upon limited earlier usage in the United States.

In suport of the action requested in its citizens petition, CCC stated the following reasons:

1. "Canola" is the legally and factually correct term for the plant source of the oil in Canada, the country where it is grown, and it is the name commonly used by the those who produce and distribute canola products in the United States.

2. "Canola" is firmly established as the common name for the oil among consumers in Canada, and there should be consistency between Canada and the United States in the naming of this oil, which is a large and growing item of commerce between the two countries.

3. Consistency in nomenclature is desirable as a matter of common sense; it simply does not make sense for a food ingredient to be named differently in the two countries.

4. Consistency in nomeclature is necessary to avoid confusion among consumers about the identity of the oil.

5. Consistency in nomenclature is desirable to avoid unintended barriers to trade between the two countries.

6. The term "low erucic acid rapeseed oil" is unrecognizable, unappealing, and, to many consumers, affirmatively distasteful. Consequently, some U.S. food processors and distributors are reluctant to begin marketing food products that contain this oil.

7. "Low erucic acid rapeseed oil" will never gain recognition and acceptance in both countries, but, with FDA acquiescence, "canola oil" most readily will.

FDA acknowledges that "canola oil" is the preferred nomenclature and has been formally adopted by the industry and the Government of Canada. The agency recognizes the importance of consistency in nomenclature between two neighboring countries engaged in mutual commercial trade. FDA believes that such consistency promotes free trade and improves consumer understanding. Further, based on its consideration of available information, the agency believes that the term "canola oil" is the name preferred by industry, and the name that would be most favorably perceived and easily understood by all consumers.

III. Discussion

A. Nomenclature and Usage in Canada

The Canadian Government amended its regulations promulgated under Canada's Seeds Act to define "canola," in pertinent part, as follows: "Canola" means the seed of the species *Brassica napus* or *Brassica campestris*, the oil component of which seed contains less than 2% erucic acid * * *.

This definition was published in the Canada Gazette (Canada's equivalent of the **Federal Register**) on February 18, 1987. The effect of this amended regulation was to make "canola" the formal, legal name in Canada for the plant source from which low erucic acid food-grade oil is derived.

Canada also amended its regulations under the Agricultural Products Standards Act and the Feeds Act to (1) adopt "canola" as the sole legal name for the oil and meal products of the low erucic acid variety of rapeseed (previously "low erucic acid rapeseed oil/meal" had been permissible

alternatives to "canola oil/meal") and (2) reduce the permissible level of erucic acid in these articles from 5 to 2 percent.

The latter change brought Canada's legal definition of "canola oil" into conformity with the 2 percent erucic acid limitation in FDA's GRAS affirmation regulation for low erucic acid rapeseed oil. The canola grown in Canada has since the 1970's consistently yielded oil containing less than 2 percent erucic acid. The levels today range from 0.3 to 1.2 percent, with the average level being 0.6 percent.

The result of these developments is that "canola" is now the term recognized, both legally and as a matter of common parlance, to describe the low erucic acid variety of rapeseed in Canada. Since the development of this variety of rapeseed, Canada has been the world's leading producer of this commodity and the source of virtually all of the oil sold in the United States as "low erucic acid rapeseed oil (canola oil)" under FDA's GRAS affirmation regulation.

B. Nomenclature and Usage in the United States

When FDA promulgated its GRAS affirmation regulation for low erucic acid rapeseed oil, the term "canola" had not been used in the United States and thus could not be said to be a common or usual name of the product. In fact, there was no established name whatsoever in the United States at that time for this low erucic acid rapeseed oil because it has not been sold in this country under any name. It was therefore appropriate for FDA to adopt in its GRAS affirmation regulation a technical name, building upon the existing nomenclature for the other, high erucic acid rapeseed oils. Consequently, the agency adopted "low erucic acid rapeseed oil."

In reliance on the 1985 GRAS affirmation and FDA's June 1982 letter, foreign and domestic companies alike have been marketing low erucic acid rapeseed oil products in the United States, and they have been declaring "canola oil" in parenthesis in the ingredient statement following the required terminology "low erucic acid rapeseed oil." Because both terms have been consistently used together on products marketed in the United States, American consumers purchasing low erucic acid rapeseed oil products have had an opportunity to become familiar with the term "canola oil." In addition to product labeling (see, for example, Puritan vegetable oil or Lance cheese and cracker snack), the term "canola oil" has been widely used in articles about this product, including articles in the Los Angeles Times ("Does Your Body's Engine Need an Oil Change?," March 10, 1987); Portland Oregonian (FOODday Supplement article " 'Canola' Joins Ever Expanding Oil List," April 7, 1987); Shape Magazine's "Savvy Shopper" column ("Fight Fat with Fat," July 1987); HMS Health Letter ("Into the Frying Pan," November 1987); Food Processing's "Spotlight on Ingredients" column ("Canola/LEAR Oil—Low in Saturated Fat," November 1987); Family Circle's "Nutrition Update" column ("Fats and Oils: How to Choose, Which to Use," March 15, 1988); and a Nation's Restaurant News product advertisement (March 21, 1988).

Given the widespread use of the terms "low erucic acid rapeseed oil" and "canola oil" together to describe this product, FDA finds that these terms are roughly on equal footing among U.S. consumers. Therefore, the agency is proposing to formally establish the term "canola" as an alternate common and usual name for the rapeseed plant variety from which low erucic acid oil is derived. FDA believes that the following additional factors support this proposal:

(1) "Canola" is the legally and factually correct term for the plant source of the oil in Canada, the country that developed the plant variety and wherein it is primarily grown. It is the name commonly used by those who produce and distribute low erucic acid rapeseed (canola) products in the United States. Thus, adoption of this name by FDA would simply reflect the current practice within the food industry.

(2) The term "canola oil" has been increasingly used on product labeling and advertisements and frequently published in various newspapers and magazines. Therefore, FDA tentatively concludes that, since it issued its letter to Agriculture Canada in 1982, the American consumer has been increasingly exposed to the term "canola oil," and that such exposure is adequate to allow the American consumer to recognize and understand the term. FDA also believes that the term "canola oil" will probably be more acceptable to both industry and the consumer than "low erucic acid rapeseed oil".

(3) FDA is not aware of any particular advantage in using "low erucic acid rapeseed oil" instead of "canola oil" in terms of current consumer acceptance or of informing the consumer. In fact, during the brief history of use of this oil in the United States, both terms have almost invariably been used together to describe the product. Thus, the agency would expect no loss of information to consumers if use of the term "canola oil" is permitted to be used by itself as the common or usual name of the ingredient.

(4) "Canola" is firmly established as the common name for the oil among consumers in Canada, and it is desirable that there be consistency between Canada and the United States in the naming of this oil. Consistency is also necessary to avoid confusion among consumers about the identity of the oil.

IV. Conclusion

Based on the information and tentative conclusions discussed above, FDA proposes to amend 21 CFR 184.1555(c)(1) of the regulations governing GRAS food substances to provide for the use of the term "canola oil" as an alternate common or usual name of the substance currently described in this regulation as "low erucic acid rapeseed oil."

"Low erucic acid rapeseed oil" has no particular advantage over "canola oil" in terms of current consumer acceptance. There will thus be no loss to consumers if FDA acknowledges the permissibility of using "canola oil" by itself as the name of the ingredient. The agency notes that no other vegetable oil is required to be identified in terms of a particular technical characteristic.

V. Environmental Impact

Before promulgating its GRAS affirmation regulation on "low erucic acid rapeseed oil," FDA conducted an environmental assessment and issued a finding of no significant impact. This finding took into account that the oil was intended to replace other vegetable oils already in use and that there was no quantitative limit on its use (the only restriction being that the oil not be used in infant formula). This proposed amendment to the regulation affects only the name of the ingredient for labeling purposes and changes none of the facts or assumptions that were the basis for FDA's finding of no significant impact. The agency has determined, pursuant to 21 CFR 25.24(a)(11), that this proposed action is of a type that does not result in the production or distribution of any substance and will not result in the introduction of any substance into the environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

VI. Economic Impact

In accordance with Executive Order 12291, FDA has analyzed the economic effects of this proposal and has determined that if a final rule is promulgated, it will not be a major rule under the order. In reviewing the cost

associated with the implementation of the proposed amendment of § 184.1555(c), FDA has determined that the cost of switching to an alternative name would be essentially nonexistent because there is no requirement that it be done. Thus this proposed action will not have a significant economic impact on manufacturers. The threshold assessment supporting this finding is on file with the Dockets Management Branch (address above). For these reasons, the agency certifies that according to the Regulatory Flexibility Act (Pub. L. 96–354) this proposal, if promulgated, will not have a significant economic impact on small entities.

The agency proposes that any final rule that may issue based upon this proposal will become effective upon publication in the **Federal Register.** Moreover, the agency does not intend to take regulatory action against food products labeled in reliance on this proposal pending completion of this rulemaking.

Interested persons may, on or before November 15, 1988, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 184

Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 184 be amended as follows:

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

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

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

2. Section 184.1555 is amended by revising the first sentence in paragraph (c)(1) to read as follows:

§ 184.1555 Rapeseed oil.

* * * * *

(c) *Low erucic acid rapeseed oil.* (1) Low erucic acid rapeseed oil, also known as canola oil, is the fully refined, bleached, and deodorized edible oil obtained from certain varieties of *Brassica napus* or *B. campestris* of the family *Cruciferae.* * * *

* * * * *

Dated: September 9, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–21119 Filed 9–15–88; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–3448–1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by Clay Equipment, Cedar Falls, Iowa, to exclude, on a one-time basis, certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner.

The Agency is also proposing the use of a fate and transport model and its application in evaluating the waste-specific information provided by the petitioner. This model has been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed of.

DATES: EPA is requesting public comments on today's proposed decision and on the applicabilty of the fate and transport model used to evaluate the petition. Comments will be accepted until October 31, 1988. Comments postmarked after the close of the comment period will be stamped "late."

Any person may request a hearing on this proposed decision and/or the model used in the petition evaluation by filing a request with Joseph Carra, whose address appears below, by October 3, 1988. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS–305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS–343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F–88–CEEP–FFFFF."

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS–340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW., (sub-basement), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Robert Kayser, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4536.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart

C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individuals waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR §§ 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background and documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of a hazardous waste, generators remain obligated to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3(c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11(a)(2) and (a)(3). If the Agency believes that the waste remains hazardous based on the factors for which the waste was originally listed, EPA will proposed to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria, EPA then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considers whether the waste is acutely toxic, and considers the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

The Agency is proposing to use such information to identify plausible exposure routes for hazardous constituents present in the waste, and is proposing to use a fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of Clay Equipment's petitioned waste on human health and the environment. Specifically, the model will be used to predict compliance-point concentrations which will be compared directly to the health-based levels used in delisting decision-making for particular hazardous constituents.

EPA believes that the model represents a reasonable worst-case waste disposal scenario for the petitioned waste, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evaluation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill.

In fact, it is likely that the generator will either choose to send the delisted waste off-site immediately, or will eventually reach the capacity of the on-site facility and subsequently send the waste off-site to a facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-wate monitoring data to its evaluation of delisting petitions. In this case, the Agency determined that, because Clay Equipment is seeking a delisting for waste contained in an on-site surface impoundment, ground-water monitoring data collected from the area where Clay stores the waste are necessary to determine whether hazardous constituents have migrated from the unit to the underlying ground water. Because the petitioned waste is stored on-site, ground-water data collected from Clay Equipment's monitoring wells were compared directly to the levels of regulatory concern for particular hazardous constituents detected in the ground water and will help to characterize the potential impact (if any) of the unregulated disposal of Clay Equipment's petitioned waste on human health and the environment.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made on the petition proposed today until all public comments (including those at requested hearings, if any) are addressed.

II. Disposition of Petition

Clay Equipment Corporation, Cedar Falls, Iowa

1. Petition for Exclusion

Clay Equipment Corporation (Clay), located in Cedar Falls, Iowa, manufactures agricultural equipment and implements, of which approximately 99 percent are ferrous and one percent stainless steel. Clay petitioned the Agency to exclude, on a one-time basis, wastewater treatment

sludges contained in a surface impoundment that has not been in use since April 1984. The petitioned wastes are listed as EPA Hazardous Waste No. F006—"Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum"; and EPA Hazardous Waste No. F009—"Spent stripping and cleaning bath solutions from electroplating operations where cyanides are used in the process." The listed constituents of concern for F006 are cadmium, hexavalent chromium, nickel, and for F009 are cyanide (complexed and salts).

Clay petitioned to exclude its waste because it does not believe that the waste meets the criteria for which it was listed. Clay also believes that the waste is not hazardous for any other reason (*i.e.*, there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See section 222 of the Amendments, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of Clay's petition.

2. Background

Clay petitioned the Agency to exclude its wastewater treatment sludge in May 1986 and subsequently provided additional information to complete its petition. Clay submitted (1) a detailed description of its manufacturing and wastewater treatment processes; (2) results from total constituent analyses, EP toxicity analyses, and Oily Waste EP toxicity analyses for the EP toxic metals, nickel, and cyanide; (3) results from total constituent analyses for total sulfide; (4) results from total oil and grease analyses performed on representative waste samples; (5) a list of all the raw materials used in both the manufacturing and treatment processes; and (6) results from testing for the characteristics of ignitability, corrosivity, and reactivity.

For a nine-year period ending in April 1984, Clay discharged wastewater into the subject surface impoundment from two metal finishing operations. The average depth of the wastewater in the impoundment was four to five feet during normal plant operations. At present only sludge remains in the impoundment, ranging in depth from five feet to two feet, with an average depth of three feet.

Some procedural changes in the manufacturing process at Clay's Cedar Falls facility were made in April 1984, when use of the surface impoundment was discontinued. Prior to that time the process consisted of two basic metal finishing operations. The first operation entailed galvanizing followed by chromate conversion coating, and was operated on two lines. The second operation entailed surface preparation for painting and paint removal, and operated on one line.

As mentioned above, the galvanizing and chromate conversion coating processes were carried out on two lines, a rack line and a barrel line. Each of these lines consisted of three basic process units: Cleaning, galvanizing, and chromate conversion coating. The rack galvanizing and chromate conversion coating line operated in the following sequence: Caustic (sodium hydroxide) cleaning, cold rinsing, acid (sulfuric acid) pickling, caustic (sodium hydroxide) cleaning, zinc plating, hypochlorite bathing, chrome bright dipping, water rinsing, chrome bright dipping, and hot water rinsing. The barrel galvanizing and chromate conversion coating line operated in the following sequence: Caustic (sodium hydroxide) cleaning, cold water rinsing, acid (hydrochloric acid) pickling, warm water rinsing, chrome bright dipping and/or zinc plating, hot water rinsing, and drying. Clay discharged the rinse waters from both the rack and the barrel galvanizing/chromate conversion coating lines directly to their surface impoundment. Additionally, the spent caustic cleaning solutions and the spent acid pickling solutions from both the rack and barrel galvanizing chromate conversion coating lines were combined for neutralization and discharged to the surface impoundment.

The paint preparation and paint removal process operated in a phosphate coating, cold water rinsing, and bonderizing sequence. Clay discharged the spent phosphating solutions and the cold water rinsate directly to their surface impoundment.

To collect representative samples from surface impoundments like Clay's, petitioners are normally requested to divide the unit into four quadrants and randomly collect five full-depth core samples from each quadrant. The five full-depth core samples are then composited (mixed) by quadrant to produce a total of four composite samples (per impoundment). See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guideline Manual," U.S. EPA Office of Solid Waste (EPA/530–SW–003), April 1985.

Clay collected sludge samples for initial testing in September 1985. Sampling of the surface impoundment was conducted by dividing the area into four quadrants, each of which was further divided into grids of ten square feet and numbered sequentially. Within each quadrant, five grids were randomly selected for sampling, and a full-depth core sample was collected. The five full-depth core samples from each quadrant were combined to form one composite sample per quadrant for a total of four composite samples. These initial samples were tested for EP leachate concentrations but these EP results were not considered in this petition evaluation because the total oil and grease content of the waste exceeded one percent. (Wastes having more than one percent total oil and grease may either have significant concentrations of the constituents of concern in the oil phase, which would not be assessed, or may have sufficient levels of oil and grease to coat the solid phase of the sample and interfere with the leaching out of the metals. For this reason, the Agency uses the Oily Waste EP (OWEP) methodology when oil and grease content exceed one percent. See SW–846 method number 1330.) In March 1986, using the sample procedure, Clay collected an additional four composite samples and analyzed these samples using the OWEP methodology.

Clay claims that the eight composite samples (four collected in September and four collected in March) adequately assess any variation in constituent concentrations of the waste since the samples were full-depth (thus representing possible variations in constituent concentrations over time) and no new waste is to be added to the impoundment.

3. Agency Analysis

Clay used SW–846 method numbers 7060 through 7760 to quantify the total constituent concentrations (*i.e.*, mass of a particular constituent per mass of waste) of all the EP toxic metals and nickel. Clay used EPA method number 332.5 to quantify the total constituent concentration of cyanide and SW–846 method numbers 9010 and 9030 to quantify the total constituent

concentration of reactive cyanide and reactive sulfide.

Using EPA method number 413.1 ("EPA: Methods for Chemical Analysis of Water and Wastes," 1979), Clay determined that it waste had a maximum oil and grease content of 2.1 percent. Clay used SW–846 method number 1330 (OWEP) to quantify the leachable concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of the EP toxic metals, nickel, and cyanide in its waste. (The cyanide extraction was modified by using distilled water instead of acetic acid in order to prevent the volatilization of cyanide. Analyses for OWEP leachable concentrations of sulfide or reactive sulfide are not necessary since the Agency's level of regulatory concern for reactive cyanide and reactive sulfide are based on total constituent concentrations.) Total constituent analyses performed on the impoundment sludge for the EP toxic metals, nickel, cyanide, reactive cyanide, and reactive sulfide revealed the maximum concentrations presented in Table 1.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (PPM) IMPOUNDMENT SLUDGE

Constituents	OWEP constituent analyses
Arsenic	14.0
Barium	86.0
Cadmium	1.9
Chromium	830.0
Lead	1,000.0
Mercury	0.93
Selenium	ND (2.3)
Silver	0.82
Nickel	9.8
Cyanide	6,300.0
Reactive cyanide	14.8
Reactive sulfide	12.6

ND: Not Detected. Denotes concentration below the detection limit shown in parenthesis.

The results from the March samples subjected to the Oily Waste EP Toxicity procedure were submitted to the Agency in May 1986 and indicated very high mobile metal concentrations (MMCs); however, these results were not used because the laboratory had encountered analytical difficulties with the analysis of the tetrahydrofuran/toluene extract. As a result, these samples were re-analyzed in February, 1987. Oily Waste toxicity results (from the February, 1987 re-analysis) for the impoundment sludge produced the maximum leachate concentrations presented in Table 2.

TABLE 2.—MAXIMUM OILY EP CONCENTRATIONS (PPM) IMPOUNDMENT SLUDGE

Constituents	OWEP leachate concentrations
Arsenic	ND (0.034)
Barium	0.128
Cadmium	0.120
Chromium	0.436
Lead	ND (0.12)
Mercury	ND (0.002)
Selenium	ND (0.017)
Silver	ND (0.010)
Nickel	0.11
Cyanide	[1] 0.11

ND: Not Detected. Denotes concentration below the detection limit shown in parenthesis.

[1] Obtained using the regular EP toxicity procedure using distilled water instead of acetic acid (to prevent the volatization of cyanide) since an OWEP for cyanide cannot be performed.

Detection limits represent the lowest concentrations quantifiable by Clay when using the appropriate SW–846 and EPA analytical methods to analyze the petitioned waste. (Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limit.) Results from the characteristics testing indicated that none of the samples analyzed exhibited the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR §§ 261.21, 261.22, and 261.23.

Clay submitted a signed certification stating that, based on the dimensions of its surface impoundment, the surface impoundment contains a maximum of 190 cubic yards of sludge. The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volumes. EPA accepts Clay's certified estimate of 190 cubic yards.

Table 3 presents ground-water monitoring data from samples taken from groundwater monitoring wells upgradient and downgradient of the surface impoundment on the indicated dates.

TABLE 3.—CONCENTRATIONS OF EP TOXIC METALS, NICKEL, AND CYANIDE IN GROUND WATER NEAR THE SUBJECT SURFACE IMPOUNDMENT (PPM)

	Upgradient		Downgradient			
	Well MW-1A	Well MW-1B	Well MW-2	Well MW-3	Well MW-4a	Well MW-4b
Arsenic:						
Nov. 10, 1986	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Dec. 2, 1986	0.005	0.003	<0.001	0.004	0.005	<0.001
Jan. 15, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Feb. 14, 1987	0.007	<0.001	0.002	0.002	0.002	<0.001
June 2, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Aug. 12, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Barium: [1]						
Nov. 10, 1986	0.2	<0.2	<0.2	0.2	<0.2	0.2
Dec. 2, 1986	<0.1	<0.1	<0.1	<0.1	<0.1	<0.1
Cadium:						
Nov. 10, 1986	<0.0002	<0.0002	<0.0002	<0.0002	<0.0002	<0.0002
Dec. 2, 1986	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Jan. 15, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Feb. 14, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
June 2, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Aug. 12, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001

TABLE 3.—CONCENTRATIONS OF EP TOXIC METALS, NICKEL, AND CYANIDE IN GROUND WATER NEAR THE SUBJECT SURFACE IMPOUNDMENT (PPM)—Continued

	Upgradient		Downgradient			
	Well MW-1A	Well MW-1B	Well MW-2	Well MW-3	Well MW-4a	Well MW-4b
Chromium:						
Nov. 10, 1986	0.004	0.005	0.003	0.003	0.003	0.004
Dec. 2, 1986	0.005	0.004	0.002	0.013	0.003	0.007
Jan. 15, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	0.001
Feb. 24, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
June 2, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Aug. 12, 1987	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Nickel:						
Nov. 10, 1986	0.009	0.004	0.009	0.007	0.007	0.005
Dec. 2, 1986	0.010	0.001	0.010	0.004	0.003	0.002
Jan. 15, 1987	0.006	0.001	0.006	0.004	0.007	0.001
Feb. 24, 1987	0.003	<0.001	<0.001	<0.001	<0.001	<0.001
June 2, 1987	0.006	0.003	0.001	0.001	0.001	<0.001
Aug. 12, 1987	0.006	0.003	<0.001	<0.001	0.006	<0.001
Lead:						
Nov. 10, 1986	0.003	0.009	<0.001	0.003	<0.001	0.003
Dec. 2, 1986	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Jan. 15, 1987	0.002	0.006	0.005	0.004	0.003	<0.001
Feb. 24, 1987	<0.001	<0.001	0.001	<0.001	0.001	<0.001
June 2, 1987	<0.001	<0.001	<0.001	<0.001	0.002	<0.001
Aug. 12, 1987	0.002	<0.001	<0.001	0.002	<0.001	<0.001
Mercury:						
Nov. 10, 1986	<0.0005	0.0018	<0.0005	0.0026	<0.0005	<0.0005
Dec. 2, 1986	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005
Jan. 15, 1987	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005
Feb. 24, 1987	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005
June 2, 1987	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005
Aug. 12, 1987	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005	<0.0005
Selenium: [1]						
Nov. 10, 1986	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Dec. 2, 1986	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Silver: [1]						
Nov. 10, 1986	<0.0002	<0.0002	<0.0002	<0.0002	<0.0002	<0.0002
Dec. 2, 1986	<0.001	<0.001	<0.001	<0.001	<0.001	<0.001
Cyanide:						
Nov. 10, 1986	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02
Dec. 2, 1986	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02
Jan. 15, 1987	<0.02	<0.02	<0.02	<0.02	<0.02	<0.02
Feb. 24, 1987	<0.03	<0.03	<0.03	<0.03	<0.03	<0.03
June 2, 1986	<0.03	<0.03	<0.03	<0.03	<0.03	<0.03
Aug. 12, 1987	<0.03	<0.03	<0.03	<0.03	<0.03	<0.03

<: Denotes that the actual value is below the detection limit specified in the table.

[1] Additional samples were not submitted for barium, selenium, and silver because these constituents were neither present in the impounded wste, nor identified as components of any raw material

EPA does not generally verify submitted test data before proposing delisting decisions, and has not verified the data upon which it proposes to grant Clay's exclusion. The sworn affidavit submitted with this petition binds the petitioner to present truthful and accurate results. The Agency, however, has previously conducted a spot-check sampling and analysis program to verify the representative nature of the data for some of the submitted petitions, and may select to visit this facility in the future for spot-check sampling.

4. Agency Evaluation

The Agency is currently developing a fate and transport model to evaluate the potential behavior of wastes managed in surface impoundments. However, this model is not ready for evaluating delisting petitions. As a result, the Agency has evaluated the petitioned waste using its vertical and horizontal spread (VHS) landfill model.[1] See 50 FR 7882 (February 26, 1985), 50 FR 58896 (November 27, 1985), and the RCRA public docket for a detailed description of the VHS model and its parameters. As explained below, the Agency feels that the VHS model, at this time, is adequate for this delisting petition. The Agency requests comments on the use of the VHS model as applied to the evaluation of Clay's waste.

The primary difference expected between the VHS model (used for the petitioned waste) and a surface impoundment model is the consideration (in the impoundment model) of hydraulic head, sorption, retardation, and clogging. Hydraulic head is expected to cause higher compliance point concentrations.[2] Sorption, retardation, and clogging, on the other hand, are expected to result in lower concentrations of the contaminants.[3] To

[1] When the Agency believes that the surface impoundment model is sufficiently developed for delisting decision-making, it intends to describe its parameters and assumptions and request comments on the model. Subsequent use of the model in the evaluation of specific delisting petitions would be proposed in the Federal Register. Also, the appropriateness of its use for each specific petition will be considered.

[2] Hydraulic head tends to force leachate into the aquifer, displacing ground water and resulting in potentially higher concentrations at the receptor well (i.e. compliance point).

[3] Sorption and retardation of dissolved contaminants with the aquifer solids encountered through migration in the ground water tend to reduce the concentrations of the contaminants in the aquifer. Clogging occurs in surface impoundments when either fine material filters out in the impoundment bottom materials, or when fine material settles on the bottom of the impoundment. A potential result of clogging is the lowering of the hydraulic conductivity of the impoundment botton

Continued

some extent, the mechanisms of sorption, retardation, and clogging will counteract hydraulic head. Until the ongoing development of the surface impoundment model is completed, it is difficult to predict what impact, if any, these competing mechanisms will have on the calculation of compliance point concentrations. EPA feels that to delay petition evaluations until such time as other above) are developed would result in the curtailment of delisting petition processing. Delay is particularly unwarranted where, as here, it is not clear that the new analytical tool would predict different constituent concentrations and/or change EPA's conclusion.

Furthermore, EPA believes that the VHS model is currently adequate to assess the reasonable worst-case disposal scenario of wastes at surface impoundments because the VHS landfill model is conservative in all its assumptions. Specifically, the VHS landfill model does not account for the likely reduction in the total concentrations of hazardous constituents occurring through volatilization and degradation, thereby providing an additional margin of safety, regardless of whether the waste is disposed of in a landfill or surface impoundment scenario. Consequently, the Agency believes that the application of the VHS model, in this case, adequately protects human health.

In this case, the Agency used the VHS model to evaluate the mobility of all the hazardous inorganic constituents (except arsenic, lead, mercury, selenium, and silver—see explanation below) from Clay's waste. The Agency's evaluation, using Clay's estimate of 190 cubic yards of waste and the maximum reported mobile metal concentrations (OWEP leachate concentrations) of the constituents of concern, generated the compliance-point concentrations listed in Table 4. The Agency did not evaluate the mobility of the remaining inorganic constituents (i.e., arsenic, lead, mercury, selenium, and silver) from Clay's waste because they were not detected in the OWEP extract using the that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable values were obtained using appropriate analytical methods. Specifically, if a constituent cannot be detected (when using the appropriate analytical method) the Agency assumes that the constituent is not present and, therefore, does not present a threat to either human health or the environment.

TABLE 4.—VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS (PPM) IMPOUNDMENT SLUDGE

Constituents	Compliance-point concentrations (ppm) [1]	Levels of regulatory concern (ppm) [2]
Barium	0.004	1.0
Cadmium	0.004	0.01
Chromium	0.014	0.05
Nickel	0.004	0.5
Cyanide	0.0034	0.7

[1] Compliance-point concentrations were generated using results of the Oily Waste Extraction Procedure for all constituents except cyanide. (An oily waste extraction for cyanide cannot be performed.)

[2] See "Docket Report on Health-Based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, in the RCRA public docket.

Using the VHS model, the impoundment sludge exhibited barium, cadmium, chromium, nickel, and cyanide levels at the compliance point below the health-based levels used in delisting decision making.

Lastly, the concentrations of reactive cyanide and reactive sulfide in the impoundment sludge (see Table 1) are below the Agency's interim standards of 250 ppm and 500 ppm, respectively. See internal Agency memorandum dated July 12, 1985, regarding "Interim Agency Thresholds for Toxic Gas Generation," in the RCRA public docket.

Based on the Agency's review of Clay's manufacturing and waste treatment process descriptions, raw materials list, and material safety data sheets, the Agency determined that thiourea (an Appendix VIII hazardous constituent) was present in trace amounts in a product used in Clay's manufacturing process. A mass balance evaluation of the concentration of thiourea in the raw material in relation to the average annual volume of waste-water generated indicated a maximum concentration of thiourea in the waste of 2.0×10^{-9} mg/l, which is below the Agency's health-based level of concern (1.8×10^{-5} mg/l). The Agency has determined that no other hazardous constituents are likely to be present or formed as reaction by-products in Clay's waste. In addition, based on the test results submitted by the petitioner, pursuant to § 260.22, the waste does not exhibit any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

The Agency also evaluated ground-water monitoring data submitted by Clay to determine whether there is any ground-water contamination at the site. The Agency believes that the ground-water monitoring data were collected from a system that is in compliance with the requirements set forth in 40 CFR Part 265, Subpart F. After reviewing the ground-water monitoring data presented in Table 3, the Agency believes that the one-time detection of mercury (on November 10, 1986) in both the upgradient and downgradient monitoring wells was a result of either laboratory error or analytical interferences. This determination is based both upon the fact that mercury is not a component of any raw material used at the facility, and upon the low total constituent concentration of mercury in the impounded waste. No other indications of ground-water contamination above the Agency's health-based levels were discovered.

5. Conclusion

The Agency believes that Clay has successfully demonstrated that the subject F006 and F009 wastewater treatment sludge is non-hazardous. The Agency considers the sampling procedures used by Clay to be adequate, and believes that the reported analytical data are representative of the subject waste. Although the facility did not perform as a job shop or have seasonal product variations, the Agency believes that over time there were variations in Clay's manufacturing and waste treatment processes (e.g., prior to 1980, spent plating solutions were probably discharged directly to the surface impoundment). However, the Agency is not concerned with the possible variations in constituent concentrations, both because by randomly collecting complete-depth core samples, Clay adequately assessed any horizontal or vertical variation (produced over time) in constituent concentrations.

The Agency, therefore, is proposing that Clay's wastewater treatment sludge contained in its on-site surface impoundment be considered non-hazardous, as it should not present a hazard to either human health or the environment. The Agency proposes to grant a one-time exclusion to Clay Equipment Corporation, located in Cedar Falls, Iowa, for its wastewater treatment sludge to grant a one-time exclusion to Clay Equipment Corporation, listed as EPA Hazardous

material to that which approaches the hydraulic conductivity of clay, thus reducing the leakage of impoundment liquid into the aquifer.

Waste Nos. F006 and F009 disposed of its surface impoundment. If the proposed rule becomes effective, the wastewater treatment sludge should no longer be subject to regulation under 40 CFR Parts 262 through 268 and the permitting standards of 40 CFR Part 270. If made final, the exclusion will only apply to the wastewater treatment sludge contained in Clay's on-site surface impoundment.

Although management of the waste covered by this petition would be relieved from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dipose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility which beneficially uses or reuses, or legitimately recycles or reclaims the waste; or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

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

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding a waste generated at one facility from EPA's list of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

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

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Date: September 8, 1988.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

2. In table 1 of Appendix IX, add the following wastestreams in alphabetical order:

Appendix IX—Waste Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
*	* *	* *
Clay Equipment Corporation.	Cedar Falls, Iowa.	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) and spent cyanide bath solutions (EPA Hazardous Waste No. F009) generated from electroplating operations and disposed in an on-site surface impoundment. This is a one-time exclusion.
*	* *	* *

[FR Doc. 88–21161 Filed 9–15–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 721

[OPTS–50567; FRL–3448–5]

Benzenamine, 4-chloro-2-methyl-; Benzenamine, 4-chloro-2-methyl-, Hydrochloride; Benzenamine, 2-chloro-6-methyl-; Proposed Significant New Use of Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) which would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of benzenamine, 4-chloro-2-methyl- (CAS Number 95–69–2); benzenamine, 4-chloro-2-methyl-, hydrochloride (CAS Number 3165–93–3); or benzenamine, 2-chloro-6-methyl- (CAS Number 87–63–8) for any use. EPA believes that this action is necessary because these substances may be hazardous to human health, and any use of these substances and activities associated with such use may result in significant human exposure. The notice would furnish EPA with the information needed to evaluate the intended use and associated activities, and an opportunity to protect against potentially adverse exposure to the chemical substances before it can occur.

DATE: Written comments should be submitted to EPA by October 17, 1988.

ADDRESS: Since come comments may contain confidential business

information (CBI), all comments should be sent in triplicate to: TSCA Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Room L–100, 401 M Street SW., Washington, DC 20460.

Comments should include the docket control number OPTS–50567. Nonconfidential comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit X of this preamble contains additional information on submitting comments containing CBI.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Acting Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room EB–44, 401 M Street SW., Washington, DC 20460, Telephone: (202) 554–1404, TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION: The proposed SNUR for 4-COT, 4-COT hydrochloride, and 6-COT would require persons to notify EPA at least 90 days before commencing the manufacture, import, or processing of these substances for any use. The required notice would provide EPA with the information needed to evaluate an intended use and associated activities, and an opportunity to protect against potentially adverse exposure to 4-COT, 4-COT hydrochloride, and 6-COT before it can occur.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M St. SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA."

I. Authority

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices (PMNs) under section 5(a)(1)(A) of TSCA. In particular, these requirements include the information submission requirements of section 5 (b) and (d)(1), the exemptions authorized by section 5(h) (1), (2), (3), and (5), and the regulations at 40 CFR Part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the Federal Register its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707.

II. Applicability of General Provisions

In the Federal Register of September 5, 1984 (49 FR 35011), EPA promulgated general regulatory provisions applicable to SNURs (40 CFR Part 721, Subpart A). The general provisions are discussed in detail in that Federal Register notice, and interested persons should refer to that document for further information. On July 27, 1988, EPA promulgated amendments to the general provisions (53 FR 28354) which would apply to this proposed SNUR except as provided in proposed § 721.462(b)(1). The entire text of Subpart A was published in that document; interested parties should refer to it for further information.

III. Summary of This Proposed Rule

The chemical substances which are the subjects of this proposed SNUR are benzenamine, 4-chloro-2-methyl- (4-COT, CAS Number 95–69–2); benzenamine, 4-chloro-2-methyl-, hydrochloride (4-COT hydrochloride, CAS Number 3165–93–3); and benzenamine, 2-chloro-6-methyl- (6-COT, CAS Number 87–63–8). EPA is proposing to designate any use of these chemical substances as a significant new use. Thus, this proposed rule would require persons who intend to manufacture, import, or process 4-COT, 4-COT hydrochloride, or 6-COT for any use to notify EPA at least 90 days before such manufacture, import, or processing.

IV. Background Information On 4-COT, 4-COT Hydrochloride, and 6-COT

A. Production and Use Data

4-COT, synonymously known as 4-chloro-2-methyl benzenamine, 4-chloro-o-toluidine, 4-chloro-2-methylaniline, p-chloro-o-toluidine, 2-amino-5-chlorotoluene, 5-chloro-2-amino toluene, azoic diazo component 11, 3-chloro-6-amino toluene, 4-chloro-2-toluidine, and 4-chloro-6-methylanilin, has been used in the past to produce azo dyes for cotton, silk, acetate, and nylon; as an intermediate for the production of C.I. Pigment Red 7 and C.I. Pigment Yellow 49; and to produce chloridimeform, an insecticide used solely on cotton in the United States. 4-COT hydrocholride has been used in the past to produce azo dyes. 6-COT, also known as 2-chloro-6-methyl benzenamine and 6-chloro-o-toluidine, has been used in the past as a chemical intermediate.

EPA reviewed the TSCA Chemical Substance Inventory data base and other information sources to identify current manufacturers, importers, and processors of 4-COT, 4-COT hydrochloride, and 6-COT. The review indicates that all production and importation of the chemical substances in the United States has been discontinued. EPA contact with the last known U.S. producer of 4-COT revealed that all U.S. production was discontinued in 1979 due to low profits and demand, and all importation and distribution of the substance was discontinued in 1986. It is not likely that 4-COT has been processed or used since early 1987. EPA review of the TSCA Chemical Substance Inventory data base for 4-COT hydrochloride and 6-COT production revealed no production or importation volume for either substance in 1977. Similarly, review of production volume reported in response to the TSCA Inventory Update Rule (40 CFR Part 710, Subpart B) revealed no producers or importers of 4-COT hydrochloride or 6-COT in 1986. Based on these data, EPA has concluded that it is not likely that either 4-COT hydrochloride or 6-COT has been processed or used for several years.

B. Human Health Effects

A recent TSCA section 8(e) submission from a former manufacturer of 4-COT and 6-COT reported that 8 cases of human bladder cancer from an exposed group of 117 workers be linked to chronic exposure to the chemical substances. Inadequate data prevent a definitive conclusion as to which substance or substances produced the cause and effect relationship. However,

other substances having structures analogous to 4-COT and 6-COT present suspected human health risks associated with exposure. For example, ortho-toluidine hydrochloride (CAS No. 636–21–5) is recognized as a carcinogen in experimental animals by the International Agency for Research on Cancer (IARC) and the National Cancer Institute Bioassay Program. Moreover, the IARC Working Group has stated that ortho-toluidine should be regarded, for practical purposes, as if it presented a carcinogenic risk to humans (see Unit X for draft Chemical Hazard Information Profile on o-toluidine).

Results from a 1978 National Cancer Institute bioassay indicate that exposure to 4-COT hydrochloride causes hemangiosarcoma and hemangioma in mice. Based on these findings, the EPA Carcinogen Assessment Group (CAG) has classified 4-COT as a "Group 2" probable human carcinogen (see Unit X for reference "Health and Environmental Effects Profile" document). Because 4-COT hydrochloride can be considered toxicologically equivalent to 4-COT, adverse human health effects of the base substance can be inferred from the hydrochloride, and vice versa. EPA at this time has no human health effects data definite enough to permit a final conclusion to be drawn regarding human health risks for 6-COT. However, based on a through evaluation of the existing health data, EPA has concluded that 4-COT, 4-COT hydrochloride, and 6-COT may present a risk of injury to human health.

C. Past and Current Exposure Data

EPA has little data on actual numbers of persons who have been exposed to 4-COT, 4-COT hydrochloride, or 6-COT, or at what levels. Current known exposures are limited to those resulting from any residues or previously manufactured or imported 4-COT, 4-COT hydrochloride, and 6-COT in the environment.

V. Objectives and Rationale For The Rule

To determine what would constitute a significant new use of 4-COT, 4-COT hydrochloride, and 6-COT, EPA considered relevant information on the toxicity of the substances, likely exposures associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA wishes to achieve the following objectives with regard to the significant new use that is designated in this rule:

1. EPA wants to ensure that it would receive notice of any company's intent to manufacture, import, or process 4-COT, 4-COT hydrochloride, or 6-COT for any use before that activity begins.

2. EPA wants to ensure that it would have an opportunity to review and evaluate data submitted in a significant new use notice before the notice submitter begins manufacturing, importing, or processing 4-COT, 4-COT hydrochloride, or 6-COT for any use.

3. EPA wants to ensure that it would be able to regulate prospective manufacturers, importers, or processors of 4-COT, 4-COT hydrochloride, and 6-COT before any manufacturing, importing or processing of these substances occurs, provided that the degree of potential health and environmental risk is sufficient to warrant such regulation.

4-COT, 4-COT hydrochloride, and 6-COT are possible human carcinogens and are not currently not manufactured, imported, processed, or used in the U.S. according to data available to EPA. Neither 4-COT, 4-COT hydrochloride, nor 6-COT is currently subject to any Federal regulation that would notify the Federal Government of activities that might result in adverse exposures to these substances or provide a regulatory mechanism that could protect human health from potentially adverse exposures before they occurred.

EPA believes that the resumption of any use of these substances, and their related manufacture, import, or processing, has a high potential to increase the magnitude and duration of exposure to these substances from that which currently exists. Given the toxicity and potential toxicity of these substances, the reasonably anticipated situations that could result in exposure, and the lack of sufficient regulatory controls, individuals could be exposed to 4-COT, 4-COT hydrochloride, or 6-COT at levels which may result in adverse effects. For the foregoing reasons, EPA has designate any use of 4-COT, 4-COT hydrochloride, and 6-COT as a significant new use.

Because EPA is concerned about potential exposure during the entire life cycle of 4-COT, 4-COT hydrochloride, and 6-COT, EPA is proposing to modify § 721.5(a)(2) to require any prospective manufacturer, importer, or processor of 4-COT, 4-COT hydrochloride, or 6-COT, who intends to distribute the substance in commerce, to submit a notice.

VI. Alternatives

Before proposing this SNUR, EPA considered the following alternative regulatory actions for 4-COT, 4-COT hydrochloride, and 6-COT:

1. One alternative would be to promulgate a section 8(a) reporting rule for these substances. Under such a rule, EPA could require any person to report information to EPA when they intend to manufacture, import, or process the substances for any use. However, for these particular substances, the use of section 8(a) rather than SNUR authority would have several drawbacks. First, EPA would not receive sufficient advance notification of the intended activity, nor would it be able to take immediate follow-up regulatory action under section 5(e) or 5(f) to prohibit or limit the activity. In addition, EPA may not receive important information from small businesses, because such firms are exempt from section 8(a) reporting requirements. In view of the level of health concern for 4-COT, 4-COT hydrochloride, and 6-COT, EPA believes that a section 8(a) rule for these substances would not meet EPA's regulatory objectives.

2. Regulate the substances under section 6 of TSCA. However, EPA may regulate under section 6 only if there is a reasonable basis to conclude that the manufacture, importation, processing, distribution in commerce, use, or disposal of a substance or mixture "presents or will present" an unreasonable risk of injury to human health or the environment. There is insufficient information about prospective manufacturing, importation, or processing operations or human health effects at this time to enable EPA to make a conclusive determination of risk. Therefore, EPA is not able at this time to take action under section 6 to regulate 4-COT, 4-COT hydrochloride, or 6-COT.

VII. Applicability of Proposed Rule To Uses Occurring Before Promulgation of Final Rule

EPA believes that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the proposal date of the SNUR rather than as of the promulgation of the final rule. If uses begun during the proposal period of a SNUR were considered ongoing as of the date of promulgation, it would be difficult for EPA to establish SNUR notice requirements, because any person could defeat the SNUR by initiating the proposed significant new use before the rule became final; this interpretation of section 5 would make it extremely difficult for EPA to establish SNUR notice requirements.

Persons who begin commercial manufacture, importation, or processing of 4-COT, 4-COT hydrochloride, or 6-COT for a significant new use designated in this rule between proposal and promulgation of the SNUR may

comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 27, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, importation, or processing of the substance between proposal and promulgation of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA recognizes that this interpretation of TSCA may disrupt the commercial activities of persons who begin manufacturing, importing, or processing 4-COT, 4-COT hydrochloride, or 6-COT for a significant new use during the proposal period of this SNUR. However, this proposed rule constitutes notice of that potential disruption, and persons who commence the proposed significant new use prior to promulgation of the SNUR do so at their own risk.

VIII. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of 4-COT, 4-COT hydrochloride, and 6-COT. EPA's complete economic analysis is available in the public record for this proposed rule (OPTS–50567).

IX. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a public version of the comments that EPA can place in the public file.

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS–50567). The record includes basic information considered by EPA in developing this proposed rule. EPA will supplement the record with additional information as it is received. The record now includes the following:

1. This proposed rule.
2. The economic analysis of this proposed rule.
3. Draft Health and Environmental Effects Profile for 4-chloro-2-methyl benzenamine and 4-chloro-2-methyl benzenamine hydrochloride.
4. TSCA section 8(e) submission (8EHQ–0986–0634 et seq.).
5. Draft Chemical Hazard Information Profile for o-toluidine.

EPA will accept additional materials for inclusion in the record at any time between this proposal and designation of the complete record. EPA will identify the complete rulemaking record by the date of promulgation. A public version of this record containing nonconfidential copies is available for reviewing and copying from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, located at Room NE–G004, 401 M Street, SW., Washington, DC.

XI. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule would not be a "major" rule because it would not have an effect on the economy of $100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the reporting cost for submitting a significant new use notice would be approximately $1,400 to $8,000. EPA believes that, because of the nature of the rule and the substances involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this proposed rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substances. Therefore, the Agency believes that the number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0038.

Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and competing and reviewing the collection of information.

Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements, Significant new uses.

Dated: August 31, 1988.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 721 be amended as follows:

PART 721—[AMENDED]

1. The authority citation for Part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.462 to read as follows:

§ 721.462 Benzenamine, 4-chloro-2-methyl-; benzenamine, 4-chloro-2-methyl-, hydrochloride; and benzenamine, 2-chloro-6-methyl-.

(a) *Chemical substances and significant new use subject to reporting.* (1) The chemical substances

benzenamine, 4-chloro-2-methyl- (CAS Number 95-69-2); benzenamine, 4-chloro-2-methyl-, hydrochloride (CAS Number 3165-93-3); and benzenamine, 2-chloro-6-methyl- (CAS Number 87-63-6) are subject to reporting under this section for the significant new use described in paragraph (a)(2) of this section.

(2) The significant new use is: Any use.

(b) *Specific requirements.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph:

(1) *Persons who must report.* Section 721.5 applies to this section except for § 721.5(a)(2). A person who intends to manufacture, import, or process for commercial purposes a substance identified in paragraph (a)(1) of this section and intends to distribute the substance in commerce must submit a significant new use notice.

(2) [Reserved].

(Approved by the Office of Management and Budget under OMB control number 2070-0038)

[FR Doc. 88-21160 Filed 9-15-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-398, RM-6389]

Radio Broadcasting Services; Rogers City, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by South Radio Group, Inc., proposing the substitution of Channel 244C2 for Channel 249A at Rogers City, Michigan, and modification of its license for Station WMLQ to specify the higher class channel. Canadian concurrence will be sought for the allotment of Channel 244C2 at Rogers City. The coordinates for Channel 244C2 are 45-25-17 and 83-49-00.

DATES: Comments must be filed on or before October 28, 1988, and reply comments on or before November 14, 1988.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Julian P. Freret, Booth, Freret & Imlay, 1920 N Street, NW., Suite 520, Washington, DC. 20036 (Counsel for the petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-398, adopted August 5, 1988, and released September 7, 1988. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC. 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 88-21123 Filed 9-15-88; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 76

[BC Docket No. 82-434; FCC 88-271]

Cable Television; Regulations To Eliminate the Prohibition on Common Ownership of Cable Television Systems and National Television Networks

AGENCY: Federal Communciations Commission.

ACTION: Proposed rule.

SUMMARY: This *Further Notice* solicits comments on the continued validity of the Commission's network-cable cross-ownership rule, which prohibits the ownership of cable television systems by the national television networks. Although the Commission initiated this proceeding in 1982, no final action has been taken. In light of developments in the video marketplace during the intervening years since the proceeding was initiated, this *Further Notice* invites further comments on our original proposal to eliminate the network-cable cross-ownership rule.

DATE: Comments must be filed on or before October 24, 1988, and reply comments on or before November 8, 1988.

ADDRESS: Federal Communciations Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michele Farquhar, Policy and Rules Division, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking in BC Docket 82-434, adopted August 4, 1988, and released on September 6, 1988. The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Further Notice of Proposed Rulemaking (Further Notice)

1. The Commission adopted a Notice of Proposed Rulemaking (Notice) proposing the elimination of the rule which prohibits common ownership of cable television systems and national television networks (hereinafter the "network-cable cross-ownership" rule) on July 15, 1982. (47 FR 39212, September 7, 1982.) The Notice solicited comments on the proposed abolition of the rule and the possible development of a framework for analyzing media ownership issues. In light of the developments in the video marketplace during the six years since the Notice was released, this Further Notice would invite further comments on our original proposal to eliminate the network-cable cross-ownership rule.

2. The Commission first adopted this restriction in 1970. After several years of experience with this rule, however, doubts began to arise as to its necessity or appropriateness. For example, the 1980 final report of the Commission's Network Inquiry Special Staff concluded that network entry into cable television could increase competition, enhance efficiency, and improve the quality of cable service to advertisers and

viewers. Another study, released by the Commision's Office of Plans and Policy (OPP) in 1984, found that the possibility of anticompetitive or other adverse behavior by network owners of cable systems would be limited by strong consumer demand for cable services, the regulatory power of the franchise authorities, and the availability of alternative transmission techniques.

3. Based in part of these studies, the Commission issued the initial Notice in this proceeding in 1982, suggesting that the basis for the network-cable cross-ownership rule might no longer be valid, especially in light of the growth in the video marketplace in general and the development of cable television services in particular. In response to that Notice thirty parties submitted comments or replies.

4. In the six years since the Notice in this proceeding was issued, there appears to have been a number of relevant developments concerning the cable industry and the national television networks which could have a bearing on this proceeding. For example, the National Telecommunications and Information Administration (NTIA) issued a report on June 15, 1988, which concluded that broadcast television networks should no longer be prevented from owning cable systems.

5. In addition, there have been significant changes in the regulatory environment. For example, the 1984 Cable Act completely revised our cable regulations. In addition, the elimination of our must carry rules and reimposition of our synidcated exclusivity rules changed the competitive relationship between cable and broadcasting. In this regard, we solicit comment on whether network ownership of cable systems in markets where they have affiliated stations may influence the negotiation of affiliation contracts. Similarly, absent must carry, how does network affiliation with a local station and ownership of a cable system in the same market affect the competitive position of other broadcast facilities in that market.

Ex Parte Contacts

6. This is a nonrestricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

Initial Regulatory Flexibility Act Statement

7. We preliminarily conclude that the proposed elimination of the network-cable cross-ownership rule will not have a significant economic impact on most small cable systems. However, to the extent that networks purchase existing small cable systems, the systems may benefit from the expertise of the network, or from the possible infusion of additional capital into the cable system.

8. The Secretary shall cause a copy of this Further Notice to be sent to the Chief Counsel for Advocacy of the Small Business Adminsitration in accordance with section 603(a) of the Regulatory Flexibility Act, Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Paperwork Reduction Act Statement

9. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified requirement or burden upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

Comments

10. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before October 24, 1988 and reply comments on or before November 8, 1988. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 76

Diversification of Control.

Federal Communications Commission.

H. Walker Feaster, II,

Acting Secretary.

[FR Doc. 88–21124 Filed 9–15–88; 8:45 am]

BILLING CODE 6712–01–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1152

[Ex Parte No. 274 (Sub. 20)]

Rail Abandonments; Avoidability of Property Tax Expense Under the Unit Method of Assessment

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is requesting public comment on a proposal to change the way property taxes are treated in abandonment proceedings. The change is intended to ensure that a railroad recovers property taxes as an aaviodable cost only if it experiences an actual decrease in its overall property tax liability following abandonment. This avoidability problem occurs primarily in jurisdictions that base their propoerty tax on a so-called "unit" method of assessment. The Commission proposes requiring the abandoning carrier to submit evidence substantiating the actual tax savings it will experience in affected unitary jurisdictions if the railroad argues that savings would occur. Without sufficient proof, the Commission would decline to accept as avoidable the property taxes the carrier has assigned to the line.

DATES: Comments are due October 17, 1988.

ADDRESSES: Send pleadings (original and 10 copies) referring to Ex Parte No. 274 (Sub-No. 20) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Joseph H. Dettmar, (202) 275–7245. [TDD for hearing impaired: (202) 275–1721].

SUPPLEMENTARY INFORMATION: The term "avoidable cost" is defined in 49 U.S.C. 10905(a) as "all expenses that would be incurred by a rail carrier in providing transportation that would not be incurred if the railroad line over which the transportation was provided were abandoned or if the transportation were discontinued." In reviewing the merits of an abandonment application, the Commission uses avoidable costs to determine the financial burden the carrier would incur from continued operation of the line. This burden is relevant to our ultimate determination of whether the public convenience and necessity require or permit the abandonment under 49 U.S.C. 10903. Avoidable costs are also relevant to subsidy and purchase calculations under 49 U.S.C. 10905.

The Commission's regulations at 49 CFR 1152.32 address the caculation of avoidable costs and define the eligible costs elements. Under §§1152.32(j), property taxes are deemed attributable costs of the rail properties to be abandoned if the applicant-carrier intends to sell or otherwise dispose of those properties after abandonment. In several recent proceedings, however, protestants have contended that property taxes on a line are not avoidable when the State imposing the tax uses a "unit" method of railroad assessment.

The unit method of valuing railroad property is based on the premise that the railroad is an integrated economic entity. Each State using the unit method determines an assessment for the entire

railroad system, using a traditional imcome, market, or cost-base valuation standard.

Under the income approach the valuation, the net railway operating income (NROI) is capitalized to predict the captial value under the theory that anticipated future income translates into present market value.

The market approach uses an analysis of stocks and debt to determine market value. This approach assumes that future stock prices will depend on the anticipated NROI from future operations

Under the cost approach, original cost or reproduction cost with depreciation is used to determine the market value of the system's properties.

The State then determines its proportion of the total system value from statistical units that may include track miles, gross ton-miles, car miles, and locomotive miles. The ratio of statistical units in the State to systen total units is applied against the total system value to determine the State-wide assessment.

Abandonment of any given line withint a State will lower that State's ratio by reducing equally the in-State (numerator) and system-wide (denominator) statistical units. On the other hand, abandonment will generally increase system-wide valuation. Under the income and market approaches, the abandonment could increase NROI and, therefore, the valuation. The increase reflects that an unprofitable operation is being terminated. The possibility that the system-wide valuation will increase creates some uncertainty as to whether any one abandonment will result in an overall tax reduction in the State or States where the line is located.

Ordinarily this methodology will result in a tax reduction in the State or States where an abandonment is to occur. If it does, however, this does not necessarily mean that the abandoning carrier's total tax expense will be reduced. As a result of the abandonment, each State's proportion of the total system valuation will change. Those States that are outside the scope of the abandonment should experience an increase in their allocated valuation, and this should result in more taxes being assessed on the abandoning railroad by that State's local taxing entities. Those States in which the abandonment will occur ordinarily should experience a reduction in their allocated valuation, and this should result in a lesser amount being assessed on the abandoning railroad by their local taxing entities. The net effect of this is that, while the abandoning railroad will no longer pay taxes on the track being abandoned, it may as a direct result of the abandonment pay more taxes overall. This is because each of the local jurisdictions assesses taxes at a different rate level, and because a greater portion of the remaining allocated valuation may be in jurisdictions with higher tax rates.

Because there is no fixed relationship between the decrease in a State's statistical ratio and the likely increase in system-wide valuation, and because the tax rates applied to the final assessment by the various jurisdictions in which the abandoning railroad operates are not uniform, there can be no blanket conclusion that property taxes calculated under the unit method are avoidable. Consequently, when the issue is raised, we propose to decide the issue of avoidability on a case-by-case basis. Our proposed rule places the burden of proving avoidability on the carrier seeking to claim local property taxes as an avoidable cost of operations. In the absence of proof, we will decline to accept as avoidable the property taxes the carrier has assigned to the line.

Our proposed rule is set forth below. Comments on all the foregoing matters are invited.

The Commission preliminarily certifies that the revised regulations proposed in this proceeding, if adopted, will not have a significant economic impact on a substantial number of small entities. The general purpose of the proposed changes is to permit a more accurate determination of the costs of rail operations in connection with rail abandonment and subsidy/purchase proceedings. Small entities will be least affected because they typically operate within the fewest number of taxing jurisdictions. However, comments regarding small entities, if any, should be included in the statements filed with the Commission.

This action will not significantly affect either the quality of the human environment or energy conservation. Similarly, any comments regarding environmental and energy issues should be included in the statement filed with the Commission.

List of Subjects in 49 CFR Part 1152

Administrative practice and procedure, Railroads.

This notice is issued under the authority of 49 U.S.C. 10321, 10362, 10903, 10904, and 10905, and 5 U.S.C. 553.

Dated: September 6, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips. Vice Chairman Andre commented with a separate expression.

Noreta R. McGee,

Secretary.

Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

1. The authority citation for Part 1152 continues to read as follows:

Authority: 5 U.S.C. 553, 559 and 704; 11 U.S.C. 1170; 16 U.S.C. 1247(d); and 49 U.S.C. 10321, 10362, 10505 and 10903 *et seq.*

§ 1152.32 [AMENDED]

2. Section 1152.32 is proposed to be amended by adding a new paragraph (j)(6) to read as follows:

(j) * * *

(6) In States where the State-wide valuation of the railroad's properties is based on a proration of the railroad's total system valuation based upon the unit method of valuation, applicant shall indicate that this is the case, and, if it is claiming the local property tax as an avoidable cost of operations, it shall submit evidence substantiating the actual tax savings that may be attributed to the abandonment. The taxes paid on a line segment that are based on the proration of a State-wide valuation determined under the unit method of assessment shall not be treated as avoidable property taxes assignable to the line segment unless adequate evidence is filed in support of the computation.

* * * * *

[FR Doc. 88-21096 Filed 9-15-88; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 53, No. 180
Friday, September 16, 1988

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Meeting

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Advisory Council on Historic Preservation will meet on Tuesday, September 27, 1988. The meeting will be held in the Navajo and Zuni Rooms at the Holiday Inn, 2915 West 66 Highway, Gallup, New Mexico, beginning at 8:00 a.m.

The Council was established by the national Historic Preservation Act of 1966 (16 U.S.C. 470) to advise the President and the Congress on matters relating to historic preservation and to comment upon Federal, federally assisted, and federally licensed undertakings having an effect upon properties listed in or eligible for inclusion in the National Register of Historic Places. The Council's members are the Architect of the Capitol; the Secretaries of the Interior, Agriculture, Housing and Urban Development, and Transportation; the Director, Office of Administration; the Chairman of the National Trust for Historic Preservation; the Chairman of the National Trust for Historic Preservation; the Chairman of the National Conference of State Historic Preservation Officers; a Governor; a Mayor; and eight non-Federal members appointed by the President.

The agenda for the meeting includes the following:

I. Chairman's Welcome
II. Council Business
III. Executive Director's Report
IV. Section 106 Cases
V. Adjourn

Note: The meetings of the Council are open to the public. If you need special accommodations due to a disability, please contact the Advisory Council in Historic Preservation, 1100 Pennsylvania Avenue NW., Room 809, Washington, DC, 202–786–0503, at least seven (7) days prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., #809, Washington, DC 20004.

Robert D. Bush,
Executive Director.

Date: September 13, 1988.

[FR Doc. 88–21178 Filed 9–15–88; 8:45 am]
BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Advisory Committee on Foreign Animal and Poultry Disease; Renewal

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of renewal of the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases.

SUMMARY: We are giving notice that the Secretary of Agriculture has renewed the Secretary's Advisory Committee on Foreign Animal and Poultry Diseases (Committee) for a 2-year period. The Secretary has determined that the Committee is in the public interest.

DATE: Consideration will be given only to comments postmarked or received on or before October 3, 1988.

ADDRESSES: Send an original and three copies of written comments to APHIS, USDA, Room 1143, South Building, P.O. Box 96464, Washington, DC 20090–6464. Please state that your comments refer to Docket Number 88–038. Comments received may be inspected at Room 1141 of the South Building between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. M.A. Mixson, Chief Staff Veterinarian, VS, APHIS, USDA, Room 747, Federal Building, Hyattsville, MD 20782, (301) 436–8073.

Dated: September 12, 1988.

John J. Franke, Jr.,
Assistant Secretary for Administration.

[FR Doc. 88–21140 Filed 9–15–88; 8:45 am]
BILLING CODE 3410–34–M

Federal Grain Inspection Service

Shriveled and Wrinkled Soybeans

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Effective September 16, 1988, the Federal Grain Inspection Service (FGIS) will report, upon request, the percentage of shriveled and wrinkled soybeans on the official inspection certificate.

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., USDA/FGIS, Resources Management Division, Room 0628–S, P.O. Box 96454, Washington, DC 20090–6454; telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: The 1988 drought in the Midwest has resulted in some mature soybeans having shriveled and wrinkled seedcoats with atypical size and appearance. Based on limited testing, the oil, protein, and free fatty acid levels of these soybeans appear to be normal. However, the shriveled and wrinkled condition of the soybean makes it difficult to remove the hull (seedcoat) during processing. This may influence the efficiency of oil extraction and protein meal processing. The extent to which shriveled and wrinkled soybeans influence soybean processing is dependent on the end product and the procedure employed.

On September 13, 1988, FGIS held a meeting in Washington, DC, with 19 soybean trade representatives and other government officials to discuss the extent of the problem and determine whether any FGIS action was necessary. The current U.S. Standards for Soybeans do not consider shriveled and wrinkled soybeans as a quality deficiency.

Based on discussions during the September 13 meeting and subsequent information, FGIS has decided to report, upon request, the percentage of shriveled and wrinkled soybeans on the inspection certificate. This service will provide the marketplace with information to identify soybean quality and provide opportunity to segregate soybeans, as deemed necessary to meet user needs.

The percentage of shriveled and wrinkled soybeans will be determined by sieving 125 grams from a representative sample using a $^{13}/_{64} \times ^{3}/_{4}$-inch slotted sieve. The sievings may include small, split, and shriveled and

wrinkled soybeans. Inspectors will examine the sievings and remove all whole soybeans (both wrinkled and smooth). Any nondamaged, smooth soybeans removed from the sievings will be considered sound. Nondamaged shriveled and wrinkled soybeans removed from the sieving will be combined and the percentage reported on the certificate in the remarks section. Any wrinkled soybeans remaining on top of the 1%64 x ¾-inch slotted sieve will be considered sound soybeans unless otherwise damaged and not included in the reported percentage of shriveled and wrinkled soybeans. This procedure does not modify the existing procedure for determining damaged soybeans and foreign material according to the Official U.S. Standards for Soybeans under the United States Grain Standards Act. Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*).

Dated: September 14, 1988.

D.R. Galliart,

Acting Administrator.

[FR Doc. 88–21299 Filed 9–15–88; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Final Supplement, Pacific Northwestern Regional Guide, Northern Spotted Owl Habitat Management Standards and Guidelines, Updated and Additional Research; Oregon, Washington, and California.

AGENCY: Forest Service, USDA.

ACTION: Extension of comment period.

SUMMARY: In order to give interested parties adequate time to develop and submit comments on the final plan for the management of spotted owl habitat in the Pacific Northwest, the Forest Service is extending the period for comment to September 30, 1988. The original deadline for comments published in the **Federal Register** (53 FR 30465) was September 12, 1988. This extension will give interested parties time to comment on the complex issues involved and the potential impact on the economy and ecology of the Pacific Northwest Region.

DATE: Comments must be received in writing by September 30, 1988.

ADDRESSES: Send written comments to Regional Forester (1950–3), Pacific Northwest Region, USDA Forest Service, 319 SW. Pine Street, P.O. Box 3623, Portland, OR 97208.

FOR FURTHER INFORMATION CONTACT: Larry Fellows, Spotted Owl Project, (503)–221–2465.

Dated: September 12, 1988.

Mark A. Reimers,

Associate Deputy Chief, Programs and Legislation.

[FR Doc. 88–21139 Filed 9–15–88; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

[Docket No. AB–1–88; AB–2–88]

Decision and Order; Zahi M. Kakish, Individually and Doing, Business as American International Sales Development, Inc.

Appearance for respondent: Hubert S. Senne, Esq., Smith and Senne, 73 East Mill Street, Suite 400, Akron, Ohio 44308.

Appearance for agency: Louis K. Rothberg, Esq., Office of Chief Counsel, for Export Administration, Rm. 3329, U.S. Department of Commerce, Washington, DC 20230.

Order Confirming Consent Agreement

The Office of Antiboycott Compliance, U.S. Department of Commerce (Agency), initiated administrative proceedings pursuant to Section 11(c) of the Export Administration Act of 1979 (50 U.S.C. App. 2401–2420), as reauthorized and amended by the Export Administration Amendments Act of 1985, Pub. L. 99–64, 99 State. 120 (July 12, 1985) (the Act), and Part 388 of the Export Administration Regulations (currently codified at 15 CFR Parts 368–399 (1988)) (the Regulations), against Zahi M. Kakish, individually and doing business as American International Sales Development, Inc. (hereinafter "Respondent"). The Agency issued a Charging Letter, dated May 17, 1988, alleging that Respondent, as a United States person as defined in the Regulations, in his activities in interstate or foreign commerce, made with the intent to comply with, further or support an unsanctioned foreign boycott, violated Part 369 of the Regulations on or about June 1, 1983. Respondent allegedly furnished sixteen items of information about other persons' business relationships with or in a boycotted country, with business concerns organized under the laws of a boycotted country, and with persons known or believed to be restricted from having any business relationships with or in a boycotting country, in violation of section 369.2(d) of the Regulations.

The Agency and the Respondent have entered into a Consent Agreement in order to settle this matter. In it the Respondent agrees to pay a civil penalty in the amount of $48,000, all but ten percent of which is suspended. He will also be denied export privileges to the area of the Middle East for a period of two years from the date this Order becomes final, one year of which is suspended. The Middle East is defined for the purposes of this Order as: Bahrain, Iraq, Jordan, Kuwait, Lebanon, Libya, Oman, Qatar, Saudi Arabia, Syria, United Arab Emirates, the Yemen Arab Republic and the People's Democratic Republic of Yemen. The undersigned approves the terms of the Consent Agreement, however, my approval is given with some hesitation. On the one hand, as the record of prior cases clearly demonstrates, I do not second guess those who reach agreements after arduous negotiations. On the other hand, when agreements are reached and a settlement presented, Counsel must be candid in laying out the terms and impact of the agreement. That was not done here. I now understand that the agreement which I approve is significantly different from those usually considered. The denial of validated, but not general, licenses is unique. I am most concerned at how the export community and export enforcement staff will be able to honor such distinction. The application of the denial to a named list of countries is also a first, though in the past denials have been imposed against country groups so recognized in the Regulations. Such tailoring of the sanctions may impose significant monitoring problems for business and the bureaucracy and it deserves more specific justification in any future use. I also recognize that the imposition of a denial in an Antiboycott case is probably a first. However, the failure to use that most appropriate remedy in the past should not limit its present or future use.

A most distressing aspect of this and recent settlements is the absence of an acknowledgement of violation. These proceedings must first address responsibility, then proceed to an appropriate sanction. It is not appropriate for Counsel to simply omit language relating to that most important aspect of these cases. In the future, the absence of such acknowledgment will be the basis for outright rejection, absent some showing of a basis for the omission for the record in the published disposition. I know of none, but my mind is not closed. I am not here to pontificate over extortion proceedings against businessmen. Nor do I think businessmen pay huge sums when they are innocent of wrongdoing. The determination of fault is a prerequisite to the determination of penalty and the record should so reflect.

Pursuant to the authority delegated to me by Part 388 of the Regulations, it is ordered that:

Order

I. Respondent is assessed a civil penalty of $48,000. Respondent is to make four annual installment payments to the Agency of $1,200. The first such payment is to be paid within six months from the date of this Order. The remaining payments to be paid on the yearly anniversary of the first.

II. The payment of the remainder of the civil penalty set forth above is hereby suspended from a period of four years from the date on which this Order becomes final in accordance with § 388.16(c) of the regulations and will be remitted without further action at the end of that period provided Respondent has committed no further violations of the Act, the Regulations or the final Order entered in this proceeding during the four year suspension period.

III. For a period of two years from the date of this Order, Respondent, Zahi M. Kakish, individually and doing business as American International Sales Development, Inc., 2408 First National Tower, Akron, Ohio 44308, and all successors, assignees, officers, partners, representatives, agents, and employees hereby are denied all U.S. export privileges, except those made under general licenses, of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported to any Middle East destination, as defined above, or that are otherwise subject to the Regulations. Nothing herein shall be construed at affecting Respondent's general license privileges.

IV. Commencing one year from the date that this Order becomes effective, the denial of export privileges set forth above shall be suspended, in accordance with § 388.16 of the Regulations, for the reminder of the two year period set forth in Paragraph III above, and shall be terminated at the end of such two year period, provided that Respondent has commited no further violations of the Act, the Regulations, or the final Order entered in this proceeding.

V. Participation prohibited in any such transaction, either in the United States or abroad, shall include, but not be limited to, participation:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated license or other export control document;

(iv) 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 requiring such a validated license and which are exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data requiring any such validated licenses.

Such denial of export privileges shall extend to matters which are subject to the Act and the Regulations.

VI. After notice and opportunity for comment, such denial of export privileges may be made applicable to any person, firm, corporation, or business organization with which the Order is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

VII. All outstanding individual validated export licenses, affected by this Order, in which Respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Respondent's privileges of participating, in any manner or capacity, in any special licensing procedure affected by this Order, including, but not limited to, distribution licenses, are hereby revoked.

VIII. With respect to validated licenses to Middle East countries, as defined in this Decision, no person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure 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 person, or whereby any Respondent or any related person may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly:

(a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related person 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.

IX. This Order is effective immediately.[1]

Date: September 9, 1988.

Hugh J. Dolan,

Administrative Law Judge.

[FR Doc. 88-21173 Filed 9-15-88; 8:45 am]

BILLING CODE 3510-GF-M

Bureau of Export Administration

Electronic Instrumentation Technical Advisory Committee; Partially Closed Meeting

A meeting of the Electronic Instrumentation Technical Advisory Committee will be held October 12 and 13, 1988, in the Federal Building, 450 Golden Gate Avenue, San Francisco, CA. The October 12 meeting will convene in Room 2007 at 9:00 a.m. On October 13, the meeting will reconvene in Executive Session at 9:00 a.m. and continue to its conclusion in Room 2007 of the Federal Building. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to electronics and related equipment and technology.

Agenda:

General Session

1. Opening Remarks by the Chairman.

[1] A Ramseyer version of the above Order reflecting deletions and additions to the usual Order language is available from this Office upon request. From the issuance of this Order forward, any proposed Order language submitted by counsel that deviates from the standard denial language which has been utilized by this Office for its Decisions and adopted by the Under Secretary in Export Compliance cases (*e.g. Edwards*, docket No. 8101-01, 8101-02, 53 FR 29361, Aug. 4, 1988) subsequent to the 1985 Amendments to the Export Administration Act, must be clearly set out in Ramsmeyer fashion., contrasting the proposal to such standard language or the pleadings may be rejected.

2. Presentation of papers or comments by the public.

3. Comments and discussion on Commodity Control List entry 1522A—Lasers.

4. Public discussion on any other matters related to activities of the Electronic Instrumentation Technical Advisory Committee. Comments should consider the need for revision (strengthening, relaxation or decontrol) of the current regulations based on technological trends, foreign availability and national security.

Executive Session

5. Discussion on matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting and can be directed to: Betty Anne Ferrell, Acting Director, Technical Support Staff, Office of Technology & Policy Analysis, Room 4086, 14th Street & Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION (or copies of the minutes) **CONTACT:** Betty Anne Ferrell, 202–377–2583. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittee thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in sections 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC. For further information or copies of the minutes please call Betty Ferrell, 202–377–2583.

Date: September 13, 1988.

Betty Anne Ferrell,

Acting Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 88–21174 Filed 9–15–88; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket No. 28–88]

Foreign-Trade Zone 47—Campbell County, KY; Cincinnati Customs Port of Entry; Application for Subzone; Clarion Auto Audio Equipment Plant, Walton, KY

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Greater Cincinnati Foreign-Trade Zone, Inc., grantee of FTZ 47, requesting special-purpose subzone status for the automobile audio equipment manufacturing plant of Clarion Manufacturing Corporation of America (CMCA) (subsidiary of Clarion Company, Ltd., Japan), located in Walton, Kentucky, adjacent to the Cincinnati Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 6, 1988.

The CMCA plant (20 acres) is located at 237 Beaver Road in Walton, Kentucky, about 20 miles south of Cincinnati. The facility employs 64 persons and is used to produce automobile radios and tape players. CMCA presently imports kits for assembly at the plant, and ships the completed radios and tape players primarily to U.S. auto assembly plants. At the outset of zone operations, all of the components used in the operation will be sourced abroad, such as printed circuit boards, capacitors, motors, switches, resistors, transistors, diodes and integrated circuits, but CMCA's goal is to raise the domestic content of its units to 60 percent of total value by 1990.

Zone procedures would exempt CMCA from duty payments on the foreign components that are exported. On products shipped to U.S. auto assembly plants with subzone status, the company would be able to take advantage of the same duty rate available to importers of complete automobiles. The duty rates on the components range from 2 to 10 percent, while the duty rate on autos is 2.5 percent. CMCA is currently paying duties on the radio (8%) and tape player kits (3.7%). The applicant indicates that the zone savings will help improve the company's international competitiveness.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; John F. Nelson, District Director, U.S. Customs Service, North Central Region, Plaza Nine Building, 55 Erie View Plaza, Cleveland, Ohio 44114; and Colonel Robert L. Oliver, District Engineer, U.S. Army Engineer District Louisville, P.O. Box 59, Louisville, Kentucky 40201.

Comments concerning the proposed subzone are invited in writing from interested parties. They shall be addressed to the Board's Executive Secretary at the address below and postmarked on or before October 31, 1988.

A copy of the application is available for public inspection at each of the following locations:

U.S. Department of Commerce District Office, 9504 Federal Office Building, 650 Main Street, Cincinnati, OH 45202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania Avenue, NW., Washington, DC 20230

Dated: September 9, 1988.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 88–21213 Filed 9–15–88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Initiation of Process to Revoke Export Trade Certificate of Review No. 84–00011.

SUMMARY: The Department of Commerce had issued an export trade certificate of review to Watsand International Limited (Watsand). Because the certificate holder has failed to file an annual report as required by law, the Department is initiating proceedings to revoke the certificate. This notice summarizes the notification letter sent to Watsand.

FOR FURTHER INFORMATION: George Muller, Acting Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (15 U.S.C. 4011–21) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III ("the Regulations") are found at 15 CFR Part 325. Pursuant to this authority, a

certificate of review was issued on May 29, 1984 to Watsand (application no. 84–00011).

A cerificate holder is required by law (section 308 of the Act, 5 U.S.C. 4018) to submit to the Department of Commerce annual reports that update financial and other information relating to business activities covered by its certificate. The annual report is due within 45 days after the anniversary date of the issuance of the certificate of review (§§ 325.14 (a) and (b) of the Regulations). Failure to submit a complete annual report may be the basis for revocation (§§ 325.10(a) and 325.14(c) of the Regulations).

On May 19, 1988, the Department of Commerce sent to Watsand a letter containing annual report questions with a reminder that its annual report was due on July 13, 1988. Additional reminders were sent on August 12 and on August 29, 1988. The Department has received no written response to any of these letters.

On September 13, 1988, and in accordance with § 325.10(c)(2) of the Regulations, a letter was sent by certified mail to notify Watsand that the Department was formally initiating the process to revoke its certificate. The letter stated that this action is being taken for the certificate holder's failure to file an annual report.

In accordance with § 325.10(c)(2) of the Regulations, each certificate holder has thirty days from the day after its receipt of the notification letter in which to respond. The certificate holder is deemed to have received this letter as of the date on which this notice is published in the **Federal Register**. For good cause shown, the Deparment of Commerce can, at its discretion, grant a thirty-day extension for a response.

If the certificate holder decides to respond, it must specifically address the Department's statement in the notification letter that it has failed to file an annual report. It should state in detail why the facts, conduct, or circumstances described in the notification letter are not true, or if they are, why they do not warrant revoking the certificate. If the certificate holder does not respond within the specified period, it will be considered an admission of the statements contained in the notification letter (§ 325.10(c)(2) of the Regulations).

If the answer demonstrates that material facts are in dispute, the Department of Commerce and the Department of Justice shall, upon request, meet informally with the certificate holder. Either Department may require the certificate holder to provide the documents or information that are necessary to support its contentions (§ 325.10(c)(3) of the Regulations).

The Department shall publish a notice in the **Federal Register** of a revocation or modification or a decision not to revoke or modify (§ 325.10(c)(4) of the Regulations). If there is a determination to revoke a certificate, any person aggrieved by such final decision may appeal to an appropriate U.S. district court within 30 days form the date on which the Department's final determination is published in the **Federal Register** (§§ 325.10(c)(4) and 325.11 of the Regulations).

Date: September 13, 1988.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 88–21215 Filed 9–15–88; 8:45 am]

BILLING CODE 3510–DR–M

Short-Supply Review on Certain Large Diameter Line Pipe; Request for Comments

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain large diameter line pipe.

DATE: Comments must be submitted no later than September 26, 1988.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan steel arrangement provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors) an additional tonnage shall be allowed for such category or sub-category * * *"

We have received a short-supply request for the following sizes of large diameter API grade 5LX–65 double submerged-arc weld (DSAW) line pipe: (a) 34 inch diameter, with a wall thickness of 0.450 inch; and (b) 60 inch diameter, with wall thicknesses of 0.537 and 0.746 inch.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than September 26, 1988. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B–099, Import Administration, U.S. Department of Commerce, at the above address.

Jan W. Mares,

Assistant Secretary for Import Administration.

September 13, 1988.

[FR Doc. 88–21212 Filed 9–15–88; 8:45 am]

BILLING CODE 3510–DS–M

Patent and Trademark Office

[Docket No. 80986–8186]

Initiation of Evaluation Concerning the Issuance of a Presidential Proclamation Granting Protection Under the Semiconductor Chip Protection Act for Mask Works of Nationals, Domiciliaries and Sovereign Authorities of Japan

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Initiation of Evaluation Concerning the Issuance of A Presidential Proclamation Granting Protection Under the Semiconductor Chip Protection Act for Mask Works of Nationals, Domiciliaries and Sovereign Authorities of Japan.

SUMMARY: Puusuant to § 150.2(a) of the Rules of the Patent and Trademark Office, 37 CFR 150.2(a) (1988), the Commissioner of Patents and Trademarks has determined to initiate an evaluation of the propriety of recommending the issuance of a Presidential proclamation under section

902(a)(2) of the Semiconductor Chip Protection Act of 1984, 17 U.S.C. 902(a)(2), conferring protection in the United States to mask works of nationals, domiciliaries and sovereign authorities of Japan. Written comments are requested.

DATE: Comments should be received by November 14, 1988, to ensure consideration.

ADDRESS: Comments should be sent to: Office of Legislation and International Affairs, c/o Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231. Comments received will be available for public inspection in the Office of the Assistant Commissioner for External Affairs, Site 902, Crystal Park Building 2, 2121 Crystal Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Richard Owens, Office of Legislation and International Affairs, by telephone at (703) 557–3065, or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The Semiconductor Chip Protection Act of 1984 (SCPA) established a new form of intellectual property protection for mask works that are fixed in semiconductor chips. Mask works are defined as a "series of related images, however fixed or encoded," that represent the three-demensional pattern in the layers of a semiconductor chip. Thus, the subject matter of protection under the SCPA are the layout designs of semiconductor chips, known in some countries as "integrated circuit layout designs" or as "semiconductor topographies." The SCPA provides a ten-year term of protection for original mask works measured from their date of registration or first commercial exploitation anywhere in the world. To maintain protection, mask works must be registered in the United States Copyright Office within two years of first commercial exploitation.

Protection for foreign mask works may be granted under both section 902 and section 914 of the SCPA. Section 902 sets out three ways that such mask works may become eligible for protection in the United States. First, on the date the work is registered or is first commercially exploited anywhere in the world, the mask work is protectable if its owner is a national, domiciliary or sovereign authority of a foreign nation that is a party to a treaty that provides protection of mask works and to which the United States is also a party, or if a stateless person, wherever domiciled. Second, foreign mask works may be protected when they are first commercially exploited in the United States.

The third way, set forth in section 902(a)(2), is where the foreign mask work comes within the scope of a Presidential proclamation. The President may issue a proclamation upon finding that a foreign nation extends to mask works of owners who are U.S. nationals or domiciliaries, protection (1) on substantially the same basis that the foreign nation extends protection to mask works on its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (2) on substantially the same basis as provided in the SCPA. Pursuant to Executive Order 12504, 50 FR 4849 (February 4, 1985), requests for issuance of Presidential proclamations are to be presented to the President by the Secretary of Commerce. By Amendment 2 to Department Organization Order 10–14, issued September 28, 1987, the Secretary delegated to the Assistant Secretary and Commissioner of Patents and Trademarks the responsibility for prescribing regulations for the evaluation of requests for Presidential proclamations under section 902(a)(2). The Commissioner recently issued regulations for the evaluation of such requests. *See Requests for Presidential Proclamations Under the Semiconductor Chip Protection Act of 1984*, 53 FR 24444 (June 29, 1988).

Section 914 was included in the SCPA as a transitional provision, intended by Congress to encourage other countries to pass laws extending protection to this new form of intellectual property. Once laws were in place, it was reasoned, permanent protection for foreign mask works could be conferred under a Presidential proclamation pursuant to section 902(a)(2) or through a multilateral treaty that extended coverage to mask works. Section 914 gives the Secretary of Commerce authority to issue orders granting interim protection to foreign mask work owners upon the satisfaction of certain conditions. First, the Secretary must find that the foreign nation is making good faith efforts and reasonable progress toward entering into a treaty with the United States, or toward enacting legislation that will protect U.S. mask works on the same basis as domestic mask works, or at a level similar to that provided under the SCPA. Second, the Secretary must determine that nationals, domiciliaries and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in the misappropriation, unauthorized distribution, or unauthorized commercial exploitation of mask works. Finally, the Secretary must determine that issuance of an interim order would promote the purposes of the SCPA and international comity with respect to the protection of mask works. By Amendment 1 to Department Organization Order 10–14, issued December 3, 1984, the Secretary delegated to the Commissioner of Patents and Trademarks the authority under section 914 to make pertinent findings and to issue orders for the interim protection of foreign mask works.

The Commissioner has issued orders granting interim protection under section 914 to mask works produced in 18 countries, including Japan. All of the interim protection orders are effective until May 31, 1989.

This proceeding is being initiated pursuant to § 150.2(a) of the Rules of the Patent and Trademark Office, 37 CFR 150.2(a). Section 150.2 sets forth two ways that an evaluation of the propriety of recommending the issuance of a section 902 proclamation may be initiated. Section 150.2(a) gives the Commissioner discretion independently to initiate an evaluation, while § 150.2(b) provides that the Commissioner must initiate an evaluation upon receipt of a request from a foreign government. The Government of Japan has not formally requested the initiation of a section 902 evaluation. In recent section 914 proceedings, however, the Electronic Industries Association of Japan has stated, with the concurrence of the Government of Japan, that a Presidential proclamation in favor of Japanese mask works should be granted as soon as the Patent and Trademark Office issued regulations implementing section 902(a)(2) of the SCPA. *See, e.g., Extension of Previously-Granted Interim Protection Orders Under the Semiconductor Chip Protection Act of 1984*, 53 FR 16308, 16311 (May 6, 1988).

The Commissioner is exercising his discretion under § 150.2(a) of the Rules to initiate independently an evaluation of the propriety of recommending the issuance of a section 902 proclamation in favor of owners of mask works who are Japanese nationals, domiciliaries or sovereign authorities. Initiation of an evaluation relating to protection of Japanese mask works under a Presidential proclamation is appropriate, as there is *prima facie* evidence that the statutory criteria for eligibility under section 902(a)(2) have been met with respect to the protection of U.S. mask works in Japan. The Japanese *Act Concerning the Circuit Layout of a Semiconductor Integrated Circuit* (Japanese Act) has been in force

since January 1, 1986. The Act grants protection substantially similar to that provided under the SCPA, and protection is available on a non-discriminatory basis to owners of mask works produced anywhere in the world, including the United States.

Based on the record of this proceeding, the Commissioner will determine whether to forward to the Secretary of Commerce a recommendation that the President extend to Japanese nationals, domiciliaries or sovereign authorities the privilege of applying for mask work registrations under the SCPA. The record of this proceeding will consist of: (1) Written comments received in response to this notice, (2) the record of the section 914 proceedings that resulted in the issuance of interim orders making Japanese mask works eligible for protection in the United States (*see* 50 FR 24668 (June 12, 1985); 51 FR 30690 (August 28, 1986); and 53 FR 16308 (May 6, 1988)), and (3) the information obtained in a hearing, if one is held.

Written comments should address the adequacy and effectiveness of the protection afforded U.S. mask works under the Japanese Act. Alleged deficiences in the Japanese Act or its implementation with respect to U.S. mask works should be explained in detail. Problems with administrative procedures, such as registration, should be documented fully. Comments may also suggest terms and conditions regarding the duration of a proclamation granting protection to Japanese mask works.

Donald J. Quigg,

Assistant Secretary and Commissinoer of Patents and Trademarks.

Date: September 12, 1988.

[FR Doc. 88–21175 Filed 9–15–88; 8:45 am]

BILLING CODE 3510–16–M

[Docket No. 80945–8185]

Initiation of Evaluation Concerning the Issuance of a Presidential Proclamation Granting Protection Under the Semiconductor Chip Protection Act for Mask Works of Nationals, Domiciliaries and Sovereign Authorities of Sweden

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Initiation of Evaluation Concerning the Issuance of A Presidential Proclamation Granting Protection Under the Semiconductor Chip Protection Act for Mask Works of Nationals, Domiciliaries and Sovereign Authorities of Sweden.

SUMMARY: Pursuant to § 150.2(a) of the Rules of the Patent and Trademark Office, 37 CFR 150.2(a) (1988), the Commissioner of Patents and Trademarks has determined to initiate an evaluation of the propriety of recommendaing the issuance of a Presidential proclamation under section 902(a)(2) of the Semiconductor Chip Protection Act of 1984, 17 U.S.C. 902(a)(2), conferring protection in the United States to mask works of nationals, domiciliaries and sovereign authorities of Sweden. Written comments are requested.

DATE: Comments should be received by November 14, 1988, to ensure consideration.

ADDRESS: Comments should be sent to: Office of Legislation and International Affairs, c/o Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231. Comments received will be available for public inspection in the Office of the Assistant Commissioner for External Affairs, Suite 902, Crystal Park Building 2, 2121 Crystal Drive, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Richard Owens, Office of Legislation and International Affairs, at (703) 557–3065, or by mail marked to his attention and addressed to Commissioner of Patents and Trademarks, Box 4, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: The Semiconductor Chip Protection Act of 1984 (SCPA) established a new form of intellectual property protection for mask works that are fixed in semiconductor chips. Mask works are defined as a "series of related images, however fixed or encoded," that represent the three-dimensional pattern in the layers of a semiconductor chip. Thus, the subject matter of protection under the SCPA are the layout designs of semiconductor chips, known in some countries as "integrated circuit layout designs" or as "semiconductor topographies." The SCPA provides a ten-year term of protection for original mask works measured from their date of registration or first commercial exploitation anywhere in the world. To maintain protection, mask works must be registerd in the United States Copyright Office within two years of first commercial exploitation.

Protection for foreign mask works may be granted under both section 902 and section 914 of the SCPA. Section 902 sets out three ways that such mask works may become eligible for protection in the Untied States. First, on the date the work is registered or is first commercially exploited anywhere in the world, the mask work is protectable if its owner is a national, domiciliary or sovereign authority of a foreign nation that is a party to a treaty that provides protection of mask works and to which the United States is also a party, or if a stateless person, wherever domiciled. Second, foreign mask works may be protected when they are first commercially exploited in the United States.

The third way, set forth in section 902(a)(2), is where the foreign mask work comes within the scope of a Presidential proclamation. The President may issue a proclamation upon finding that a foreign nation extends to mask works of owners who are U.S. nationals or domiciliaries, protection (1) on substantially the same basis that the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (2) on substantially the same basis as provided in the SCPA. Pursuant to Executive Order 12504, 50 FR 4849 (February 4, 1985), requests for issuance of Presidential proclamations are to be presented to the President by the Secretary of Commerce. By Amendment 2 to Department Organization Order 10–14, issued September 28, 1987, the Secretary delegated to the Assistant Secretary and Commissioner of Patents and Trademarks the responsibility for prescribing regulations for the evaluation of requests for Presidential proclamations under section 902(a)(2). The Commissioner recently issued regulations for the evaluation of such requests. *See Requests for Presidential Proclamations Under the Semiconductor Chip Protection Act of 1984,* 53 FR 24444 (June 29, 1988).

Section 914 was included in the SCPA as a transitional provision, intended by Congress to encourage other countries to pass laws extending protection to this new form of intellectual property. Once laws were in place, it was reasoned, permanent protection for foreign mask works could be conferred under a Presidential proclamation pursuant to section 902(a)(2) or through a multilateral treaty that extended coverage to mask works. Section 914 gives the Secretary of Commerce authority to issue orders granting interim protection to foreign mask work owners upon the satisfaction of certain conditions. First, the Secretary must find that the foreign nation is making good faith efforts and reasonable progress toward entering into a treaty with the United States, or toward enacting legislation that will protect U.S. mask works on the same basis as domestic mask works, or at a level similar to that

provided under the SCPA. Second, the Secretary must determine that nationals, domiciliaries and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in the misappropriation, unauthorized distribution, or unauthorized commercial exploitation of mask works. Finally, the Secretary must determine that issuance of an interim order would promote the purposes of the SCPA and international comity with respect to the protection of mask works. By Amendment 1 to Department Organization Order 10–14, issued December 3, 1984, the Secretary delegated to the Commissioner of Patents and Tradmarks the authority under section 914 to make pertinent findings and to issue orders for the interim protection of foreign mask works.

The Commissioner has issued orders granting interim protection udner section 914 to mask works produced in 18 countries, including Sweden. All of the interim protection orders are effective unitl May 31, 1989.

This proceeding is being initiated pursuant to § 150.2(a) of the Rules of the Patent and Trademark Office, 37 CFR 150.2(a). Section 150.2 sets forth two ways that an evaluation of the propriety of recommending the issuance of a section 902 proclamation may be initiated. Section 150.2(a) gives the Commissioner discretion independently to initiate an evaluation, while § 150.2(b) provides that the Commissioner must initiate an evaluation upon receipt of a request from a foreign government. The Government of Sweden has not formally requested the initiation of a section 902 evaluation. In recent section 914 proceedings, however, the Government of Sweden stated its readiness to begin negotiations on the question of permanent U.S. protection of Swedish mask works under section 902. *See, e.g., Extension of Previously-Granted Interim Protection Orders Under the Semiconductor Chip Protection Act of 1984*, 53 FR 16308, 16310 (May 6, 1988).

The Commissioner is exercising his discretion under § 150.2(a) of the Rules to initiate independently an evaluation of the propriety of recommending the issuance of a section 902 proclamation in favor of owners of mask works who are Swedish nationals, domiciliaries or sovereign authorities. Initiation of an evaluation relating to protection of Swedish mask works under a Presidential proclamation is appropriate, as there is *prima facie* evidence that the statutory criteria for eligibility under section 902(a)(2) have been met with respect to the protection of U.S. mask works in Sweden. The Swedish *Act for the Protection of the Layout-Design of the Circuitry in Semiconductor Products* (Swedish Act) has been in force since April 1, 1987. The Government of Sweden has issued a Special Decree extending protection under the Act to mask works of U.S. nationals and domiciliaries, and to mask works first commercialized in the United States. The basis for the protection of U.S. mask works under the Special Decree is reciprocity. The protection afforded to U.S. mask works under the Special Decree is substantially the same as that provided under the SCPA.

Based on the record of this proceeding, the Commissioner will determine whether to forward to the Secretary of Commerce a recommendation that the President extend to Swedish nationals, domiciliaries or sovereign authorities the privilege of applying for mask work registrations under the SCPA. The record of this proceeding will consist of: (1) Written comments received in response to this notice, (2) the record of the section 914 proceedings that resulted in the issuance of interim orders making Swedish mask works eligible for protection in the United States (*see* 50 FR 25618 (June 20, 1985); 51 FR 30690 (August 28, 1986); and 53 FR 16308 (May 6, 1988)), and (3) the information obtained in a hearing, if one is held.

Written comments should address the adequacy and effectiveness of the protection afforded U.S. mask works under the Swedish Act and the Special Decree. Alleged deficiencies in the Swedish Act, the Special Decree or their implementation with respect to U.S. mask works should be explained in detail. Problems with administrative procedures, such as registration, should be documented fully. Comments may also suggest terms and conditions regarding the duration of a proclamation granting protection to Swedish mask works.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

Date: September 12, 1988.

[FR Doc. 88–21176 Filed 9–15–88; 8:45 am]

BILLING CODE 3510–16–M

Membership of Performance Review Board

AGENCY: Patent and Trademark Office, Commerce.

In conformance with the Civil Service Reform Act of 1978, 5 U.S.C. 4314 (c)(4), the Patent and Trademark Office announces the appointment of persons to serve as members of its Performance Review Board (PRB).

This notice announces the termination of the appointments of Donald W. Peterson and Margaret M. Laurence. Mr. Peterson has resigned from the Patent and Trademark Office. Bradford R. Huther will serve as the Chairman of the Performance Review Board. Mrs. Laurence has retired and is succeeded by Jeffrey M. Samuels. A new Assistant Commissioner, Thomas P. Giammo, has been appointed to the Board.

The current membership of the Board is as follows:

Bradford R. Huther, Chairman, Assistant Commissioner for Finance and Planning, Patent and Trademark Office, Washington, DC 20231. Term—permanent

Rene D. Tegtmeyer, Member, Assistant Commissioner for Patents, Patent and Trademark Office, Washington, DC 20231. Term—permanent

Jeffrey M. Samuels, Assistant Commissioner for Trademarks, Patent and Trademark Office, Washington, DC 20231. Term—permanent

Theresa A. Brelsford, Member, Assistant Commissioner for Administration, Patent and Trademark Office, Washington, DC 20231. Term—permanent

Thomas P. Giammo, Member, Assistant Commissioner for Information Systems, Patent and Trademark Office, Washington, DC 20231. Term—permanent

Robert F. Burnett, Member, Special Assistant to the Assistant Commissioner for Patent Examining, Patent and Trademark Office, Washington, DC 20231. Term—expires September 30, 1989

Marilyn G. Wagner, (Outside) Member, Assistant General Counsel for Administration, U.S. Department of Commerce, Washington, DC 20230. Term—expires September 30, 1989

Al L. Smith, Member, Director, Patent Examining Group 350, Patent and Trademark Office, Washington, DC 20231. Term—expires September 30, 1989

FOR FURTHER INFORMATION CONTACT: Carolyn P. Acree, Personnel Officer, Patent and Trademark Office, Washington, DC 20231. Telephone (703) 557–2662.

Dated: September 9, 1988.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 88–21177 Filed 9–15–88; 8:45 am]

BILLING CODE 3510–16–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1988; Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and deletions from procurement list.

SUMMARY: This action adds to and deletes from Procurement List 1988 services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: October 17, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: E.R. Alley, Jr. (703) 557-1145.

SUPPLEMENTARY INFORMATION: On June 24, July 8 and July 22, 1988, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (53 FR 23783, 25651 and 27747) of proposed additions to and deletions from Procurement List 1988, December 10, 1987 (52 FR 46926).

Additions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide the services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1988:

Assembly of Mopup Kit, Lateral Line
(4210-01-029-0369)
Assembly of Belt Weather Kit
(6660-01-024-2638)
Assembly of Dinnerware Kit
(7360-00-139-0480)
Assembly of Canteen, Water Disposable
(8465-01-062-5854)
Janitorial/Custodial
Durward G. Hall Federal Building and Courthouse, 302 Joplin Street, Joplin, Missouri
Janitorial/Custodial
Social Security Administration Building, Main and Second, Joplin, Missouri
Janitorial/Custodial
Federal Aviation Administration Facilities, Albany County Airport, Albany, New York

Deletions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c and 41 CFR 51-2.6.

Accordingly the following services are hereby deleted from Procurement List 1988:

Furniture Rehabilitation
Spokane, Washington, plus 30-mile radius
Janitorial/Custodial
Federal Building, Moultrie, Georgia
Janitorial/Custodial
U.S. Custom House, 8 McKinley Square, Boston, Massachusetts
Janitorial/Custodial
Defense Mapping Agency, 175 Brookside Avenue, West Warwick, Rhode Island
Mailing Service
Department of the Treasury, Bureau of Public Debt, 14th & C Streets, SW., Washington, DC

Beverly L. Milkman,
Executive Director.

[FR Doc. 88-91192 Filed 9-15-88; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1988; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1988 commodities to be produced and a service to be provided by workshops for the blind and other severely handicapped.

DATES: Comments must be received on or before October 17, 1988.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: E. R. Alley, Jr. (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51-2.6. Its purpose is to provide interested person an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and service to Procurement List 1988, December 10, 1987 (52 FR 46926).

Commodities

Table, Coffee
7105-00-139-7573
7105-00-139-7601
(Requirements for Zone 1 only)
Table, End
7105-00-139-7598
(Requirements for Zone 1 only)
Table, Lamp
7105-00-139-7600
(Requirements for Zone 1 only)

Service

Janitorial/Custodial
Lexington Blue Grass Army Depot at the following locations:
Lexington Activity, Avon, Kentucky
Blue Grass Activity, Richmond, Kentucky

Deletions

It is proposed to delete the following commodities from Procurement List 1988, December 10, 1987 (52 FR 46926):

Mop, Dusting, Cotton
7920-00-245-8289
Mophead, Dusting, Cotton
7920-00-634-0201
7920-00-267-4921

Beverly L. Milkman,
Executive Director.

[FR Doc. 88-21193 Filed 9-15-88; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Public Information Collection Requirement Submitted to OMB for Review

Action: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: Department of Defense Military Emergency Travel Warrant; DD Form 2399; and OMB Control Number 0704–0227.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: 1 hour.

Frequency of Response: Only in the event of a national emergency.

Number of Respondents: N/A.

Annual Burden Hours: 1.

Annual Responses: N/A.

Needs and Uses: The Military Emergency Travel Warrant (METW) is to be used in the event of a national emergency. The METW, when accompanied by a military mobilization order and proper identification, authorizes Individual Ready Reservists, military retirees and Standby Reservists, ordered involuntarily to active duty, to travel by commercial carrier at Government's expense. The METW will be transmitted electronically or by direct mail.

Affected Public: Individual reservists and military retirees, commercial carriers.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Dr. J. Timothy Sprehe

Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

August 13, 1988.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88–21227 Filed 9–15–88; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: DoD FAR Supplement 45.505–14, Reports of Government Property and Supplement 3 to the DoD FAR Supplement; DD Forms 1149, 1342, 1419, 1640, 1651, and 1662; and OMB Control Number 0704–0246.

Type of Request: Revision.

Average Burden Hours/Minute Per Response: 1.822 hours.

Frequency of Response: On occasion; annually.

Number of respondents: 162,322.

Annual Burden Hours: 437,550.

Annual Responses: 237,325.

Needs and Uses: The information collection concerns 3 areas: (1) Resubmission of basic approval for DFARS Part 45; (2) resubmission of the collection regarding DD Form 1662; and (3) submission for a new collection regarding No Cost Storage Agreements.

Affected Public: Businesses or other for-profit; Non-profit institutions; and Small businesses or organizations.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ms. Eyvette R. Flynn.

Written comments and recommendations on the proposed information collection should be sent to Ms. Eyvette R. Flynn at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison

A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

August 13, 1988.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88–21228 Filed 9–15–88; 8:45 am]

BILLING CODE 3810–01–M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

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

Title, Applicable Form, and Applicable OMB Control Number: Army ROTC 4-Year Scholarship Applications; ROTC Cadet Command Form 114; and OMB Control Number 0702–0073.

Type of Request: Extension.

Average Burden Hours/Minutes Per Response: 45 minutes.

Frequency of Response: Annually.

Number of Respondents: 10,900.

Annual Burden Hours: 8,175.

Annual Responds: 10,900.

Needs and Uses: ROTC scholarships provide the Army with highly qualified men and women who desire to pursue a commission in the U.S. Army. The application and information provides the basis for the scholarship award.

Affected Public: Individuals or households.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Dr. J. Timothy Sprehe Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Spreho at Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison A copy of the information collection proposal may be obtained from, Ms. Rascoe-Harrison, WRS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone (202) 746–0933.

August 13, 1988.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88–21229 Filed 9–15–88; 8:45 am]

BILLING CODE 3810–01–M

Department of the Army

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: 6–7 October 1988.

Time of Meeting: 0900–1700 hours.

Place: Arroyo Center, Santa Monica, California.

Agenda: The Army Science Board Subgroup for Army Analysis will meet for briefings and discussion of the analytical support provided to senior Army Decision makers by the Arroyo Center. On 7 October the discussion will include the analytical support provided by TRAC-Monterey. 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 unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to

preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 88–21240 Filed 9–15–88; 8:45 am]

BILLING CODE 3710–08–M

Performance Review Boards

ACTION: Notice.

SUMMARY: Notice is hereby given of the names of additional members of a Performance Review Board for the Department of the Army.

EFFECTIVE DATE: September 16, 1988.

FOR FURTHER INFORMATION CONTACT: Robert C. Zenda, Senior Executive Service Office, Directorate of Civilian Personnel Headquarters, Department of the Army, the Pentagon, Washington, DC 20310–0300, (202) 695–2975.

SUPPLEMENTARY INFORMATION: Section 4314(c)(1) thorugh (5) of Title 5 U.S.C., requires each agency to establish, in accordance with regulations prescribed by the Office of Personnel Management, one or more performance review boards. The boards shall review and evaluate the intitial appraisal of senior executives' performance by the supervisor and make recommendations to the appointing authority or rating official relative to the performance of the senior executives. Publication of this notice amends previous notice to account for additions to the membership of those boards previously published.

The additional members of the Performance Review Board for the U.S. Army Materiel Command are:

1. Dr. Thomas E. Davidson, Deputy Director, Fire Supports Armaments Center, U.S. Army Armaments, Munitions and Chemical Command.

2. Mr. Victor Lindner, Associate Technical Director (System Development and Engineering), U.S. Army Armaments, Munitions and Chemical Command.

3. Mr. Jimmie. C. Morgan, Deputy for Procurement and Production, U.S. Army Armaments, Munitions and Chemical Command.

The additional member of the Performance Review Board for the Consolidated Command is:

1. Ms. Mary Ellen Harvey, Special Assistant to the Deputy Chief of Staff for Logistics for the Objective Supply System.

Carol Blea,

Acting Chief, Senior Executive Service Office.

[FR Doc. 88–2119 Filed 9–15–88; 8:45 am]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intention To Prepare a Draft Environmental Impact Statement for Permit Action for the Proposal Mine Advance by Texasgulf, Inc., Near Aurora, Beaufort County, NC

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The permit action consists of a proposed 20-year plan for mining phosphate ore at Texasgulf's existing facilities. This 20-year mining area contains 4,300 acreas, most of which contain old fields and pine plantations. However, a Department of the Army permit is required because mining operations would result in the filling of wetlands covered under the authority of section 404 of the Clean Water Act of 1977, as amended.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and Draft Environmental Impact Statement (DEIS) can be answered by: Mr. Frank Yelverton, Environmental Resources Branch, U.S. Army Engineer District, Wilmington, Post Office Box 1890, Wilmington, North Carolina 28402–1890, telephone: (919) 343–4640.

SUPPLEMENTARY INFORMATION: Texasgulf, Inc., has been mining phosphate ore near Aurora, North Carolina, since the 1960's, and the proposed mining plan would enable Texasgulf to continue mining at their facilities. Texasgulf's 20-year mining plan is divided into two blocks. The first block covers 5 years (1990–1995) and contains approximately 960 acres, including approximately 89 acres of section 404 wetlands. Texasgulf has developed a specific mining plan for this 5-year block and the EIS will address in detail the impacts of mining in this area. The second block covers 15 years (1996–2010) and contain approximately 3,340 acres. This area also contains wetlands but the acreage has not been determined yet. The EIS will address the cumulative impacts associated with Texasgulf's preliminary mining plans for this second block. Alternative mining areas will be discussed in the EIS.

All private interests and Federal, State, and local agencies having an interest in this permit action are hereby notified and are invited to comment at this time. A scoping meeting was held on September 1, 1988, at the Beaufort County Community College, Washington, North Carolina, to help determine issues to be addressed in the DEIS. A scoping letter advertising the public scoping was sent to all known parties on August 1, 1988. Written and oral comments were taken at the meeting and written comments were accepted until September 12, 1988. All comments received as a result of this Notice of Intent and the scoping meeting will be considered in preparation of the DEIS.

Significant issues to be analyzed in the DEIS include: (1) Alternative mining areas, (2) wetland loss, (3) impacts to fish and wildlife, (4) impacts to cultural resources, (5) mitigation, and (6) water quality.

The lead agency for this project is the Wilmington District, Corps of Engineers. Cooperating agency status has not been assigned to, nor requested by, any other agency.

The DEIS is being prepared in accordance with the requirements of the National Environomental Policy Act of 1969, as amended, and will address the relationship of the proposed action to all applicable Federal and State laws and Executive Orders.

The DEIS is currently scheduled to be available in the fall of 1989.

Dated: August 29, 1988.

Paul W. Woodbury,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 88–21194 Filed 9–15–88; 8:45 am]

BILLING CODE 3710–GN–M

Inland Waterways Users Board; Meeting

September 9, 1988.

AGENCY: Corps of Engineers, Department of the Army.

ACTION: Notice of Open Meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name of Committee: Inland Waterways Users Board

Date of Meeting: October 19, 1988

Place: Quality Inn—Capitol Hill, 415 New Jersey Avenue, NW., Washington, DC 20001

Time: 9 A.M. to 5 P.M.

Proposed Agenda

A.M. Session

9:00 Call to order and Disposition of Prior Meeting Minutes
9:15 Presentation of Information to Board
11:40 Working Luncheon—Preparation for Development of Board Recommendation

P.M. Session

1:00 Development of Board Recommendations
2:00 Evaluation of Individual Projects and Studies
3:00 Development of 1988 Board Annual Report
4:00 Public Comment Period
4:30 Instructions to Support Staff
5:00 Meeting Adjournment

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee.

FOR FURTHER INFORMATION CONTACT: Mr. William C. Holliday, Headquarters, U.S. Army Corps of Engineers, CECW–P, Washington, DC 20314–1000 at (202) 272–0146.

John O. Roach II,

Army Liaison Officer with the Federal Register.

[FR Doc. 88–21130 Filed 9–15–88; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

[CFDA No. 84.061C–E]

Notice Inviting Applications for New Awards Under the Indian Education Act of 1988, Subpart 2 (Formerly Part B—Planning, Pilot, and Demonstration Projects for Indian Children for Fiscal Year 1989

Purpose: Provides grants to State and local educational agencies, Indian tribes, organizations, and institutions, and federally-supported elementary and secondary schools for Indian children, for projects designed to plan, test, or demonstrate programs for improving educational opportunities for Indian children.

Deadline for Transmittal of Applications: December 9, 1988.

Deadline for Intergovernmental Review Comments: February 9, 1989.

Applications Available: October 14, 1988.

Available Funds: The appropriations conference committee agreed to an appropriation of $1,935,000 for this program for fiscal year 1989, of which approximately $434,000 would be for new planning projects, approximately $364,000 for new pilot projects, and approximately $535,000 for new demonstration projects. The appropriations bill must still be passed by the Congress and signed by the President.

Estimated Range of Awards: Planning: $58,000–$152,000; Pilot: $89,000–$142,000; Demonstration: $70,000–$145,000.

Estimated Average Size of Awards: Planning: $109,000; Pilot: $90,000; Demonstration: $107,000 or $108,000.

Estimated Number of Awards: Planning: 4, Pilot: 4, Demonstration: 5.

Project Period: Planning—12 months. Pilot and Demonstration—12 or 24 months. It is anticipated that approximately 50 percent of the awards will be approved for 24 months.

Applicable Regulations: (a) The Indian Education Program Regulations, 34 CFR Parts 250 and 255, and (b) the Education Department General Administrative Regulations, 34 CFR Parts 74, 75, 77, 78, 79, and 80.

For Applications or Information Contact: Elsie Janifer, U.S. Department of Education, 400 Manyland Avenue, SW., Room 2166, Washington, DC 20202. Telephone: (202) 732–1918.

Program Authority: 25 U.S.C. 2621(a)(1), (b).

Dated: September 2, 1988.

Beryl Dorsett,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 88–21172 Filed 9–15–88; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Intent To Prepare an Environmental Impact Statement on Proposed Siting, Construction and Operation of New Production Reactor Capacity

AGENCY: Department of Energy (DOE).

ACTION: Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS).

SUMMARY: DOE announces its intent to prepare an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the proposed siting, construction and operation of new product reactor (NPR) capacity and related support facilities and to conduct public scoping meetings. The proposed new production reactor capacity facilities would primarily produce tritium for the U.S. nuclear weapons program. The EIS will consider reasonable alternatives among the reactor technologies and the sites reasonably suited to support production reactor and support facilities in a safe and environmentally acceptable manner. The technologies to be evaluated include the light-water reactor (including conversion of the Washington Public Power Supply System's unfinished Nuclear Power Station Number 1 (WNP–1)), the high-temperature gas-cooled reactor, and the low-temperature heavy-water reactor. The impacts of the potential production of plutonium by these technologies will also be evaluated. The environmental impacts of siting each reactor technology will be evaluated for the Hanford Site, Richland, Washington; the Idaho National Engineering Laboratory (INEL), Idaho Falls, Idaho; and the Savannah River Plant (SRP), Aiken, South Carolina.

The proposal for the siting, construction, and operation of NPR capacity and related support facilities is based upon congressional initiative (Pub. L. 100–202) and studies by DOE showing construction and operation of this new capacity as one of the key elements required to assure maintenance of the nuclear weapons stockpile. Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR Parts 1500–1508), and the DOE NEPA guidelines (52 FR 47662).

Invitation to Comment: To ensure that the full range of issues related to this proposal are addressed, comments on the proposed scope and content of the EIS are invited from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS should be postmarked by December 15, 1988. Comments received after that date will be considered to the extent practicable. Agencies, organizations, and the general public are also invited to present oral comments or suggestions pertinent to preparation of this EIS at the public scoping meetings scheduled as indicated below. Written and oral comments will be given equal weight in the scoping process. Comments and suggestions received during the scoping period will be considered in preparing the draft EIS. The draft EIS is expected to be completed in 1990, at which time its availability will be announced in the **Federal Register**, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS.

ADDRESSES: Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meetings, or questions concerning the

project should be directed, as appropriate, to one of the following:

Mr. Peter J. Dirkmaat (INEL), U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, (208) 526–6666

or

Mr. Tom Bauman (Hanford Site), U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376–7501

or

Mr. S.R. Wright (SRP), U.S. Department of Energy, Savannah River Operations Office, P.O. Box A, Aiken, South Carolina 29802, (803) 725–3957

Those persons who wish to receive a copy of the draft EIS should make their request to: Mr. John Jicha Jr., Director, Project Division, Office of Nuclear, Materials Production, U.S. Department of Energy, Washington, DC 20545, (301) 353–2255

Envelopes should be marked: "NPR Capacity EIS."

FOR FURTHER INFORMATION CONTACT: For general information on the EIS process, please contact: Carol M. Borgstrom, Director, Office of NEPA Project Assistance (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20858, (202) 586–4600

DATES: Written comments and suggestions on the proposed scope of the EIS should be postmarked by December 15, 1988, to assure consideration in the preparation of the EIS. Comments received after that date will be considered to the extent practicable.

Background Information: In January 1988, the Department established a formal process for reviewing and assessing sites and technologies for NPR capacity. This review resulted in the preparation of an acquisition strategy report to Congress, which was exempted from the provisions of NEPA by Pub. L. 100–202. The Department submitted the report, "Acquisition Strategy for New Production Reactor Capacity," to Congress on August 8, 1988. In the report, the Secretary of Energy recommended pursuing a dual strategy which involves proceeding on an urgent schedule with construction of a heavy-water reactor at SRP which can produce 100% of expected tritium requirements and concurrent preparation leading to the construction of a modular high-temperature gas-cooled reactor at INEL which can produce 50% of expected tritium requirements. This recommendation is the DOE preferred alternative to be evaluated in the EIS.

The primary purpose of the proposed new production facilities is to ensure an adequate and reliable supply of tritium for the Nation's nuclear weapons program. A secondary purpose of the proposed facilities is to provide the capability for plutonium production. The production facilities to be evaluated in this EIS include new production reactors and related support facilities including driver fuel element and tritium production element fabrication facilities, a tritium recovery plant, a spent fuel reprocessing facility, and appropriate waste handling facilities.

Reactor technologies under consideration include the light-water reactor (LWR), high-temperature gas-cooled reactor (HTGR), and low-temperature heavy-water reactor (HWR). The LWR alternative includes possible conversion of the WNP–1 at the Hanford Site. The WNP–1 is a partially completed light-water reactor owned by the Washington Public Power Supply System. The LWR can be used to produce tritium, as well as byproduct steam for electric power generation. The HTGR is a graphite moderated, helium-cooled reactor, designed to produce tritium. The HTGR could also supply, as a byproduct, steam for electric power generation. The HWR is a heavy-water moderated, heavy-water cooled reactor which is similar to the existing production reactors at SRP. Because it would operate at low temperatures and pressures, it could not economically produce steam for electric power.

In order to meety safety and security requirements, DOE determined that NPR facilities should be constructed at large, secured, DOE-owned sites at which there has been experience with reactor operations and/or fuel reprocessing. Thirteen sites were evaluated against general screening criteria. The sites which met these criteria and are considered the reasonable alternatives to be evaluated in the EIS are the Hanford Site, INEL, and SRP.

The Hanford Site is a DOE nuclear research and defense program site of 560 square miles near Richland, Washington. The Hanford Site was the first U.S. nuclear material production site and is currently engaged in nuclear materials processing and nuclear research. The existing facilities include a production reactor (not operating), various nuclear materials processing plants, waste management facilities and a fuel fabrication facility.

INEL, located in southeastern Idaho, is a large (890 square miles) DOE reservation where various kinds of nuclear reactors and support facilities have been built and tested to demonstrate the applications of reactor technology, to conduct safety research, and to support defense programs. The existing facilities include waste management facilities and a chemical processing plant which serves as the primary facility for the recovery of fuel from the Naval Reactors Programs.

The SRP encompasses approximately 300 square miles near Aiken, South Carolina. SRP has actively produced strategic nuclear materials for national defense programs for more than 30 years. The existing facilities include production reactors, chemical processing plants, waste management facilities, fuel and target fabrication plants, and a tritium recovery facility.

Proposed Action: The proposed action is the siting, construction and operation of NPR capacity and support facilities. The preferred alternative is construction and operation of a heavy-water reactor at SRP which can produce 100% of expected tritium goal requirements and concurrent preparation leading to the construction and operation of a modular high-temperature gas-cooled reactor at INEL which can produce 50% of expected tritium goal requirements.

Alternatives Proposed for Consideration: The alternatives proposed for consideration in the EIS are a LWR, HWR or HTGR at SRP, INEL or the Hanford Site. The LWR alternative at the Hanford Site is conversion of WNP–1. The liquid-metal reactor technology is not considered a reasonable alternative due to cost and schedule risks of reactor concept development. As required by the CEQ NEPA regulations, the EIS will also analyze the "no action" alternative (i.e., no construction of NPR capacity).

The EIS will include a comparative assessment of the environmental impacts of the reasonable reactor/site alternatives, including support facilities. For the purpose of the EIS analyses, all technologies will be analyzed at 125% of expected tritium requirements. This will allow flexibility in the assessment of impacts by bounding all technologies at the same level. The EIS will also address the cumulative effects of adding the proposed facilities to the sites. Alternative reactor analyses will include, where applicable, an assessment of the impacts of the byproduct steam production for power generation. If any other reasonable alternatives are identified which could potentially achieve the objectives of the tritium production program, they would also be considered in the EIS.

Identification of Environmental Issues: The following issues have been tentatively identified for analysis in the EIS. The list of issues is intended to

apply to facilities associated with NPR capacity including driver fuel and tritium production element fabrication, fuel and tritium production element reprocessing, waste handling, and the steam generation options as appropriate. The EIS will address the environmental impacts of the proposed action including routine operations and potential accidents during facility construction and operation. In accordance with CEQ NEPA regulations (40 CFR 1500.4 and 1502.21), other environmental documents, as appropriate, may be incorporated by reference, in whole or in part, into these impact analyses. This list is not all inclusive nor does it imply any predetermination of potential impacts. Additions or deletions to this list may occur as the result of the scoping process.

1. Public and Occupational Safety—The radiological and nonradiological impacts of routine operations and potential accidents including projected effects on workers and the public will be addressed in accordance with DOE policy.

2. Water Resources—The qualitative and quantitative effects on water resources and other water users in the region.

3. Air Quality—The effects of radiological and nonradiological air emissions.

4. Regulatory Compliance—Compliance with all applicable Federal, state and local statutes and regulations.

5. Wildlife Areas—The disturbance or destruction of habitat of game and nongame wildlife species including potential effects on threatened or endangered species of flora and fauna.

6. Aquatic Species—The potential for entrapment or impingement of aquatic organisms on surface water intake structures and impacts to aquatic habitats.

7. Waste Management—The environmental effects of generation, treatment, transport, storage, and disposal of radioactive, hazardous and solid wastes.

8. Socioeconomic—The socioeconomic impacts on affected communities of large construction and operation labor forces and support services.

9. Cultural Resources—The potential impacts on historical, archaeological, scientific or culturally important sites.

10. Transportation—Impacts of the transportation of NPR related supplies, materials, equipment, products and wastes on-site and off-site.

11. Decommissioning and Decontamination—To the extent that information is available, the EIS will evaluate impacts that may result from decommissioning and decontamination of existing and new facilities as a result of the proposed action.

Related Documentation: Background information on the new production reactor capacity project, the alternative technologies, and the alternative sites are available in the public reading rooms listed below. The available documents include:

1. Assessment of Candidate Reactor Technologies for the New Production Reactor; A Report of the Energy Research Advisory Board to the United States Department of Energy, Washington, DC DOE/S–0064, July 1988.

2. Site Evaluation Report for New Production Reactor; Submitted by the DOE Site Evaluation Team to the Chairman of the Energy Systems Acquisitions Advisory Board (ESAAB) and the Acting Assistant Secretary for Defense Programs, DOE/DP–0053, July 1988.

3. Acquisition Strategy for New Production Reactor Capacity, Report to Congress by the Secretary of Energy, August, 1988.

Scoping Meetings: In addition to receiving written comments, DOE will conduct public scoping meetings to assist DOE in determining the appropriate scope of the EIS and the significant environmental issues to be addressed. Public scoping meetings will be held at the following times and locations:

a. Hanford Site—

(1) Federal Building Auditorium, 825 Jadwin Avenue, Richland, Washington
DATE: November 29, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(2) Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, Washington
DATE: December 1, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(3) Portland City Hall Hearing Room, 1120 S.W. Fifth, Portland, Oregon
DATE: December 6, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(4) H.M. Jackson Federal Building, North Auditorium, 912 2nd Avenue, Seattle, Washington
DATE: December 8, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

b. Idaho Site—

(1) Shilo Inn, 780 Lindway Boulevard, Idaho Falls, Idaho
DATE: November 14, 1988
TIME: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(2) Boise City Hall, 150 N. Capitol Boulevard, Boise, Idaho
DATE: November 16, 1988
TIME: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(3) O'Leary Jr. High School Auditorium, 2350 Elizabeth Boulevard, Twin Falls, Idaho
DATE: November 10, 1988
TIME: 9:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(4) Spokane City Council Chambers, West 808 Spokane Falls Boulevard, Spokane, Washington
DATE: December 1, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 7:00 p.m. to 10:00 p.m.

(c). Savannah River Site—

(1) Odell Weeks Recreation Center, Whiskey Road, Aiken, South Carolina
DATE: November 29, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(2) National Guard Armory, 1 Milledge Road, Augusta Georgia
DATE: December 1, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(3) DeSoto Hilton, 15 East Liberty Street, Savannah, Georgia
DATE: December 5, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

(4) Radisson Hotel, 937 Assembly Street, Columbia, South Carolina
DATE: December 7, 1988
TIME: 10:00 a.m. to 5:00 p.m. and 6:00 p.m. to 10:00 p.m.

Please note that the scoping meeting in Spokane, Washington cosponsored by both the Hanford Site and the Idaho Site. The purpose of the scoping meetings is to offer all interested persons the opportunity to voice their opinions on the proposed content and scope of the EIS. DOE will designate a presiding officer to chair each meeting. The meetings will not be conducted as evidentiary hearings and there will be no questioning of speakers; however, the presiding officer may ask for clarification of statements made to assure that DOE fully understands the comments and suggestions. The presiding officer will establish the order of speakers and provide any additional procedures necessary for conduct of the meeting. To assure that all persons wishing to make presentations can be heard, a 5 minute limit for each speaker has been established. Speakers who wish to provide further information for the record should submit such information to one of the Operations Office addresses above by December 15, 1988. Comments received after that date

will be considered to the extent practicable. Individuals who do not make an advance arrangement to speak may register to speak at the time of each meeting. After all previously scheduled speakers have been given an opportunity to make their presentations, an opportunity will be provided to these registrants to speak, as time permits. DOE reserves the right to change the meeting locations, and procedures for conduct of the scoping meetings.

DOE will prepare transcripts of the scoping meetings. The public may review the transcripts, other NEPA documents, and unclassified background information on this project at DOE public reading rooms during normal business hours. Addresses of these reading rooms are given below:

1. U.S. Department of Energy, Idaho Operations Office, 785 DOE Place, Idaho Falls, Idaho 83402, (208) 526–0271
2. U.S. Department of Energy, Richland Operations Office, Federal Building, 825 Jadwin Avenue, Room 157, Richland, Washington 99352, (509) 376–8583
3. U.S. Department of Energy Reading Room, University of South Carolina, Aiken Campus, University Library, 2nd Flood, University Parkway, Aiken, South Carolina 29802, (830) 648–6851
4. U.S. Department of Energy, Freedom of Information Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, Southwest, Washington, DC 20585, (202) 586–6020

Signed in Washington, DC, this 9th day of September 1988, for the United States Department of Energy.

Ernest C. Baynard, III,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 88–21259 Filed 9–15–88; 8:45 am]

BILLING CODE 6450–01–M

Superclean Coal-Water Slurry (SCCWS) Combustion Testing in Oil Designed Industrial Boilers

AGENCY: Department of Energy.

ACTION: Program Opportunity Notice No. DE–PN22–88PC88697; Correction.

On August 16, 1988 DOE published a program opportunity notice on the SCCWS (53 FR 30859). That notice is corrected by adding the following information. On August 17, 1988, it was announced in the Commerce Business Daily that the U.S. Department of Energy, Pittsburgh Energy Technology Center, through a bilateral program with Italy, intends to issue a program opportunity notice (PON) soliciting participants and potential host sites for a demonstration designed to show that SCCWS's can effectively replace oil in oil-designed industrial boilers. The purpose of this announcement is to provide preliminary SCCWS specifications for the U.S. project(s). U.S. coal companies that are interested in providing to DOE at no charge, 400 pound samples of coals that can meet the listed specifications, should contact Ralph Carabetta, Associate Director for Project Management, U.S. DOE/Pittsburgh Energy Technology Center.

Specifications of critical properties of the coal and the slurry derived from it, depends on an in-depth knowledge of how each property affects boiler performance and operating factors such as maintainability, reliability, and availability. Since much of the information is presently unknown, specifications can be general, at best. The basic properties of interest can be defined and certain values associated with them, projected. These are provided in the following table:

	Values for boilers designed for—	
	Distillate oil	Residual oil
Coal parameter:		
Ash Content	<1.5%	<3.0%.
Slagging Index (B/A × %S).	<0.6	<0.6.
Fouling Index (B/A × Na_2O).	<0.2	<0.2.
Sulfur	<0.5%	<0.7%.
Ash Softening Temp. (red. atm.).	>2400F	>2400F.
Chlorine	<0.25%	<0.25%.
Na_2O in ash	<0.5%	<0.75%.
Fe_2O_3 in ash	<10.0%	<15.0%.
Silica/alumina ratio in ash.	<2.0	<2.25.
Coal grind size	<95%–325M.	<70%–325M.
Particles larger than 200μ.	<0.5%	<1.0%.
Volatile matter	>25 weight percent.	
Super Clean Slurry Parameter:		
Solids Loading	>50%	>50%.
Heating Value, Btu/lb.	>6500	>6500.
Viscosity:		
100F & 50/sec.	<1000cp	<1000cp.
100F & 5000/sec.	<200cp	<250cp.
Stability	>six months storage without significant negative impact on slurry properties.	
Atomization Requirements—Although separate from the coal and slurry specifications, atomization criteria are important to ensure adequate combustion and system reliability.		
Atomizer:		
Tip life	>4000 hours.	>4000 hours.
Droplet MMD	<80μ	<80μ.

DATES: The solicitation is expected to be available to interested parties on or about October 20, 1988. Applications are due approximately December 6, 1988.

Contracts: Potential applicants desiring to receive a copy of this solicitation should provide a written request to: Dale A. Siciliano, Acquisition and Assistance Division, U.S. Department of Energy, Pittsburgh Energy Technology Center, P.O. Box 10940, M.S. 921–165, Pittsburgh, PA 15236.

Gregory J. Kawalkin,

Acting Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

September 7, 1988.

[FR Doc. 88–21232 Filed 9–15–88; 8:45 am]

BILLING CODE 6450–01–M

International Energy Program; Approval by the Secretary of Energy of U.S. Oil Companies' Participation in International Energy Agency Allocation Systems Test

AGENCY: Department of Energy.

ACTION: Publication of approval of participation by U.S. Oil Companies in the International Energy Agency's Sixth Allocation Systems Test and preparatory data transmission tests.

SUMMARY: On September 1, 1988, the Secretary of Energy issued letters of approval with respect to U.S. oil company participation in the International Energy Agency's Sixth Allocation Systems Test and preparatory data transmission tests. The text of the letter and related documents are appended to this notice.

FOR FURTHER INFORMATION CONTACT: Samuel M. Bradley, Deputy Assistant General Counsel for International Affairs, Room 6A–167, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586–2900.

SUPPLEMENTARY INFORMATION:

Background: The International Energy Program

The agreement on an International Energy Program (IEP), TIAS 8272, November 18, 1974, is a U.S. Executive Agreement entered into in the aftermath of the 1973–74 Arab oil embargo targeted at the U.S. and the Netherlands. The IEP provide for creation of the International Energy Agency (IEA) as an autonomous agency of the Organization for Economic Cooperation and Development (OECD). The IEP's main purposes include reducing the Free World oil consuming nations' vulnerability to supply disruptions by

encouraging self-sufficiency in oil supplies; avoiding competition for short supplies of available oil during a disruption through a program for equitably allocating those supplies among the signatory countries; establishing a comprehensive international information system; and creating a forum for cooperation with governments and consultation with oil companies. There now are 21 member countries, consisting of all OECD members except France, Finland and Iceland.

The IEP provides that the IEA's Emergency Sharing System can be activated only when the IEA group of twenty-one member countries as a whole or any individual member country sustains or reasonably can be expected to sustain a seven percent or greater shortfall of available petroleum supplies measured against a specified base period. In the "general" trigger situation (as distinguished from a "selective" trigger applicable to one or more but less than all member countries), the IEA sharing formula would distribute the group supply shortfall among IEA member counties on the basis of a combination of (1) a specified common reduction in consumption within each member country, and (2) the relative national import-dependency of the member countries (with the more import-dependent countries absorbing the greatest losses in supplies). The emergency sharing formula establishes national "supply rights" and attributes "allocation obligations" and "allocation rights" to the individual IEA countries depending on whether their available oil supplies exceed or fall short of their supply rights. A country having an allocation obligation would be required to supply, to other IEA countries having allocation rights, a portion of the oil available to it, equal to the excess over its supply right.

The oil industry has an important advisory and functional role in the IEA, particularly during real emergencies. A number of U.S. and foreign oil companies have agreed to serve as IEA "Reporting Companies." When there appears to be a serious possibility that an oil supply shortfall will develop, the IEA may request activation of its emergency data system, which calls for the Reporting Companies to submit directly to the IEA comprehensive data on their oil imports and exports, their indigenous production and their inventories. If this shortfall in fact should develop and the IEA's Emergency Sharing System were activated during an oil supply crisis, international oil allocation is expected to be accomplished through the voluntary supply measures of the Reporting Companies, coordinated by the companies' technical experts serving on the Industry Supply Advisory Group (ISAG) in Paris.

Antitrust Approval for U.S. Industry Participation in the IEA's Sixth Allocation System Test

In order for U.S. Reporting Companies and their employees to participate in IEA activities, section 252 of the Energy Policy and Conservation Act (EPCA), 42 U.S.C. 6272, makes available to U.S. oil companies a limited antitrust defense and a breach of contract defense for actions taken to carry out a "voluntary agreement" or "plan of action" to implement the allocation and information provisions of the IEP. A "Voluntary Agreement and Plan of Action to Implement the International Energy Program" (hereafter "Voluntary Agreement") was agreed to in 1976 by a number of U.S. Oil companies, and approved by the U.S. Government. *See* 2 CCH Federal Energy Guidelines, paragraph 15,845. Seventeen U.S. oil companies currently participate in the Voluntary Agreement.[1] The Secretary of Energy administers the Voluntary Agreement and is responsible, with the concurrence of the Attorney General, for antitrust approvals with respect thereto.

The Secretary of Energy and the Attorney General recently approved the "Second Plan of Action to Implement the International Energy Program," which is an appendix to the Voluntary Agreement. The Second Plan of Action will convey antitrust protection to U.S. Oil companies assisting in implementing the IEA's Emergency Sharing System during an actual international energy supply emergency.

Over the years since the IEA was formed, the Secretary of Energy and the Attorney General also have given approval for U.S. oil companies which participate in the Voluntary Agreement to engage in varous IEA allocation systems tests and related activities. This has been done through the issuance of antitrust "approval" (or "clearance") letters. *See, e.g.*, the antitrust approval letter for the IEA's Fifth Allocation Systems Test (AST-5) at 50 FR 41383 (October 10, 1985).

U.S. Voluntary Agreement participants now have been requested to assist the IEA in conducting the IEA's Sixth Allocation Systems Test (AST-6), which will begin with the transmission of a telex by the IEA Secretariat on September 23, 1988, announcing the hypothetical oil supply disruption. Prior to the beginning of AST-6, Reporting Companies will participate in transmission tests involving the IEA's emergency data system and voluntary offer process. The primary objective of AST-6 is to continue the program of periodic training of personnel of participating IEA governments, oil companies, and the IEA Secretariat, in the data systems and emergency oil allocation procedures developed to implement the provisions of the IEP. AST-6 will include certain new aspects of the Energency Sharing System that have not been tested previously: it will consider a significant innovation in the sharing system, known as the "Wider Window" concept, which extends the period for processing certain types of voluntary oil supply and receive offers over the entire allocation cycle and expedites the processing of such voluntary offers; in addition, AST-6 will test a recent modification to the timetable for compilation and submission of industry and IEA member country data and for the calculation of allocation rights and allocation obligations, which will permit more time for the oil allocation process to function. It should be noted, however, that although the allocation systems test also will include for the first time a procedure to consider pricing for certain voluntary offer transactions, the Secretary's antiturest approval letter exludes permission for the U.S. oil companies which participate in the Voluntary Agreement to engage in this particular new aspect of AST-6.

As in previous IEA allocation systems tests, IEA Reporting Companies will participate in AST-6 in serveral ways. First, Reporting Company employees will staff the ISAG in Paris. Second, Reporting Companies will provide the IEA and the ISAG with historical data on their imports, exports, indigenous production, and inventories for the period covered by the test. Finally, Reporting Companies will simulate the carrying out of certain hypothetical supply reallocation measures; in this connection, Reporting Companies may discuss with the IEA, the ISAG and other Reporting Companies, for the purpose of developing and implementing suitable hypothetical reallocation measures, information or data which may be confidential or proprietary.

[1] The U.S. oil companies which participate in the Voluntary Agreement are: Amerada Hess Corporation, Amoco Corporation, Ashland Oil, Inc., ARCO Oil and Gas Company, BP America, Inc., Caltex Petroleum Corporation, Chevron Corporation, Conoco, Inc., Exxon Company International, Mobil Oil Corporation, Occidental Petroleum Corporation, Phillips Petroleum Company, Shell Oil Company, Sun Company, Inc., Texaco, Inc., Union Oil Company of California, and Union Pacific Resources Company.

Section 5(b)(1) of the Voluntary Agreement conveys antitrust protection to the participating oil companies when, prior to an actual emergency, they take part in IEA allocation systems tests this allows them to simulate in a systems test the same kinds of supply activities which would take place in a real emergency. The need for an antitrust approval letter in connecton with such a test arises because of the possibility that company confidential or proprietary information or data may be disclosed in the course of the test. On this subject, section 5(b)(2) of the Voluntary Agreement provides that disaggregated, confidential or proprietary information or data may be disclosed by the companies in a test only to the extent approved by the Secretary of Energy, after consultation with the Secretary of State, with the concurrence of the Attorney General after he has consulted with the Federal Trade Commission. The purposes of a test approval letter are to set out the scope of the permission granted for the disclosure of confidential or proprietary information or data, establish recordkeeping and reporting requirements, and describe how the U.S. Government will monitor the tests.

As required by section 5(b) of the Voluntary Agreement, written approval has been given by the Secretary of Energy for the seventeen U.S. oil companies which participate in the Voluntary Agreement to disclose confidential or proprietary information or data which is necessary to the conduct of AST–6 and the related data transmission tests. This approval letter, which was developed in cooperatin with the staffs of the Antitrust Division, Department of Justice, and of the FTC, incorporates improvements in previous such letters, based on experience gained in AST–5 and on the recently approved Second Plan of Action.

Most of the data base for the test—consisting principally of historical import, export, indigenous production and stock level data for August 1987 through January 1988—acutally will be altered to reflect the effects of the AST–6 hypothetical emergency oil disruption scenario. Also, companies are free to "mask" their data if they so wish. The age of the data and their potential masking by the companies, combined with the protections built into the approval letter, should significantly reduce any risk of anticompetitive behavior as a result of the disclosure of proprietary company information during AST–6. In addition, as noted above, the Secretary's antitrust approval letter expressly excludes permission for the U.S. oil companies to disclose petroleum prices or commercial terms.

The documents published in the appendix to this notice are the text of the letter of appoval sent to the seventeen U.S. oil companies participating in the Voluntary Agreement and correspondence among the Department of Energy, the Department of Justice, the Department of State and the Federal Trade Commission evidencing consultation among those agencies and the required concurence of the Department of Justice in the issuance of the letter of approval by the Secretary of Energy. The text of the Second Plan of Action, certain provisions of which are adopted for AST–6 purposes by the approval letter, is not published in the appendix to this notice because of its length, but may be found at 53 FR 2866 (February 2, 1988).

Issued in Washington, DC on September 12, 1988.

Eric Fygi,

Acting General Counsel.

List of Appended Documents

A. Letter of Approval from the Secretary of Energy to each of 17 U.S. Voluntary Agreement Participants.

B. Letter from the Secretary of Energy to the Assistant Attorney General, Antitrust Division, Department of Justice.

C. Letter from the Secretary of Energy to the Secretary of State.

D. Letter from the Acting Secretary of State, to the Secretary of Energy.

E. Letter from the Acting Assistant Attorney General, Antitrust Division, Department of Justice, to the Secretary of Energy.

F. Letter from the Secretary of the Federal Trade Commission to the Assistant Attorney General, Antitrust Division, Department of Justice.

Appendix A

The Secretary of Energy,
Washington, DC 20585.
September 1, 1988.

Dear

The purpose of this letter is to convey the necessary approvals for your company to participate in the upcoming test of the Emergency Oil Sharing System of the International Energy Agency (IEA) and in certain preparatory IEA data and voluntary offer transmission tests. The U.S. Department of Energy (DOE) considers these tests an important part of our own energy emergency preparedness efforts. We hope that your company will participate in the tests, and encourage you to cooperate fully with the IEA in these undertakings.

The following paragraphs of this approval letter have been numbered for convenience of reference.

1. This approval letter applies to the IEA's Sixth Allocation Systems Test, known as "AST–6," to be conducted during the period September-November 1988, and to the IEA's data and voluntary offer transmission tests scheduled for September 1988.

2. This letter sets out guidelines for participation in AST–6 and the preparatory data and voluntary offer transmission tests by Voluntary Agreement participants and their employees and provides approval for the provision, exchange and disclosure of confidential or proprietary information or data in connection with the tests, as required by the Voluntary agreement and Plan of Action to Implement the International Energy Program (Voluntary Agreement), 2 CCH Federal Energy Guidelines, Paragraph 15,845. Participation by Voluntary Agreement participants and their employees is governed by section 252 of the Energy Policy and Conservation Act (EPCA), DOE regulations at 10 C.F.R. Part 209, Department of Justice regulations at 28 C.F.R. Part 56, and the Voluntary Agreement.

3. In September 1988, prior to the beginning of AST–6, the IEA Secretariat will conduct transmission tests involving the IEA emergency data system and voluntary offer process. The Secretariat first will request each IEA Reporting Company to transmit to it certain IEA Questionnaire A information or data for the months of August 1987 through January 1988, which Reporting Companies previously transmitted to the IEA in April 1988. Following this data transmission test, the Secretariat will request each Reporting Company to transmit to it one or more voluntary offers using fictitious data. Approval under Section 5(b) of the Voluntary Agreement is hereby given to Voluntary Agreement participants and their employees to participate in each of these tests. No later than September 30, 1988, each Voluntary Agreement participant shall submit to the Departments of Energy and Justice, at the addresses provided in paragraph 11(c) of this letter, one copy of the Questionnaire A data and one copy of each voluntary offer telex submitted to the IEA in these transmission tests.

4. The IEA Secretariat's "AST–6 Test Guide" establishes the scope and objectives of AST–6 and provides instructions for all test participants. The primary objective of AST–6 is to continue the program of periodic training of personnel of participating IEA governments, oil companies, and the IEA Secretariat, in the data systems and emergency oil allocation procedures developed to implement the provisions of the Agreement on an International Energy Program (IEP) (TIAS 8278, November 18, 1974), which are delineated in the IEA's Emergency Management Manual (EMM) and in the Industry Supply Advisory Group/Secretariat Operations Manual (ISOM). AST–6 will include certain new aspects of the Emergency Oil Sharing System that have not been tested previously: it will consider a significant innovation in the sharing system, known as the "Wider Window" concept, which extends the voluntary offer process for "closed-loop" voluntary offers over the entire allocation cycle and expedites the processing of such voluntary offers; in addition, AST–6 will test a recent modification to the timetable for compilation and submission of Questionnaire A/Questionnaire B data and

for the calculation of allocation rights and allocation obligations, which will permit more time for the oil allocation process to function. AST–6 also will include a procedure to consider pricing for "open-loop" voluntary offers; however, as indicated in paragraph 7(c) below, this letter does not approve participation in that procedure by Voluntary Agreement participants or their employees.

5. AST–6 will begin with the transmittal of a disruption telex by the IEA Secretariat (expected to occur Friday, September 23, 1988), and will continue for approximately seven weeks. It will consist of one full and one curtailed monthly allocation cycle. Prior to the completion of the full one month cycle commencing October 1, 1988, a second disruption telex will be released by the Secretariat. The test will terminate approximately November 15, 1988. For notice purposes under the Voluntary Agreement, the test activities of the Industry Supply Advisory Group (ISAG) at the test site in Paris will be conducted as a single meeting of the ISAG carried out in accordance with Section 5 of the Voluntary Agreement.

6. Attached hereto is a copy of the Second Plan of Action to Implement the International Energy Program (Second Plan of Action), which is Appendix B to the Voluntary Agreement. The Second Plan of Action has been approved by the Secretary of Energy and the Attorney General for potential use during an actual international energy supply emergency. The Second Plan of Action has been attached hereto for convenience of reference, because the following paragraphs of this approval letter adopt certain of its provisions for purposes of AST–6. For purposes of this letter, all references in the Second Plan of Action to the allocation site or to allocation activities shall be deemed to refer to the AST–6 test site and AST–6 test activities.

7. Approval under Section 5(b) of the Voluntary Agreement is hereby given to Voluntary Agreement participants and their employees engaged in AST–6 to participate in the types of communications specified in Sections 5.1 and 5.3 of the Second Plan of Action, and, in those communications, to provide, exchange and disclose the types of information or data listed in Sections 6.1–6.14 of the Second Plan of Action which may be, or which may reveal, confidential or proprietary information or data. This approval is subject to the limitations contained in Sections 6.15 and 7.1 of the Second Plan of Action, and to the following special rules for AST–6:

(a) Approval is granted only to the extent that the provision, exchange and disclosure of these types of confidential or proprietary information or data is necessary to carry out AST–6, in accordance with the AST–6 Test Guide.

(b) Approval is limited to information or data relating to the historical period August 1987 through January 1988, including information or data relating to cargoes arriving during such period but loaded prior thereto, and to disaggregated August 1987 through January 1988 Questionnaire A/Questionnaire B data submitted during AST–6 by Reporting Companies or National Emergency Supply Organizations (NESOs), *i.e.*, data as required by the Questionnaire A/Questionnaire B reporting instructions in effect for AST–6 as further defined in the AST–6 Test Guide, and Industry Supply Advisory Group (ISAG) work formats derived from such data.

(c) Approval does not apply to communication of the types of information or data excluded from the Second Plan of Action by Section 6.15 thereof, nor, notwithstanding Section 6.12 of the Second Plan of Action, does it apply to the provision, exchange or disclosure of petroleum prices or other commercial terms.

(d) A Voluntary Agreement participant (but excluding its employees serving on the ISAG) will be permitted to communicate covered confidential or proprietary information or data to another Reporting Company (or an affiliate thereof) only to enable it to develop, modify, and, on a simulated basis, implement Type 2 offers. No other confidential or proprietary information or data shall be provided, exchanged, or disclosed.

Participation in AST–6 does not create an obligation on U.S. Voluntary Agreement participants or their employees serving on the ISAG to provide, exchange or disclose any information or data which are, or may be, confidential or proprietary.

(f) This letter neither approves nor disapproves the activities of company employees serving on NESOs or any communication between a Voluntary Agreement participant (but excluding its employees serving on the ISAG) and a NESO.

(g) For purposes of this paragraph, the members of the AST–6 Control Group, consisting of the Chairman of the Industrial Advisory Board, the Chairman of the Standing Group on Emergency Questions, and the IEA Executive Director, and including the Chairman of the AST–6 Design Group in a consultative capacity, shall be considered to be part of the IEA Emergency Management Organization.

In order to carry out AST–6, information and data of the types listed in the sections of the Second Plan of Action specified above may have to be provided, exchanged and disclosed on a disaggregated basis, subject to the limitations provided herein, and the finding required by Section 5(b)(2) of the Voluntary Agreement in this regard is hereby made. However, it is understood that the IEA Secretariat will not permit any disaggregated Questionnaire A data of a Reporting Company, other than Questionnaire A data submitted by the Reporting Company during AST–6, to be made available to any other Reporting Company or ISAG representative thereof. In addition, the U.S. Government representatives at the test site shall have the right to restrict the access of U.S. ISAG personnel to any Questionnaire A data submitted by a Reporting Company during AST–6 that is or may be unaffected by the assumed supply disruption.

8. Prior to the time the ISAG convenes at the test site in Paris (and possibly after the ISAG's departure from the test site) the IEA Secretariat may initiate telephone conference calls with certain members of the ISAG (including the ISAG Manager and Deputy Manager, the head of ISAG's Supply Coordination subgroup, and other ISAG members as appropriate) to obtain their advice, for example, on "closed-loop" voluntary offers which have been submitted to the Allocation Coordinator for his approval. In advance of such telephone conference calls, the IEA Secretariat may transmit to potential participants in the telephone conferences, information describing pending closed-loop voluntary offers, but excluding the names of the offering and receiving companies. Voluntary Agreement participant employees serving on the ISAG may participate in such telephone conferences, provided that a representative of the Department of Energy, the Department of Justice, or the Federal Trade Commission participates in any such telephone conference call involving Voluntary Agreement participant employees serving on the ISAG who are not present at the test site. The U.S. Government observer shall be responsible for ensuring that a verbatim transcript is made or for keeping a written record of each such telephone conference. Consistent with Section 8.3(B) of the Second Plan of Action, failure of the U.S. Government to maintain a full and complete written record shall not vitiate the antitrust defense accorded by section 252 of the EPCA for a Voluntary Agreement participant or its employees, unless such failure is due to the willful act of the Voluntary Agreement participant's employee serving on the ISAG or of the Voluntary Agreement participant.

9. The unsolicited receipt by Voluntary Agreement participants or their employees of confidential or proprietary information or data not authorized by paragraph 7 of this letter, shall not vitiate the anti-trust defense accorded by section 252 of the EPCA, provided that prompt written notice of such receipt must be given to the U.S. Government. Such notice must be given either pursuant to Section 5.1(M) of the Second Plan of Action, to both the Department of Justice at the address provided in paragraph 11(c) of this letter and the Federal Trade Commission at the following address: Mr. Frank Lipson, Bureau of Competition, Federal Trade Commission, 601 Pennsylvania Avenue NW. (Room 3620), Washington, DC 20580, FAX no. 202–326–2050, Telephone No. (202) 326–2617, or, as appropriate, pursuant to Section 5.3(R) of the Second Plan of Action, to representatives of both the Department of Justice and the Federal Trade Commission at the AST–6 test site. The recipient of such information or data shall not provide it to his company or to any other person, except as necessary in connection with providing written notice of such receipt to the Department of Justice and the Federal Trade Commission.

10. Any confidential or proprietary information or data provided, exchanged or disclosed pursuant to AST–6, by or to a Voluntary Agreement participant or its employee serving on the ISAG, shall be provided by them, upon request, to the Department of Justice and the Federal Trade Commission.

11. The provisions of Section 8 of the Second Plan of Action (including Annexes I and II to the Second Plan of Action) relating to requirements for recordkeeping, reporting

and monitoring (and related definitions in Section 1 of the Second Plan of Action) apply to Voluntary Agreement participants and their employees during AST–6, subject to the following special rules for AST–6:

(a) Voluntary Agreement participants are required to comply with the requirements for the disposition and retention of "computer documents" set forth in paragraphs 1–3 of Annex I to the Second Plan of Action only to the extent permitted, without undue burden, by the capabilities of their computer systems. The U.S. government intends, in the context of AST–6, to evaluate whether companies would be capable of complying with these requirements in a real emergency without undue burden. Based on experience in the test, the Government will consider whether the computer document requirements in Annex I to the Second Plan of Action should be modified. Following AST–6, Voluntary Agreement participants are encouraged but not required) to submit written comments to the Departments of Energy and Justice at the addreses provided in paragraph 11(c) of this letter on their experience during AST–6 with these computer document requirements. Comments are requested specifically on the extent to which computers were used to support participation in the test, on any difficulties that were encountered in complying with the rules during the test, and on any compliance difficulties that could be expected to arise during a real emergency. Comments should be accompanied by as much supporting information and data as are available, including detailed descriptions of computer systems, actual or potential compliance difficulties, and possible solutions to any problems encountered.

(b) Notwithstanding the provisions of Sections 8.3(A) and 8.4(A) of the Second Plan of Action, Voluntary Agreement participant employees serving on the ISAG may particiate in certain telephone conference calls with the IEA Secretariat, as described in paragraph 8 of this letter, and subject to the monitoring and recordkeeping requirements in paragraph 8.

(c) Documents and records required under Section 8 of the Second Plan of Action to be sent to U.S. Government agencies should be addressed to:

Mr. Samuel M. Bradley, Office of General Counsel, GC–41, Department of Energy, 1000 Independence Avenue SW. (Room 6A–167), Washington, DC 20585, Fax No. 202–586–8134, Telex No. 710–822–0176, Telephone No. (202) 586–2900

Ms. Angela L. Hughes, Transportation, Energy and Agriculture Section, Antitrust Division, Department of Justice, 555 4th Street NW. (Room 9810), Washington, DC 20001, Fax No. 202–272–5859, Telex No. 710–822–1907, Telephone No. (202) 724–6410

In addition, each Voluntary Agreement participant shall submit to the above-named persons one copy of its Questionnaire A submitted to the IEA Secretariat in AST–6 or, in the case of a Voluntary Agreement participant that is not a Reporting Company, one copy of its Questionnaire A submitted to the U.S. NESO, in Questionnaire A format as distinguished from telex form; any data or information submissions required in paragraph 3 of this letter also shall be submitted to the above-named persons.

12. The provisions of this approval letter applicable to AST–6 may be modified or revoked in writing by the Department of Energy representative at the test site, with the concurrence of the Department of Justice representative in consultation with the Federal Trade Commission representative, if developments during ASt–6 indicate that modification or revocation is warranted. Any modification or revocation shall be in writing and shall be conveyed to all participants in the Voluntary Agreement and the ISAG Manager or his designees. No modification or revocation shall have retroactive effect.

13. This approval of Voluntary Agreement participants' participation in ASI–6 and in the preparatory transmission tests, and of the provision, exchange and disclosure of certain data and information (including the need to provide it in disaggregated form) in these tests, has been the subject of consultation with the Department of State and has been concurred in by the Department of Justice, after consultation with the Federal Trade Commission, all as required by the Voluntary Agreement. Copies of correspondence reflecting our consultation with the Department of State, and the Department of Justice's concurrence in our approval, after consultation with the Federal Trade Commission, are enclosed.

Yours truly,

John S. Herrington.

Enclosures

cc:

Mr. Charles F. Rule, Assistant Attorney General, Antitrust Division, Department of Justice, Washington, DC 20530

Honorable George P. Shultz, Secretary of State, Washington, DC 20520

Honorable Daniel Oliver, Chairman, Federal Trade Commission, Washington, DC 20580

Appendix B

The Secretary of Energy
Washington, DC 20585.
August 3, 1988.

Mr. Charles F. Rule,
Assistant Attorney General, Antitrust Division, Department of Justice, Room 3109, 10th & Constitution Avenue NW., Washington, DC 20530.

Dear Mr. Rule: The Secretariat of the International Energy Agency (IEA) will conduct the sixth test of its emergency allocation systems during the period September-November of this year. The test, known as AST–6, will commence with the IEA's distribution on September 23 of a telex announcing the hypothetical oil supply disruption which will provide the backdrop for the test. Prior to the beginning of AST–6, the IEA will conduct preparatory transmission tests involving the IEA Emergency data system and voluntary offer process.

The conduct of AST–6 and the related transmission tests will require the active participation of U.S. oil companies. Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Department of Energy's regulations at 10 C.F.R. Part 209, the Department of Justice's regulations at 28 C.F.R. Part 56, and the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," 2 CCH Federal Energy Guidelines para. 15,845, an antitrust defense is made available to U.S. oil companies to facilitate their involvement in IEA activities. In order for the U.S. oil companies which are signatories to the Voluntary Agreement to receive the benefit of this antitrust defense for any disclosure or exchange of confidential or proprietary information or data which may be necessary in these tests, section 5(b)(2) of the Voluntary Agreement requires that the Secretary of Energy approve such exchange or disclosure, after consultation with the Secretary of State, and with the concurrence of the Attorney General, after the Attorney General has consulted with the Federal Trade Commission.

Enclosed is an approval letter which I propose to send to the U.S. oil companies which are signatories to the Voluntary Agreement. This letter was developed by the Department of Energy in conjunction with staffs of the Antitrust Division, Department of Justice, the Department of State and the Federal Trade Commission.

In our view the participation of U.S. oil companies and U.S. oil company personnel is essential to the conduct of these tests. Such participation may necessitate the disclosure and exchange of confidential or proprietary information or data as specifically set forth in the proposed approval letter. Therefore, I request your concurrence in my intended approval.

Yours truly,

John S. Herrington.

Enclosure

cc: Honorable Daniel Oliver, Chairman, Federal Trade Commission

Appendix C

The Secretary of Energy,
Washington, DC.
August 3, 1988.

Honorable George P. Shultz,
Secretary of State, Washington, DC 20520.

Dear Mr. Secretary: The Secretariat of the International Energy Agency (IEA) will conduct the sixth test of its emergency allocation systems during the period September-November of this year. The test, known as AST–6, will commence with the IEA's distribution on September 23 of a telex announcing the hypothetical oil supply disruption which will provide the backdrop for the test. Prior to the beginning of AST–6, the IEA will conduct preparatory transmission tests involving the IEA emergency data system and voluntary offer process.

The conduct of AST–6 and the related transmission tests will require the active participation of U.S. oil companies. Pursuant to section 252 of the Energy Policy and Conservation Act, 42 U.S.C. 6272, the Department of Energy's regulations at 10 C.F.R. Part 209, the Department of Justice's regulations at 28 C.F.R. Part 56, and the "Voluntary Agreement and Plan of Action to Implement the International Energy Program," 2 CCH Federal Energy Guidelines para. 15, 845, an antitrust defense is made available to U.S. oil companies to facilitate

their involvement in IEA activities. In order for the U.S. oil companies which are signatories to the Voluntary Agreement to receive the benefit of this antitrust defense for any disclosure or exchange of confidential or proprietary information or data which may be necessary in these tests, section 5(b)(2) of the Voluntary Agreement requires that the Secretary of Energy approve such exchange or disclosure, after consultation with the Secretary of State, and with the concurrence of the Attorney General, after the Attorney General has consulted with the Federal Trade Commission.

Enclosed is an approval letter which I propose to send to the U.S. oil companies which are signatories to the Voluntary Agreement. This letter was developed by the Department of Energy in conjunction with staffs of the Antitrust Division, Department of Justice, the Department of State and the Federal Trade Commission.

In our view the participation of U.S. oil companies and U.S. oil company personnel is essential to the conduct of these tests. Such participation may necessitate the disclosure and exchange of confidential or proprietary information or data as specifically set forth in the proposed approval letter. Therefore, I am writing to request your views with respect to my intended approval.

Yours truly,

John S. Herrington.

Enclosure.

Appendix D

Department of State, Washington
August 19, 1988.

Dear Mr. Secretary: I am writing with regard to your letter requesting the views of the Department of State on your proposed approval of the exchange and disclosure of confidential or proprietary information or data by U.S. oil companies during the sixth test of the International Energy Agency emergency oil allocation system (AST–6).

It is important that the U.S. Government and U.S. companies participate fully in AST–6 so as to provide tangible evidence of the continued U.S. commitment to the IEA and its oil crisis response system. Moreover, involvement and training of company officials in emergency oil allocation system procedures is important to ensure effective participation in the event of an oil supply disruption. Your approval would enable U.S. oil companies participating in AST–6 to receive the benefit of an antitrust defense when disclosing or exchanging confidential or proprietary information or data as specifically set forth in the proposed approval letter.

The Department of State strongly supports your proposed approval of their activity because it will facilitate the involvement of these companies in AST–6.

Sincerely,

John C. Whitehead,

Acting Secretary.

The Honorable
John S. Herrington,
Secretary of Energy.

Appendix E

U.S. Department of Justice, Antitrust Division,
Office of the Assistant Attorney General, Washington, DC 20530.

Honorable John S. Herrington,
Secretary of Energy, Washington, DC 20461.

Dear Secretary Herrington: I am writing in response to your recent letter in which you seek the concurrence of the Department of Justice in your intended approval for designated U.S. oil companies, participating in the International Energy Program (IEP) as Reporting Companies, to provide and exchange certain confidential and proprietary information in the course of assisting in the International Energy Agency (IEA) in carrying out a sixth test of its emergency oil sharing system (AST–6) and in carrying out related preparatory transmission tests. Your approval, conditioned on compliance with annexed recordkeeping requirements and other limitations and antitrust safegurards, is set forth in the letter that you propose to send to those companies, a draft of whch you have provided me. Our concurrence in this action is sought pursuant to Section 5(b)(2) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, which is authorized by Section 252 of the Energy Policy and Conservation Act (EPCA), as amended, and which governs the conduct of participating oil companies in the IEA.

As you note, the Antitrust Division participated in the development of the approval letter. The conditions and procedures outlined in the letter, supplemented by U.S. Government monitoring of the required recordkeeping, exchanges of data and other company activities during the test, will minimize risks to competition and fulfill statutory requirements without imposing overly burdensome requirements on test participants. Accordingly, pursuant to section 5(b)(2) of the Voluntary Agreement, I hereby concur in your approval of the proposed letter on submission and exchange of confidential and proprietary information and data by U.S. oil company participants in AST–6 and related transmission tests. I enclose a copy of a letter from the Federal Trade Commission evidencing the consultations we have held with that agency on this matter, as required by Section 5(b) of the Voluntary Agreement.

Sincerely,

Michael Boudin,

Acting Assistant Attorney General, Antitrust Division.

Enclosures

cc:

Honorable George P. Shultz, Secretary of State, Washington, DC 20520

Honorable Daniel Oliver, Chairman, Federal Trade Commission, Washington, DC 20580

Appendix F

Federal Trade Commission, Washington, DC 20580,
Office of the Secretary
August 22, 1988.

Mr. Charles F. Rule,
Assistant Attorney General, Antitrust Division, Department of Justice, Room 3109, 10th & Constitution Avenue NW., Washington, DC 20530.

Dear Mr. Rule: The Honorable John S. Herrington, Secretary of Energy and Administrator of the Voluntary Agreement and Plan of Action to Implement the International Energy Program ("Voluntary Agreement"), has requested your concurrence to a proposed letter. The letter provides clearance to the oil-company signatories of the Voluntary Agreement to exchange confidential and proprietary information among themselves and to provide such information and data to the International Energy Agency ("IEA") during the IEA's sixth test of the emergency oil allocation system. ("AST–6"), being October 1, 1988. In addition the letter authorizes the oil companies to provide certain oil supply data originally provided to the IEA in April 1988. Under the Voluntary Agreement, the Attorney General must consult with the Commission before concurring in the provision or exchange of this information.

Section 252 of the Energy Policy and Conservation Act, 42 U.S.C. § 6272, directs the Attorney General and the Federal Trade Commission to monitor the carrying out of the Voluntary Agreement. The Commission has examined the types of data and information proposed to be exchanged during AST–6. The data to be used during AST–6 will be roughly one year old, likely to be distorted due to the hypothetical supply disruption, and subject to masking by the submitting company. Additionally, U.S. Government monitors will be at the IEA site during the test and will have access to the offices of U.S. companies participating in AST–6 to interview company employees engaged in test-related activities. The U.S. government will make or obtain a full and complete record of all communications among U.S. oil company personnel, including a verbatim transcript of most group meetings. Finally, the proposed clearance letter prohibits removal of documents from the test site without written U.S. Government approval and also prohibits communication of confidential information learned at the test to persons not involved in the test.

In light of both the limited competitive significance of the data and the procedural safeguards that are proposed, the Commission does not object to your approval of the exchange of information and data needed to carry out AST–6.

By direction of the Commission.

Donald S. Clark,

Secretary.

cc: Honorable John S. Herrington, Secretary of Energy

[FR Doc. 88–21239 Filed 9–15–88; 8:45 am]
BILLING CODE 6450–01–M

Financial Assistance Award; Intent To Award Grant to the University of Oklahoma

AGENCY: U.S. Department of Energy.

ACTION: Acceptance of an unsolicited application for grant award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it intends to award based on an unsolicited action submitted by the University of Oklahoma. The application is entitled "Microbial Field Pilot Study".

Scope

The intended grant award is to assist the University of Oklahoma, School of Petroleum and Geological Engineering, Norman, Oklahoma in conducting research in a microbial field pilot study. This pilot project is to study the use of microorganisms to affect enhanced oil recovery operations on a reservoir wide or interwell basis.

The proposed project tasks provide a unique area of contribution to the overall microbial enhanced oil recovery (MEOR) program in that microbial motility and mobility control will be studied to improve process application through related laboratory core studies and now a small-scale field test. The work is based on improved experimental methodology resulting from and building on the MEOR research that has gone on at this institution since 1979.

The project is anticipated to be of three years duration. The total estimated amount of the proposed cost sharing arrangement is $1,000,000.00.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Pittsburgh Energy Technology Center, Acquisition and Assistance Division, P.O. Box 10940, MS 921–165, Pittsburgh, PA 15236, Attn: David N. Barnett, Telephone: AC 412/892–5912.

Gregory J. Kawalkin,

Acting Director, Acquisition and Assistance Division, Pittsburgh Energy Technology Center.

[FR Doc. 88–21231 Filed 9–15–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Environment, Safety and Health, Innovative Control Technology Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463), 86 Stat. 770), notice is hereby given of the following meeting:

Name: Commercialization Incentives Subcommittee of the Innovative Control Technology Advisory Panel

Date and Time: October 13, 1988—9:00 a.m.–1:00 p.m.

Place: U.S. Department of Energy, 1000 Independence Ave., SW., Washington, DC 20585

Contact: Sandy Guill, Department of Energy, Environment, Safety and Health (EH–22), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/586–4628

Purpose of the Parent Board: To advise the Secretary of Energy and provide recommendations concerning innovative control technologies that will broaden cost-effective and efficient options for controlling precursor emissions associated with acid deposition.

Purpose of Panel: The Commercialization Incentives Subcommittee is a subgroup of ICTAP and reports to the parent board. This study will provide advice and recommendations to the Secretary on actions States could take to provide incentives for the demonstration and deployment of advanced clean coal technologies.

Tentative Agenda:

9:00 Discussion and Presentation Regarding Issues Associated with the State Preference Issue

12:50 Public Comment (10 minute rule)

1:00 Adjourn.

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sandy Guill at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of the Meeting: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

J. Robert Franklin,

Deputy Advisory Committee.

[FR Doc. 88–21233 Filed 9–15–88; 8:45 am]

BILLING CODE 6450–01–M

Office of Environment, Safety and Health, Innovative Control Technology Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Clean Coal Technologies Inventory Subcommittee of the Innovative Control Technology Advisory Panel (ICTAP).

Date and Time: October 6, 1988—9:00 a.m.—1:00 p.m.

Place: Electric Power Research Institute, 3412 Hillview Avenue, Building #1, Palo Alto, California 94303

Contact: Sandy Guill, Department of Energy, Environment, Safety and Health (EH–22), 1000 Independence Avenue, SW., Washington, DC 20585, Telephone: 202/586–4628

Purpose of the Parent Board: To advise the Secretary of Energy and provide recommendations concerning innovative control technologies that will broaden cost-effective and efficient options for controlling precursor emissions associated with acid deposition.

Purpose of Panel: The Clean Coal Technologies Inventory Subcommittee is a subgroup of ICTAP and reports to the parent board. The panel will identify gaps in technology development and deployment. Specifically, this study will include an inventory of U.S. and foreign technologies and projects. The study will contain assessments of applicability, economic viability and environmental performance.

Tentative Agenda:

9:00 Discussion and Presentations Regarding Inventory of U.S. and Foreign Technologies and Projects.

12:50 Public Comment (10 minute rule)

1:00 Adjourn.

The meeting is open to the public. Written statements may be filed with the Panel either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Sandy Guill at the address or telephone listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Panel is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes of the Meeting: Available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00

a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 88-21234 Filed 9-15-88; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 88-47-NG]

Dome Petroleum Corp.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 8, 1988, of an application filed by Dome Petroleum Corporation (Dome Petroleum) for authorization to import on a firm basis up to a maximum of 15,000 Mcf per day of Canadian natural gas and up to 20,000 Mcf of additional interruptible supplies over a term beginning November 1, 1988, through October 31, 2001.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than October 17, 1988.

FOR FURTHER INFORMATION CONTACT:

Robert Groner, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-1657.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Dome Petroleum, a North Dakota corporation, is the U.S. marketing subsidiary for Dome Petroleum Limited (Dome), a major Canadian oil and natural gas producer and marketer with its principal office in Calgary, Alberta. The applicant requests authority to import Canadian gas from Dome for sale on both a firm and an interruptible basis under a long-term gas purchase contract negotiated with Northern States Power (NSP) on November 1, 1987. NSP, a Minnesota corporation located in St. Paul, distributes natural gas and electricity to the Minnesota, Wisconsin, and North and South Dakota region. Under the terms of an April 7, 1986, gas sales agreement between Dome Petroleum and Dome, the Canadian parent agrees to supply the gas applicant is obligated to provide under agreements with U.S. buyers, including NSP, and the applicant agrees to remit the full proceeds, less its expenses, to Dome.

According to the explicit terms of its November 1, 1987, agreement with NSP, submitted as part of the application, Dome Petroleum would continue to provide NSP with up to 15,000 Mcf per day of gas imported under its existing blanket authorization granted October 30, 1987, in DOE/ERA Opinion and Order No. 204 (ERA Docket No. 87-30-NG) pending regulatory approval of its proposed long-term arrangement. Dome Petroleum states in its request that long-term firm deliveries to NSP are scheduled to commence on November 1, 1988, or on the date all necessary regulatory approvals are received, for a term of 13 years. The contract specifically calls for maximum daily gas deliveries of up to 15,000 Mcf based on a 75 percent load factor over the life of the agreement. In addition to these firm supplies, Dome Petroleum requests authority to import additional interruptible Canadian gas volumes of up to 20,000 Mcf per day over the same 13 year contract period. Dome Petroleum states that NSP's minimum purchase obligation would be 10,000 Mcf of gas per day for each winter period (November through April) and 1,090,000 Mcf in total for each summer period (May through October). The contract contains a provision giving NSP the right to make up any deficient takings under the existing agreement for a period of two contract years subsequent to the deficient taking.

Both firm and interruptible gas supplies would be sold to NSP in accordance with a two-part, demand/commodity rate structure. The initial commodity charge would be $1.07 per MMBtu and the demand charge would be $214,440 per month, based on deliveries of 15,000 Mcf per day on an anticipated 75 percent load factor. As further provided by Dome Petroleum's August 18, 1988, supplement to its August 8, 1988, application, the commodity price for interruptible volumes sold to NSP would vary from month to month depending on surplus availability, the competitiveness of alternate supply sources, and overall natural gas market conditions. Dome's supplemental filing also provides that NSP would reserve the option to accept or reject the monthly asking price for any interruptible supplies that Dome Petroleum may offer.

The contract accompanying Dome's application indicates that NSP's demand and commodity charges can be renegotiated annually within 60 days of the end of each contract year. Further, if the delivered price of the gas at the contract load factor results in the total cost per MMBtu of the gas exceeding $.20 (U.S.) less than NSP's current delivered cost of gas per MMBtu purchased from Northern Natural Gas Company (Northern Natural) then Dome Petroleum, within 60 days after receiving notice from NSP, would have to adjust its price so that the total price NSP pays is at least $.20 (U.S.) less than NSP would pay Northern Natural for alternate service on a firm, non-interruptible basis. The contract also states that there would be a minimum commodity charge imposed if the average spot gas price delivered into Northern Natural's system over a three-month period exceeded Dome Petroleum's delivered price to NSP by more than $.38 per MMBtu (as reported in the trade press). However, the gas purchase agreement filed as part of Dome Petroleum's application contains a provision that NSP would not have to pay the minimum commodity charge by serving 60 days notice to Dome.

In addition to copies of its gas purchase agreements with Dome and NSP, Dome Petroleum's application includes precedent letters for long-term transportation service from Saskatchewan Power Corporation (Saskatchewan Power), NOVA (an Alberta corporation), TransCanada PipeLines Limited (TransCanada), and an acknowledgment from NSP that it is seeking an extension of firm service from Midwestern Gas Transmission Company (Midwestern) which transports gas for NSP on its northern system. Dome Petroleum states that Canadian gas volumes gathered in Saskatchewan would be delivered to TransCanada's system at Bayhurst, Saskatchewan, by Saskatchewan Power, while Alberta volumes included in the import authorization would be delivered by NOVA to TransCanada's interconnection at Empress, Alberta. The gas would then be transported by TransCanada to the international border near Emerson, Manitoba, for import to the U.S. The appliant indicates that Midwestern would be responsible for redelivering the import volumes from the U.S. border to NSP's system. Dome Petroleum's application further indicates that the pipleline facilities needed to

transport the gas from the U.S./Canadian border are currently in place.

In support of its application, Dome Petroleum states that approval of its long-term import request is in the public interest not only because of its market sensitive pricing, but also because access to firm and interruptible Canadian gas supplies will help NSP to expand its existing supply sources to meet its system demand and reduce undue dependence on the limited number of suppliers in its service area. According to the application, NSP is dependent upon Northern Natural for approximately 85 percent of its gas supplies. Last, Dome Petroleum avers that, as the marketing subsidiary of one of Canada's largest oil and natural gas suppliers having access to approximately 785 Bcf of uncontracted reserves, its gas supply source will be secure over the term of the agreement.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

All parties should be aware that if the ERA approves this requested long-term import, it may condition the authorization on the filing of quarterly reports to facilitate ERA monitoring of its natural gas import and export program.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.d.t., October 17, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Dome Petroleum's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 8, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-21235 Filed 9-15-88; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 88-51-NG]

Renaissance Energy (U.S.) Inc.; Application To Import Natural Gas From and Export Natural Gas to Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for blanket authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 25, 1988, of an application filed by Renaissance Energy (U.S.) Inc. (Renaissance) for blanket authorization to import and export in the aggregate not more than 200 Bcf of U.S. and Canadian natural gas over a two-year term beginning on the date of first delivery. Renaissance intends to utilize existing pipeline facilities for transportation of the volumes to be imported or exported. Renaissance also proposes to submit quarterly reports detailing each transaction.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than October 17, 1988.

FOR FURTHER INFORMATION CONTACT:

William L. Durbin, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9516

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION:

Renaissance, a Delaware corporation, is a wholly-owned subsidiary of Renaissance Energy Ltd., a Canadian company whose principal place of business is in Calgary, Alberta. Under the blanket authority sought, Renaissance intends to import or export gas from or to Canada, either as a broker or agent, or for its own account, for short term, spot sales to either United States or Canadian customers, including, but not limited to, gas distribution companies, electric utilities,

agricultural users, pipelines, and industrial and commercial end-users. The specific terms of each import or export sale would be negotiated on an individual basis, including price and volume.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the ERA considers the domestic need for the gas to be exported, and any other issue determined by the Administrator to be appropriate in a particular case. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the import authority and on the domestic need for the gas in their responses on the requested export authority. The applicant asserts that this import/export arrangement will be in the public interest in that each import/export sale must be competitive in the U.S. and for Canadian gas markets served or no sales will be made. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m. e.d.t., October 17, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Renaissance's application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076 at the above address. The Docket Room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 8, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–21236 Filed 9–15–88; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 88–36–NG]

Petro-Canada Hydrocarbons, Inc.; Order Extending Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Order extending blanket authorization to import natural gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Petro-Canada Hydrocarbons, Inc. (PCH), an extension of its existing blanket authorization to import up to 150 Bcf of Canadian natural gas over a two-year term which expires March 3, 1989. The order authorizes PCH to import up to 75 Bcf of natural gas over a one-year term beginning March 3, 1989, through March 3, 1990.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 7, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–21237 Filed 9–15–88; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 88–49–NG]

Transco Energy Martketing Co.; Application To Extend Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of application for extension of blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 16, 1988, of an application filed by Transco Energy Marketing Company (TEMCO) requesting that the blanket authorization previously granted in DOE/ERA Opinion and Order No. 104 (Order No. 104), issued January 27, 1986 (ERA Dkt. No. 85–30–NG), be amended to extend its term for two years beginning February 4, 1989, through February 4, 1991. TEMCO's existing blanket import authorization to import up to 730 Bcf of Canadian natural gas over a two-year term expires on February 3, 1989. Quarterly reports filed with the ERA indicate that TEMCO has imported 21.4 Bcf of natural gas under its current import authorization as of August 1, 1988.

The application is filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene,

notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written commnets are to be filed no later than October 17, 1988.

FOR FURTHER INFORMATION CONTACT:

Larine A. Moore, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room 3F–056, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478

Diane Stubbs, National Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667

SUPPLEMENTARY INFORMATION: TEMCO, a wholly-owned subsidiary of Transco Energy Services Company, which, in turn is a wholly-owned subsidiary of Transco Energy Company, proposes to import the gas from various Canadian suppliers and producer associations and to sell it on a short-term or spot basis to a wide range of markets in the U.S., including local gas distribution companies and end-users. TEMCO also would act as agent for its U.S. purchaser clients and Canadian supplier clients. The specific terms of each import and sale would be negotiated on an individual basis including the price and volumes. TEMCO will continue to file quarterly reports with the ERA. TEMCO intends to use existing pipeline facilities to transport the gas.

In support of its application, TEMCO asserts that the proposed extension of its existing blanket import authorization is not inconsistent with the public interest since the extension requested would assure gas consumers continued assess to competitively-priced Canadian gas.

The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of ncompetitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590.

Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room 3F–056, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. They must be filed no later than 4:30 p.m. e.d.t., October 17, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional prodedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written coments, an oral presentation, a conference, or trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of TEMCO's, application is available for inspection and copying in the Natural Gas Division Docket Room, GA–076–A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 9, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88–21238 Filed 9–15–88; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER88–594–000 et al.]

Southern Company Services, Inc., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

September 13, 1988.

Take notice that the following filings have been made with the Commission:

1. Southern Company Services, Inc.

[Docket No. ER88–594–000]

Take notice that on September 2, 1988, Southern Company Services, Inc. acting on behalf of Alabama Power Company, Georgia Power company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company ("Southern Companies") tendered for filing a unit power sales contract between Southern Companies and Florida Power Corporation ("Corporation"). The Unit Power Sales Agreement between Southern Companies and Corporation provides for up to 400 megawatts of unit power sales from designated coal-fired generating units owned by Alabama Power Company, Georgia Power Company and Gulf Power Company during the years 1994 to 2010.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Southern Company Services, Inc.

[Docket No. ER88–596–000]

Take notice that on September 2, 1988, Southern Company Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company

and Savannah Electric and Power Company ("Southern Companies") tendered for filing a unit power sales contract between Southern Companies and Florida Power & Light Company ("FPL"). The unit Power Sales Agreement between Southern Companies and FPL provides for up to 900 megawatts of unit power sales from designated coal-fired generating units owned by Alabama Power Company, Georgia Power Company and Gulf Power Company during the years 1993 to 2010.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Company Services, Inc.

[Docket No. ER88-595-000]

Take notice that on September 2, 1988, Southern Company Services, Inc. acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company ("Southern Companies") tendered for filing a unit power sales contract between Southern Companies and Jacksonville Electric Authority ("JEA"). The Unit Power Sales Agreement between Southern Companies and JEA provides for up to 200 megawatts of unit power sales from designated coalfired generating units owned by Alabama Power Company, Georgia Power Company and Gulf Power Company during the years 1993 to 2010.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Ohio Power Company

[Docket No. ER88-597-000]

Take notice that Ohio Power Company (OPCo) on September 2, 1988 tendered for filing proposed modifications to its Rate Schedule FERC No. 18 and FERC Electric Tariff MRS for Municipal Resale Electric Service. The proposed modifications pertain to OPCo's FERC fuel adjustment clauses and reflect the fact that the operating subsidiaries of the American Electric Power (AEP) System, including OPCo, plan to change the basis of the economic dispatch of their generating plants from an average cost to a marginal cost method as of October 1, 1988.

OPCo is proposing to modify its FERC fuel adjustment clauses during a verification period as necessary to permit the initial recovery of costs recovered under its FERC fuel adjustment clauses to be based upon an estimate and to prevent the recovery of any increases in cost that may result from the new dispatch methodology. OPCo states that the proposed modifications do not increase the costs to be passed on to OPCo's firm wholesale customers under its FERC fuel adjustment clauses.

Copies of the filing were served upon OPCo's jurisdictional customers, the Public Service Commission of West Virginia and the Public Utilities Commission of Ohio.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

5. Rochester Gas and Electric

[Docket No. ER88-599-000]

Take notice that on September 6, 1988, Rochester Gas and Electric Corporation ("RG&E") tendered for filing a Power Sales Agreement with Green Mountain Power Corporation ("GMP") for the sale of up to 50 MW of capacity and associated energy, plus such other power as may be scheduled by mutual agreement of the parties. The term of the agreement is from May 1, 1988 through October 31, 1988 with an option to extend through October 31, 1997.

RG&E requests an effective date retroactively as of May 1, 1988, and therefore requests a waiver of the Commission's notice requirements.

Copies of the filing were served upon GMP and the New York State Public Service Commission.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Idaho Power Company

[Docket No. ER88-592-000]

Take notice that on September 1, 1988, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during July 1988, along with cost justification for the rate charged. This filing includes the following supplements:

Portland General Electric Co.—Supplement No. 60

Sierra Pacific Power Co.—Supplement No. 77

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

7. Montaup Electric Company

[Docket No. ER88-591-000]

Take notice that on September 1, 1988, Montaup Electric Company (Montaup) tendered for filing two agreements, which were negotiated as a single package.

The first is an amendment to the United Sales Contract between Montaup and Middleborough Gas and Electric Department for the sale of capacity and energy from Canal Unit No. 2 dated October 30, 1981 (FERC Rate Schedule 65). This amendment extends this unit sale, which would otherwise expire on October 31, 1988, with no change in the capacity charge ($4.78 per kw per month) or the amount purchased by Middleborough (0.3425% of the Unit's capacity and energy).

Montaup asks that this amendment be permitted to become effective on November 1, 1988 in accordance with its terms. The amendment, while nominally extending the unit sale for seven years, provides for a two-year termination notice and that at the end of the two years the 2 MW of Unit Sale will convert to an additional 2 MW of contract demand. As the amendment states, Montaup may, and intends to, give notice as early as October 31, 1988. Montaup will give notice at that time which will mean that the conversion will take place effective November 1, 1990.

The second agreement tendered for filing is an amendment to the agreement for contract demand service to provide the terms and conditions to apply to the additional two megawatts of contract demand service effective upon the conversion on November 1, 1990. Montaup requests waiver of the 120 day maximum notice period to permit this amendment to be filed now, simultaneously with the amendment to the United Sales Agreement, as the parties agreed.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this document.

8. Appalachian Power Company

[Docket No. ER88-593-000]

Take notice that Appalachian Power Company (APCo) on September 2, 1988, 1988 tendered for filing proposed modifications to its Rate Schedule FPC No. 23 and Rate Schedule WS-5. The proposed modifications pertain to APCo's FERC fuel adjustment clauses and reflect the fact that the operating subsidiaries of the American Electric Power (AEP) System, including APCo, plan to change the basis of the economic dispatch of their generating plants from an average cost of a marginal cost method as of October 1, 1988.

APCo is proposing to modify its FERC fuel adjustment clauses during a verification period as necessary to permit the initial recovery of costs recovered under its FERC fuel

adjustment clauses to be based upon an estimate and to prevent the recovery of any increases in cost that may result from the new dispatch methodology. APCo states that the proposed modifications do not increase the costs to be passed on to APCo's firm wholesale customers under its FERC fuel adjustment clauses.

Copies of the filing were served upon APCo's jurisdictional customers, the Public Service Commission of West Virginia and the Tennessee Public Service Commission.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

9. Indiana Michigan Power Company

[Docket No. ER88-598-000]

Take notice that Indiana Michigan Power Company (I&M) on September 2, 1988, tendered for filing proposed modifications to its FERC Electric Tariffs MRS, REC-1 and WS and to its Rate Schedule Nos. 25, 70 and 74. The proposed modifications pertain to I&M FERC Fuel and Experimental System Sales Clause and reflect the fact that the operating subsidiaries of the American Electric Power (AEP) System, including I&M, plan to change the basis of the economic dispatch of their generating plants from an average cost of a marginal cost method as of October 1, 1988.

I&M is proposing to modify its FERC Clauses during a verification period to prevent the recovery of any increases in cost that may result from the new dispatch methodology. I&M is also proposing to modify its FERC Experimental System Sales Clauses to insure that those clauses properly track the cost of fuel reflected in I&M's Fuel Clauses. I&M states that the proposed modifications do not increase the costs to be passed on to I&M's firm wholesale customers under its FERC fuel and Experimental System Sale Clauses.

Copies of the filing were served upon I&M's jurisdictional customers, the Indiana Utility Regulatory Commission and the Michigan Public Service Commission.

Comment date: September 27, 1988, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21198 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-756-000 et al.]

East Tennessee Natural Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. East Tennessee Natural Gas Company

[Docket No. CP88-756-000]

September 12, 1988.

Take notice that on September 1, 1988, East Tennessee Natural Gas Company (Applicant) P.O. Box 10245, Knoxville, Tennessee 37939-0245, filed an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the increase in contract demands of three of its resale customers, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes to increase the contract demands of Knoxville Utilities Board by 2,000 Mcf per day, Middle Tennessee Utility District of Cannon, Cumberland, DeKalb, Hamilton, Putman, Rhea, Rutherford, Smith, Warren, White, and Wilson Counties, Tennessee by 2,000 Mcf per day, and Powell-Clinch Utility District of Anderson, Campbell, Claiborne, Grainger and Union Counties, Tennessee by 739 Mcf per day. Applicant requests that the proposed increases be authorized prior to 1988-1989 heating season. Applicant states that no facilities are required to effectuate the changes.

Applicant indicates that it proposes to utilize additional local production to meet the total daily increase in contract demand of 4,739 Mcf.

Comment date: October 3, 1988, in accordance with Standard Paragraph F at the end of this notice.

2. Tennessee Gas Pipeline Company

[Docket No. CP88-776-000]

September 13, 1988.

Take notice that on September 7, 1988, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-776-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Kimball Resources, Inc., (Kimball), a marketer, under the certificate issued in Docket No. CP87-115-000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated July 21, 1988, it proposes to transport up to 50,000 dekatherms (dt) per day equivalent of natural gas on an interruptible basis for Kimball from points of receipt listed in Exhibit "A" of the agreement which accompanies the application to delivery points also listed in Exhibit "A", which transportation service would involve interconnections between Tennessee and various transporters. Tennessee states that it would receive the gas offshore Louisiana and offshore Texas, and in the states of Louisiana, Texas, and Mississippi, and that it would transport and redeliver the gas at interconnections between Tennessee and (1) Columbia Gas Transmission Company at Egan B, Acadia Parish, Louisiana, (2) Southern Natural Gas Company at Rose Hill, Clarke County, Mississippi, (3) Transcontinental Gas Pipe Line Corporation at Heidelberg, Jasper County, Mississippi, and (4) Texas Gas Transmission Corporation at Egan D, Acadia Parish, Louisiana.

Tennessee advises that service under § 284.223(a) commenced August 5, 1988, as reported in Docket No. ST88-5398 (filed August 29, 1988). Tennessee further advises that it would transport 49 dt on an average day and 17,885 dt annually.

Comment date: October 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

3. Tennessee Gas Pipeline Company

[Docket No. CP88-775-000]

September 13, 1988.

Take notice that on September 7, 1988, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88-775-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Exxon Corporation, (Exxon), a producer, under the certificate issued in Docket No.

CP87–115–000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated August 4, 1988, it proposes to transport up to 30,000 dekatherms (dt) per day equivalent of natural gas on an interruptible basis for Exxon from points of receipt listed in Exhibit "A" of the agreement which accompanies the application to delivery points also listed in Exhibit "A", which transportation service would involve interconnections between Tennessee and various transporters. Tennessee states that it would receive the gas offshore Louisiana and in the State of Texas, and that it would transport and redeliver the gas at interconnections between Tennessee and (1) United Gas Pipeline Corporation at Kiln, Hancock County, Mississippi, (2) Southern Natural Gas Company at Rose Hill, Clarke County, Mississippi, (3) Transcontinental Gas Pipe Line Corporation at Heidelberg, Jasper County, Mississippi, and (4) Columbia Gas Transmission Company at Broadrun Cobb in Kanawha County and North Ceredo in Wayne County, West Virginia.

Tennessee advises that service under Section 284.223(a) commenced August 11, 1988, as reported in Docket No. ST88–5397 (filed August 29, 1988). Tennessee further advises that it would transport 7,776 dt on an average day and 2,838,240 dt annually.

Comment date: October 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Company, a Division of Enron Corp.

[Docket No. CP88–722–000]

September 13, 1988.

Take notice that on August 26, 1988, Northern Natural Gas Company, a Division of Enron Corporation (Northern), 1400 Smith Street, Houston, Texas 77251–1188, filed in Docket No. CP88–722–000 a request pursuant to § 157.205 and 157.212 of the Regulations under the Natural Gas Act (18 CFR 157.212) for authorization to construct one (1) delivery point and appurtenant facilities to accommodate natural gas deliveries to Wisconsin Power and Light Company located in Portage, Wisconsin, under the certificate issued in Docket No. CP82–401–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern indicates that it proposes to construct one (1) small-volumes measurement station to be used as a second delivery point to accommodate natural gas deliveries to the community of Portage, Wisconsin. Northern estimates its fifth year peak day and annual volumes delivered to Wisconsin Power and Light Company to be 2,139 Mcf and 274,975 Mcf, respectively, with total incremental fifth years sales at 920,050 MMBtu. The total estimated cost to construct the proposed facilities is $136,500. Northern also indicates that Wisconsin Power and Light Company will not be required to contribute in aid of construction and the volumes delivered to Portage, Wisconsin will be served from the existing firm entitlement of Wisconsin Power and Light Company.

Comment date: October 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

5. Tennessee Gas Pipeline Company

[Docket No. CP88–766–000]

September 13, 1988.

Take notice that on September 6, 1988, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88–766–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Intercon Gas, Inc., (Intercon), a marketer, under the certificate issued in Docket No. CP87–115–000 on June 18, 1987, pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated August 4, 1988, it proposes to transport up to 120,000 dekatherms (dt) per day equivalent of natural gas on an interruptible basis for Intercon from points of receipt listed in Exhibit "A" of the agreement which accompanies the application to delivery points also listed in Exhibit "A", which transportation service may involve interconnections between Tennessee and various transporters. Tennessee states that it would receive the gas at various existing points offshore Louisiana and in the state of Louisiana, and that it would transport and redeliver the gas to Intercon in the states of Pennsylvania, New York, Ohio, Indiana, Virginia, Maryland, Tennessee, Massachusetts, Connecticut, Illinois, New Hampshire, Kentucky, West Virginia, Georgia, Delaware, Mississippi, Louisiana, Michigan, New Jersey, Wisconsin, and Iowa.

Tennessee advises that service under § 284.223(a) commenced August 4, 1988, as reported in Docket No. ST88–5401 (filed August 29, 1988). Tennessee further advises that it would transport 3,820 dt on an average day and 1,394,300 dt annually.

Comment date: October 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

6. Tennessee Gas Pipeline Company

[Docket No. CP88–764–000]

September 13, 1988.

Take notice that on September 6, 1988, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP88–764–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for Mobil Natural Gas, Inc., (Mobil), a marketer, under the certificate issued in Docket No. CP87–115–000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated August 18, 1988, it proposes to transport up to 20,000 dekatherms (dt) per day equivalent of natural gas on an interruptible basis for Mobil from points of receipt listed in Exhibit "A" of the agreement which accompanies the application to delivery points also listed in Exhibit "A", which transportation service may involve interconnections between Tennessee and various transporters. Tennessee states that it would receive the gas at various existing points in the states of Louisiana and Texas, and that it would transport and redeliver the gas to Mobil in Texas.

Tennessee advises that service under § 284.223(a) commenced August 19, 1988, as reported in Docket No. ST88–5399 (filed August 29, 1988). Tennessee further advises that it would transport 4,902 dt on an average day and 1,789,230 dt annually.

Comment date: October 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

7. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP88–785–000]

September 13, 1988.

Take notice that on September 1, 1988, Arkla Energy Resources, a Division of Arkla, Inc. (AER), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP88–758–000 a request

pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to abandon a segment of AER's pipeline in Caddo County, Oklahoma, under the certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

AER proposes to abandon approximately 2,330 feet of 8-inch pipeline (AER's Line 9-5) and appurtenant facilities, which was installed to serve Western Farmers Electric Cooperative (Western Farmers). It is stated that Western Farmers is now being served by AER's Line AD, using a tap constructed under section 311 authorization. It is further stated that no other customers were being served by Line 9-5, and, therefore, that no customers of AER would be denied service as a result of the proposed abandonment. It is explained that Western Farmers has requested that AER abandon the segment of pipeline crossing Western Farmers' property in order to facilitate the construction of an industrial plant on the property.

Comment date: October 28, 1988, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance withe the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the National Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commisision, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21199 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 7579-002 et al.]

North Logan City, Utah, et al.; Surrender of Preliminary Permits and Exemptions

September 12, 1988.

Take notice that the following preliminary permits/exemptions have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. North Logan City, Utah

[Project No. 7579-002]

Take notice that North Logan City, Utah, exemptee for the Green Canyon Hydroelectric Project No. 7579, has requested that its exemption be terminated. The exemption was issued on July 19, 1984, and the project would have been located on culinary water springs in Water Canyon, Cache County, Idaho. The new 14-inch water supply pipeline that the project would have used has been constructed. However, lower flows than estimated have rendered the project infeasible and no construction of the hydroelectric project works has been initiated.

The exemptee filed the request on July 18, 1988.

2. Sinclair Buckstaff, Jr.

[Project No. 9926-001]

Take notice that Sinclair Buckstaff, Jr., permittee for the Upper Dome Reservoir Dam Project No. 9926, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 28, 1986. The project would have been located on the Archuleta Creek, near Parlin, in Saguache County, Colorado.

The permittee filed the request on August 8, 1988.

3. Sinclair Buckstaff, Jr.

[Project No. 9929-001—Colorado]

Take notice that Sinclair Buckstaff, Jr., permittee for the Lower Dome Reservoir Dam Project No. 9929, has requested that its preliminary permit be terminated. The preliminary permit was issued August 28, 1986. The project would have been located on Archuleta Creek, near Parlin, in Saguache County, Colorado.

The permittee filed the request on August 8, 1988.

4. Sinclair Buckstaff, Jr.

[Project No. 9935-001—Colorado]

Take notice that Sinclair Buckstaff, Jr., permittee for the Gould Reservoir Dam Project No. 9935, has requested that its preliminary permit be terminated. The preliminary permit was issued August 28, 1986. The project would have been located on Iron Creek near Maher, in Montrose County, Colorado.

The permittee filed the request on August 8, 1988.

5. Sinclair Buckstaff, Jr.

[Project No. 9939-001—Colorado]

Take notice that Sinclair Buckstaff, Jr., permittee for the Santa Maria Reservoir Dam Project No. 9939, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 28, 1986. The project would have been located on North Clear Creek and Gooseberry Creek, near Creede in Mineral County, Colorado.

The permittee filed the request on August 8, 1988.

6. Sinclair Buckstaff, Jr.

[Project No. 9936-002—Colorado]

Take notice that Sinclair Buckstaff, Jr., permittee for the Lake Irwin Dam Project No. 9936, has requested that its preliminary permit be terminated. The preliminary permit was issued August

28, 1986. The project would have been located on Ruby Anthracite Creek, near Crested Butte, in Gunnison County, Colorado.

The permittee filed the request on August 8, 1988.

Standard Paragraphs

I. The preliminary permit/exemption shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21200 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-1-48-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

September 13, 1988.

Take notice that ANR Pipeline Company ("ANR") on September 1, 1988 tendered for filing as part of its FERC Gas Tariff Original Volume No. 1, six copies of the tariff sheet, Seventeenth Revised Sheet No. 18, to be effective October 1, 1988.

ANR states that the above referenced tariff sheet is being filed to adjust its Annual Charge Adjustment (ACA) rate from .21¢/dth to .18¢/dth as permitted by section 17 of its Volume No. 1 Tariff.

ANR states that copies of the filing were served upon all of its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before September 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to file a motion to itnervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21201 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI88-600-000]

Chevron U.S.A. Inc.; Petition for Declaratory Order

September 13, 1988.

Take notice that on August 29, 1988, Chevron U.S.A. Inc. (Petitioner) filed a petition requesting the Commission to issue a declaratory order stating that it has no jurisdiction over the system of pipelines known as the Venice Gathering System through which Petitioner delivers gas from several fields onshore and offshore Louisiana in the Outer Continental Shelf for processing in its Venice Processing Plant. Petitioner contends that the facilities are gathering facilities under section 1(b) of the Natural Gas Act (NGA) and are therefore exempt from the certificate requirements of section 7(c) of the NGA. Petitioner further requests that this petition be considered on an expedited basis due to the impact and regulatory ramifications on Chevron to comply with Order No. 491 and proposed regulations if this petition is denied. Petitioner contends that the facilities perform a gathering function under the primary function test set forth in *Farmland Industries, Inc.*, 23 FERC ¶ 61,063 (1983).

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, within 30 days after publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition are on file with the Commission and available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21202 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-116-000]

Louisiana-Nevada Transit Co.; Informal Settlement Conference

September 13, 1988.

Take notice that an informal settlement conference will convene on October 6, 1988, beginning at 10:00 a.m. in Room 8308 in the Commission's offices located at 825 North Capitol Street NE., Washington, DC 20426.

Any party, as defined by CFR 385.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For further additional information, contact Robert L. Woods, (202) 357-8549 or John J. Keating, (202) 357-5762.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21204 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-140-003; TA89-1-5-001]

Midwestern Gas Transmission Co.; Request for Waiver

September 13, 1988.

Take notice that on September 1, 1988, Midwestern Gas Transmission Company (Midwestern) filed a request for waiver of the transitional rules under § 154.310 of the Commission's Regulations as these apply to the amortization of unrecovered gas costs in the PGA for its Northern System. Midwestern seeks to "normalize" the amortization schedule in its annual adjustment to be effective November 1, 1988, so that it will match the regular schedule set forth in § 154.305 of the Commission's Regulations.

Specifically, Midwestern proposes the following steps:

(1) Close the current account as of June 30, 1988—this will put the deferred account on the standard twelve month schedule ending four months in advance of the annual effective date.

(2) Close the amortization of the prior deferred account as of October 31 based upon estimates of sales for September and October.

(3) Add the two balances determined above to determine the unrecovered gas costs to be amortized in a twelve month surcharge effective November 1.

(4) Stop the surcharge currently in effect on November 1 and institute a new surcharge determined under step (3) above.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers on its Southern System and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 208

and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests shold be filed on or before September 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21205 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP88-733-000[1] through CP88-747-000]

Northwest Pipeline Corp.; Request Under Blanket Authorization

September 13, 1988.

Take notice that on August 30, 1988, Northwest Pipeline Corporation, P.O. Box 8900, Salt Lake City, Utah 84108-0900, filed in the above referenced dockets, requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to provide interruptible transportation service for various shippers under Northwest's blanket certificate issued in Docket No. CP86-578-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the requests which are on file with the Commission and open to public inspection.

Northwest indicates that it would provide the service for each shipper as provided by an executed transportation agreement. In each case Northwest indicates that no new facilities would be required to implement the service. In addition, Northwest states that in each case it would charge rates and abide by the terms and conditions provided by its Rate Schedule TI-1. Northwest has provided other information applicable to each transaction, including the identity of the shipper, the proposed term, the peak day, average day, and annual volumes, and the respective docket numbers and termination rates related to the 120-day transactions initiated under § 284.223 of the Commission's Regulations, which is attached as an appendix.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Acting Secretary.

[1] These applications are not consolidated.

Docket No.	Proposed term	Shipper	Volumes (MMBtu) Peak Day, average day, annual	Related ST docket No.	Expiration date 120-day transaction
CP88-733-000	1-18-2008, then month-to-month	Southwest Gas Corporation	10,000 300 100,000	88-5064-000	10-30-88
CP88-734-000	30 days, then month-to-month	Internationaler Energie Fonds, GMBH	4,000 3,000 1,100,000	88-5124-000	11-4-88
CP88-735-000	30 days, then month-to-month	Thermal Exploration, Inc	30,000 15,000 5,500,000	88-5061-000	10-30-88
CP88-736-000	6 months, then month-to-month	Robert L. Bayless	3,000 1,000 365,000	88-5268-000	11-15-88
CP88-737-000	1 year, then month-to-month	Mobil Natural Gas, Inc	80,000 16,000 6,000,000	88-5060-000	10-30-88
CP88-738-000	30 days, then month-to-month	Grand Valley Gas Transmission Co	6,000 1,000 368,000	88-5245-000	11-10-88
CP88-739-000	30 days, then month-to-month	Mobil Natural Gas, Inc	35,000 5,000 1,800,000	88-5069-000	10-30-88
CP88-740-000	30 days, then month-to-month	Phillips Petroleum Company	80,000 33,000 12,000,000	88-5063-000	10-30-88
CP88-741-000	30 days, then month-to-month	Presidio Energy Company	5,000 170 62,000	88-5065-000	10-30-88
CP88-742-000	1 year	Northwest Marketing Company	140,000 10,000 3,700,000	88-5067-000	10-30-88
CP88-743-000	12-31-88	ITRP Natural Gas Ventures, Inc	64,000 17,000 6,000,000	88-5062-000	10-30-88

Docket No.	Proposed term	Shipper	Volumes (MMBtu) Peak Day, average day, annual	Related ST docket No.	Expiration date 120-day transaction
CP88-744-000	month-to-month	Terra Resources, Inc	10,000 2,000 750,000	88-5066-000	10-30-88
CP88-745-000	30 days, then month-to-month	Hixon Development Company	1,000 660 240,000	88-5269-000	11-15-88
CP88-746-000	2 years	Jerome P. McHugh	3,500 3,300 1,200,000	88-5270-000	11-15-88
CP88-747-000	1 year, and there after until receipts and deliveries are balanced.	Chandler & Associates, Inc.	8,000 2,000 730,000	88-5068-000	10-30-88

[FR Doc. 88-21206 Filed 9-15-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TQ89-1-6-000]

Sea Robin Pipeline Co.; Tariff Filing of Revised Tariff Sheets

September 13, 1988.

Take notice that on September 1, 1988, Sea Robin Pipeline Company (Sea Robin) tendered for filing to its FERC Gas Tariff.

Original Volume No. 1

Fifty Third Revised Sheet No. 4

Sea Robin states the proposed effective date for the tariff sheet is October 1, 1988. The above referenced tariff sheet is being filed pursuant to § 154.304 and 154.308 of the Commission's regulations to reflect the changes in the purchased gas cost adjustment provisions contained in Section 1 and 4 of Sea Robin's FERC Gas Tariff, Original Volume No. 1.

Sea Robin states the tariff sheet filed reflects a Current Adjustment of ($.0497) under Rate Schedules X-1 and X-2. Sea Robin states that there is no change under Rate Schedules X-7 and X-8 in this filing since no gas is expected to be purchased in that area.

Sea Robin states that the revised tariff sheet and supporting data are being mailed to its jurisdictional sales customers and to interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, in such accordance with §§ 385.214 and 385.211 of the Commission's regulations. All such motions of protest should be filed on or before September 20, 1988. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21210 Filed 9-15-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA88-4-37-003]

Northwest Pipeline Corp.; Compliance Filing

September 13, 1988.

Take notice that on September 2, 1988, Northwest Pipeline Corporation ("Northwest") made a filing in compliance with a Commission order issued August 3, 1988 in the above-referenced dockets. The purpose of said filing was to adjust the current deferral balance of Account 191 for the 12 months ended December 31, 1987 pursuant to ordering paragraphs (D), (E) and (H) of the aforementioned order. Northwest states that the appropriate refunds will be tendered to its jurisdictional sales customers upon Commission approval of the September 2, 1988 filing.

Northwest states that a copy of this filing has been mailed to Northwest's jurisdictional customers and affected state commissions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21207 Filed 9-15-88; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA89-1-41-000]

Paiute Pipeline Co.; Filing

September 13, 1988.

Take notice that on September 1, 1988, Paiute Pipeline Company (Paiute) filed Second Revised Sheet No. 10 to its FERC Gas Tariff, Original Volume No. 1, proposed to be effective November 1, 1988.

Paiute states that this annual Purchased Gas Adjustment (PGA) reflects changes in rates from its pipeline and non-pipeline suppliers. Paiute also requests waiver of § 154.302(j) of the Commission's regulations to permit Paiute to treat its firm transportation charges paid to Northwest as purchased gas costs for the purpose of its PGA current adjustments.

Paiute states that if the rates submitted by Northwest Pipeline Corporation (Northwest) are revised for any reason, Paiute reserves the right to submit a substitute sheet to track the Northwest revisions.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214,

385.211 (1987)). All such motions or protests should be filed on or before October 4, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21208 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-145-002 and TQ88-1-58-002]

Texas Gas Pipe Line Corp.; Filing

September 13, 1988.

Take notice that on August 31, 1988, Texas Gas Pipe Line Corporation TGPL) filed the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective June 1, 1988:

Docket No. TQ88-1-58-002

Fifth Revised Sheet No. 20
Second Revised Sheet No. 20a

Docket No. RP88-145-002

Fifth Revised Sheet No. 21
Second Revised Sheet No. 21b

In compliance with Commission Letter Order dated July 27, 1988, TGPL states that Fifth Revised Sheet No. 20 and Second Revised Sheet No. 20a reflect the revision of section 12.4 of its Purchased Gas Adjustments (PGA) clause.

In compliance with Commission Letter Order dated August 3, 1988, TGPL states that Fifth Revised Sheet No. 21 reflects the revision of section 12.7 of its PGA clause and that First Revised Sheet No. 21b changes the language of Section 12.11 of its PGA clause.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1988)). All such motions or protests should be filed on or before September 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21209 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-68-006]

Transcontinental Gas Pipe Line Corp.; Compliance Tariff Filing

September 13, 1988.

Taken notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on September 2, 1988 certain revised tariff sheets to Second Revised Volume No. 1 and Original Volume No. 2 of its FERC Gas Tariff, which tariff sheets are included in Appendix A attached to the filing. The proposed effective dates of the revised tariff sheets are May 1, June 1, August 1 and October 1, 1988.

Transco states that the purpose of its tariff filing is to further revise the rates and tariff provisions related to the recovery of producer buyout and buydown costs, which were included in Transco's compliance filing of April 29, 1988 in Docket No. RP88-68-004. Such revisions are being made to comply with Ordering paragraphs (B)(2) and (B)(3) of the Commission's Order dated August 3, 1988.

Transco further states that copies of the instant filing are being mailed to its jurisdictional customers, State Commissions and interested parties. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours, in a convenient form and place at Transco's main offices at 2800 Post Oak Boulevard in Houston, Texas.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before September 20, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21211 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-180-000]

Trunkline Gas Co.; Informal Settlement Conference

September 13, 1988.

Take notice that a conference will be convened in this proceeding on October 12, 1988 at 10:00 a.m. at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Carmen Gastilo (202) 357-5737 or Paul Biancardi (202) 357-8517.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 88-21203 Filed 9-15-88; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3447-9]

California State Motor Vehicle Pollution Control Standards: Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its exhaust emission standards and test procedures for 1981 and subsequent model-year passenger cars, light-duty trucks [0-3999 lbs. equivalent inertia weight (EIW)], and medium-duty vehicles [0-3999 EIW]. I find these amendments to be within the scope of previous waivers of Federal preemption granted to California for its exhaust emission standards and test procedures for passenger cars, light-duty trucks and medium-duty vehicles.

DATE: Any objections to the findings in this notice must be filed by October 17, 1988. Upon receipt of any timely objection, EPA will consider scheduling a public hearing to reconsider these findings in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the California amendments at issue in this notice, a decision document containing an explanation of EPA's determination and documents used in arriving at this determination are available for public inspection during normal working hours (8:00 a.m. to 3:30 p.m.) at the Environmental Protection Agency, Central Docket Section, (Docket EN-88-07), Room 4 South, Washington Information Center, 401 M Street, SW., Washington, DC 20460. Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Ms. Leila Holmes Cook as noted below.

FOR FURTHER INFORMATION CONTACT: Leila Holmes Cook, Attorney/Advisor, Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382-2526.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Since the 1978 Federal certification test procedures were adopted by the California Air Resources Board (CARB) in 1978, EPA has promulgated changes to its certification provisions for light-duty vehicles. CARB's changes formally adopt, with certain modifications, various EPA changes to Federal certification test procedures made by EPA in order to reduce manufacturer costs and administrative burdens. These amendments relate to:

(1) A change which expands the definition of an engine family;
(2) Continued approval by the CARB Executive Officer of running changes and field fixes;
(3) Expansion of the mileage limitation for "zero-miles" for durability testing;
(4) Specifications for fuel (octane and lead content) used in certification testing;
(5) Allowance of the omission of installation of certain optional equipment on test vehicles;
(6) Reduction of manufacturers' reporting burden by allowing manufacturers not to report the existence of a durability test vehicle which may not ultimately be used for certification purposes;
(7) Allowance of the use of assigned deterioration factors (DFs) for low sales volume engine families;
(8) For durability vehicles, requiring the use of the data outlier identification procedure and specifying the condition associated with performing multiple tests at a test point, rather than requiring that 4,000 miles be accumulated on the test vehicle;
(9) Revision of the high altitude requirements to update them and allow the use of Federal test data to show compliance.

In addition, CARB has adopted the Federal anti-tampering (parameter adjustment) regulations which presently regulate the mechanisms for idle air/fuel mixture and the choke operation system. CARB has also adopted the Federal alternative durability program which allows manufacturers to base DFs on a group of engine families instead of individual engine families. Finally, a number of minor administrative changes not listed above are included in the amendments.

These changes do not undermine California's determination that its standards, in the aggregate, are at least as protective as Federal standards. Further, the amendments do not cause any inconsistency with section 202(a) of the Act and raise no new issues regarding previous waivers. A full explanation of my determination is contained in a decision document which may be obtained as noted above.

Since these amendments are within the scope of previous waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide interested persons an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that EPA should reconsider its findings. Otherwise, these findings shall become final at the expiration of this 30-day period.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's requirements in order to sell motor vehicles in California. For this reason, EPA hereby determines and finds, pursuant to section 307(b) of the Act, that this decision is of nationwide scope and effect.

This action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Additionally, a Regulatory Impact Analysis is not being prepared under Executive Order 12291 for this "within the scope" determination since it is not a rule.

Also, this action is not a "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: September 8, 1988.

Don R. Clay,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 88-21163 Filed 9-15-88; 8:45 am]

BILLING CODE 6560-50-M

[1] EPA has previously issued waivers of preemption for California's 1985 and subsequent model year light-duty and medium duty vehicle diesel particulate emission standards [49 FR 18887 (May 3, 1984)] and other emissions standards for 1983 and subsequent model year light-duty vehicles. (See 51 FR 22858 (June 23, 1986); 48 FR 1537 (January 13, 1983); 47 FR 1015 (January 8, 1982); 46 FR 36237 (July 14, 1981); 45 FR 77509 (November 24, 1980); 45 FR 54132 (August 14, 1980); 45 FR 12291 (February 25, 1980); 44 FR 38660 (July 2, 1979); 43 FR 32182 (July 25, 1978); 43 FR 29615 (July 10, 1978); 43 FR 25729 (June 14, 1978); 43 FR 15490 (April 13, 1978); and 43 FR 1829 (January 12, 1978).

[FRL-3447-8]

California State Motor Vehicle Pollution Control Standards: Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it has adopted amendments to its exhaust and evaporative emission standards and test procedures applicable to 1988 and subsequent model year motorcycles. EPA finds these amendments to be within the scope of previous waivers of Federal preemptions granted to California for its motocycle exhaust and evaporative emissions standards and accompanying enforcement procedures.

DATES: Any objections to the findings in this notice must be filed by October 17, 1988. Otherwise, at the expiration of this 30-day period, these findings will become final. Upon receipt of any timely objection, EPA will consider scheduling a public hearing to reconsider these findings in a subsequent Federal Register Notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (En-340F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Copies of the California amendments at issue in this notice, a decision document containing an explanation of EPA's determination and documents used in arriving at this determination are availabe for public inspection during normal working hours (8:00 a.m. to 3:00 p.m.) at the Enviornmental Protection Agency, Central Docket Section, (Docket EN-88-05) Room 4 South, Washington Information Center, 401 M Street, SW., Washington, DC 20460. Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Ms. Baxter as noted below.

FOR FURTHER INFORMATION CONTACT: Joan S. Baxter, Attorney/Advisor, Manufacturers Operations Division (EN-340F), U.S. Environmental Protection Agency, Washington, DC 20460, (202) 382-2522.

SUPPLEMENTARY INFORMATION: EPA has determined that CARB's amendments are within the scope of waivers of Federal preemption previously granted pursuant to section 209(b) of the Clean Air Act, as amended (Act).[1] Specifically, the amendments to California's exhaust emission standards and test procedures:

1. More closely align California's exhaust emission test procedures with Federal procedures;

2. Specify the test to be used in applying the optional outlier identification procedure, namely, the "Calculation of t-Statistic for Deterioration Data Outlier Test" promulgated by CARB in December 1976;

3. Eliminate the requirement for durability testing under certain circumstances; and

4. Clarify that California's corporate average standards for hydrocarbon (HC) emissions are still applicable to Class III motorcycles notwithstanding the Federal HC exhaust emission standard contained in the incorporated Federal regulations.

The amendments to California's evaporative emission standards and test procedures also codify the exemption from the fill pipe and fuel tank opening specifications motorcycles equipped with evaporative emission control systems certified at 0.2 grams per test (gpt) or more below the applicable evaporative emissions standard contained in CARB Executive Order G-70-16-E, dated July 3, 1980.

These amendments do not undermine California's determination that its standards, in the aggregate, are at least as protective as Federal standards, are not inconsistent with section 202(a) of the Act and raise no new issues regarding previous waivers of Federal preemption. Thus, these amendments are within the scope of previous waiver determinations. A full explanation of EPA's determination is contained in a decision document which may be obtained from EPA as noted above.

Since these amendments are within the scope of previous waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings by October 17, 1988 EPA will consider holding a public hearing to provide interested persons an opportunity to present testimony and evidence to show that there are issues to be addressed through a secition 209(b) waiver determination and that EPA should reconsider its findings. Otherwise, these findings shall become final at the expiration of this 30-day period.

This decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's requirements in order to sell motor vehicles in California. For this reason, EPA hereby determinates and finds, pursuant to section 307(b) of the Act, that this decision is of nationwide scope and effect.

This action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 19, 1981). Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Additionally, a Regulatory Impact Analysis is not being prepared under Executive Order 12291 for this "within the scope" determination since it is not a rule.

This action is also not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: September 8, 1988.

Don R. Clay,

Acting Assistant Administator for Air and Radiation.

[FR Doc. 88-21164 Filed 9-15-88; 8:45 am]

BILLING CODE 6560-50-M

---

[1] EPA has previously issued waivers of preemption for California's exhaust emission standards and test procedures for 1978 and subsequent model year motorcycles. 41 FR 44209 (October 7, 1976) and 43 FR 998 (January 5, 1978). EPA has confirmed that a subsequent amendment to the hydrocarbon (HC) exhaust standard which relaxed the standard for certain small volume manufacturers for the 1982 model year was within the scope of the previously-granted waivers. 47 FR 23204 (May 27, 1982). EPA has also previously waived Federal preemption for California's evaporative emission standards and test procedures for 1983 and subsequent model year motorcycles. 47 1015 (January 8, 1982). When CARB subsequently amended the test procedures to allow the use of bench testing to determine evaporative emissions durability for 1983 and subsequent model year motorcycles, EPA confirmed that those changes were within the scope of the previously-granted waiver. 47 FR 23204 (May 27, 1982). EPA has also previously waived Federal preemption to permit California to enforce its motorcycle fill pipe and fuel tank opening specifications. 42 FR 1503 (January 7, 1977). EPA subsequently reconsiderd the specifications in light of CARB's issuance of Executive Order G-70-16-E and affirmed the previously granted waiver. 47 FR 7306 (February 18, 1982). EPA also granted a waiver for CARB amendments which established interim evaporative emission standards and new exhaust emission corporate average standards for Class III motorcycles. 53 FR 6195 (March 1, 1988).

[ER-FRL-3448-7]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared August 29, 1988 through September 2, 1988 pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5074.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 22, 1988 (53 FR 13318).

Draft EISs

ERP No.: D-GSA-F81012-IL, Rating LO, Chicago Downtown Federal Office Building Construction, Implementation, Cook, DuPuge, Lake, Kane, Will and McHenry Counties, IL.

Summary: EPA has no objections to the project as proposed.

ERP No.: D-NPS-L61175-AK, Rating EC2, Noatak National Preserve, Wilderness Recommendation, Designation or Nondesignation, AK.

Summary: EPA is concerned about the adverse impacts to the endangered humpback whale. The final EIS needs to address how the NPS plans to implement and enforce regulations to control vessel use and traffic in order to protect the whales.

ERP No.: D–OSM–J01072–MT, Rating EC2, Peabody Big Sky Coal Mine-Area B Expanded Operations Project, Plan Approval, Lee Coulee Drainage, Rosebud County, MT.

Summary: EPA is concerned that the discussion of the cumulative impacts of degraded water for future land use is insufficient and inconsistent. The impacts of multiple potential mining developments need to be more roughly analyzed. Further, additional discussion of monitoring plans and economic impacts to recreational resources need to be included.

ERP No.: D–SCS–J31020–CO, Rating 3, McElmo Creek Unit Salinity Control Study, Onfarm Irrigation Improvements, Funding and Implementation, Montezuma County, CO.

Summary: EPA's major concern is that this document inadequately addresses the projected loss of 1670 acres of wetlands. EPA found insufficient information on wetland types, location, values, direction and opportunities for mitigation, and monitoring/evaluation plans. Impacts on State water quality standards should also be addressed in more detail. EPA recommends that a supplemental or revised draft EIS be prepared and made available for public comment.

ERP No.: DS–SFW–L64027–AK, Rating LO, Becharof National Wildlife Refuge Management Plan, Wilderness Recommendations, Designation or Nondesignation. AK.

Summary: EPA has no objections to the proposed project as described.

ERP No.: DS–SFW–L64028–AK, Rating LO, Alaska Peninsula National Wildlife Refuge Management Plan, Wilderness Recommendations, Desigation or Nondesignation, AK.

Summary: EPA has no objections to the proposed project as described in this document.

ERP No.: D–UAF–A10061–00, Rating **2, Peacekeeper Rail Garrison Deployment Program, Implementation, F.E. Warren AFB, WY; Barksdale AFB, LA; Dyess AFB, TX; Fairchild AFB, WA; Minot AFB, ND; Eaker (formerly Blytheville) AFB, AR; Grand Forks AFB, ND; Little Rock AFB, AR; Malmstrom AFB, MT; Whiteman AFB, MO and Wurtsmith AFB, MI.

Summary: EPA is concerned about a number of sites which involve impacts to wetlands. EPA recommended that these impacts be mitigated or avoided by selecting sites at which there would be no wetland impacts.

Final EISs

ERP No.: F–BLM–J65113–00, Billings Resource Area, Wilderness Study Areas (WSAs') Wilderness Recommendations, Designation or Nondesignation, Twin Coulee, Pryor Mountain, Brunt Timber Canyon and Big Horn Tack-On WSAs', Miles City District, Golden Valley and Carbon Counties, MT and Big Horn County, WY.

Summary: EPA is concerned that there is insufficient information in this document concerning mitigation of potential impacts under the proposed No Wilderness Alternative for the Twin Coulee WSA. Without appropriate mitigation, the activities anticipated in this alternative may result in increased erosion and non-point pollution.

ERP No.: F–COE–J34015–ND, Baldhill Dam and Lake Ashtabula Reservoir, Dam Safety Protection Plan, Implementation, Sheyenne River, Valley City, Barnes County, ND.

Summary: EPA agrees that the project as proposed can achieve the desired flood control, recreation use capability, and dam safety assurance with minimal negative environmental impacts.

ERP No.: F–COE–K36091–CA, Coyote and Berryessa Creeks Flood Control Plan, Implementation, Cities of San Jose and Milpitas, Santa Clara County, CA.

Summary: EPA expressed ongoing concerns that the proposed flood control project does not appear to comply with Section 404 of the U.S. Clean Water Act because less-damaging practicable alternatives to the proposed project exist, and that the fisheries mitigation plan is inadequate. EPA asked that the Corps' Record of Decision incorporate a number of provisions to protect riparian habitats and condition.

Regulations

ERP No.: R–CGD–A55014–00, 33 CFR Parts 126, 154, 155, 156; Hazardous Materials Pollution Prevention; Notice of Proposed Rulemaking (53 FR 22118).

Summary: Review of the proposed rulemaking was completed and the proposed rules found to be satisfactory. No formal comments were sent to the agency.

ERP No.: R–FRC–A05462–00, 18 CFR Parts 4 and 16—Hydroelectic Relicensing Regulation Under the Federal Power Act.

Summary: EPA is concerned that the proposed rules will limit the impact analysis in an application for relicensing to only existing and proposed flows. When many of these projects were initially licensed in the mid 1900's, little consideration was given to environmental protection. EPA is concerned that if FERC identifies existing flows as the baseline, improvements in water quality that would result from increased flow will not be properly considered in setting minimum flow levels for relicensed projects.

Dated: September 13, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88–21223 Filed 9–15–88; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3448–8]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5076 or (202) 382–5075.

Availability of Environmental Impact Statements Filed September 5, 1988 Through September 9, 1988 Pursuant to 40 CFR 1506.9.

EIS No. 880295, Draft, BLM, NM, White Sands Resource Management Plan, McGregor Range, Implementation, Otero County, NM, Due: January 3, 1989, Contact: Robert Alexander (505) 525–8228.

EIS No. 880296, FSuppl, SFW, AK, Kenai National Wildlife Refuge Comprehensive Conservation Management Plan, Wilderness Recommendations, Designation or Nondesignation, Kenai Peninsula Borough, AK, Due: October 17, 1988, Contact: William Knauer (907) 786–3399.

EIS No. 880297, Draft, COE, IL, Liverpool Village Flood Control Project, Implementation, Illinois River, Fulton County, IL, Due: October 31, 1988, Contact: Ron Klump (307) 788–6361.

EIS No. 880298, Final, FHW, NJ, US 206 (Section 5) Improvement, CR–518 to Routes US 202, NJ–28 and US 206 Intersection/ Somerville Circle, Implementation, Funding and 404 Permit, Somerset County, NJ, Due: October 17, 1988, Contact: Andreas Fekete (609) 530–2824.

EIS No. 880299, Final, NOA, ATL, MXG, Atlantic, Gulf and Caribbean Exclusive Economic Zones (EEZ) Billfish Fishery Management Plan, White and Blue Marlin, Sailfish and the Longbill Spearfish, Implementation, Due: October 17, 1988, Contact: Dr. Joseph Angelovic (813) 893–3141.

EIS No. 880300, Draft, EPA, AS, Tutuila Island Offshore Ocean Disposal Site Designation for Fish Cannery Waste,

AS, Due: October 31, 1988, Contact: Patrick Cotter (415) 474–0257.

EIS No. 880301, Draft, EPA, LA, Houma Navigation Canal, Ocean Dredged Material Disposal Site Designation, Terrebone Parish, LA, Due: October 31, 1988, Contact: Norm Thomas (214) 655–2260.

EIS No. 880302, Draft, AFS, CA, Grider Fire Recovery Project, 1987 August thru October Grider/Lake Fire Resource Management Plan, Klamath National Forest, Siskiyou County, CA, Due: October 31, 1988, Contact: Robert Rice (916) 842–6131.

Amended Notices

EIS No. 880232, Draft, DOE, CA, Lawrence Livermore National Laboratory, Nonactive, Mixed and Radioactive Waste Decontamination and Waste Treatment Facility, Construction and Operation, Implementation, Alameda County, CA, Due: October 18, 1988, Contact: William Holman (415) 273–6370. Published FR 7–22–88—Review period extended.

EIS No. 880246, FSuppl, AFS, OR, WA, CA, Northwest Regional Guide, Northern Spotted Owl Habitat Management Standards and Guidelines, Updated and Additional Research, OR, WA and CA, Due: September 30, 1988, Contact: Larry Fellows (503) 221–4923. Published FR 8–12–88—Review period extended.

EIS No. 880292, Draft, BLM, San Rafael Resource Area, Land and Resource Management Plan, Implementation, Emery County, UT, Due: December 7, 1988, Contact: Jim Dryden (801) 637–4584. Published FR 9–9–88—Incorrect Bureau, published as AFS.

Dated: September 13, 1988.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 88–21222 Filed 9–15–88; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

Westwind Radio Co. et al.; Applications for New FM Stations

1. The commission has before it the following groups of mutually exclusive applications for new FM stations:

I.

Applicant, City and State	File No.	MM Docket No.
A. Mr. Vincent Bosquez d/b/a Westwind Radio Co., Twentynine Palms, CA.	BPH–870311MF	88–394
B. Morongo Basin Broadcasting Corp., Twentynine Palms, CA.	BPH–870311MI	.....
C. Courtney L. Flatau, Twentynine Palms, CA.	BPH–870310MG (Dismissed Previously)	.....

Issue Heading and Applicant

1. Air Hazard—A
2. Comparative—Both
3. Ultimate—Both

II.

Applicant, City and State	File No.	MM Docket No.
A. Linda Adams, Mount Vernon, MO.	BPH–861126MB	88–391
B. Tim Cantrell, Mount Vernon, MO.	BPH–861126MZ	.....

Issue Heading and Applicant

1. Air Hazard—B
2. Comparative—A,B
3. Ultimate—A,B

III.

Applicant, City and State	File No.	MM Docket No.
A. Randall R. Wahlberg, Springfield, FL.	BPH–870629MT	88–395
B. Stephen D. Tarkenton, Springfield, FL.	BPH–870630MT	.....
C. Springfield FM Limited Partnership, Springfield, FL.	BPH–870701MU	.....
D. Charles A. McClure, Springfield, FL.	BPH–870701MY	.....

Issue Heading and Applicant

1. Air Hazard—A
2. Alien Control—B
2. Comparative—A,B,C,D
3. Ultimate—A,B,C,D

IV.

Applicant, City and State	File No.	MM Docket No.
A. Jon A. & Connie C. Hill d/b/a J&C Broadcasting Co., Windsor, VA.	BPH–870925MB	88–399
B. Tidewater Broadcasting, Windsor, VA.	BPH–870928MA	.....
C. Robert H. Cauthen, Jr. and Joseph A. Booth d/b/a JH Communications, Windsor, VA.	BPH–870928MB	.....
D. American Indian Broadcasting Group, Inc., Windsor, VA.	BPH–870928MC	.....
E. Radio Franklin Limited Partnership, Windsor, VA.		.....

Issue Heading and Applicant

1. Comparative—A,B,C,D,E
2. Ultimate—A,B,C,D,E

V.

Applicant, City and State	File No.	MM Docket No.
A. Oliver Kelley and Mary Ann Kelley, Joint Tenants with the Right of Survivorship, Nolanville, TX.	BPH–870821MB	88–401
B. Val-Jo Communications, Inc., Nolanville, TX.	BPH–870827MD	.....
C. Martha Jean Sullivan, Nolanville, TX.	BPH–870827MM	.....
D. Comanche Gap Wireless, Inc., Nolanville, TX.	BPH–870827MP	.....
E. Texas FM Limited Partnership, Nolanville, TX.	BPH–870827MZ	.....
F. Capricorn Broadcasting Company, Inc., Nolanville, TX.	BPH–870827NK	.....
G. Kitty Young, Nolanville, TX.	BPH–870827NV	.....

Issue Heading and Applicant

1. Air Hazard—D,G
2. Comparative—A,B,C,D,E,F,G
3. Ultimate—A,B,C,D,E,F,G

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in consolidated proceedings upon the issues listed above for each proceeding. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding

headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used to signify whether the issue in question applies to that particular applicant.

3. Non-standardized issues in these proceedings, are set forth in an Appendix to this Notice. A copy of the complete HDO's in these proceedings are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 88–21125 Filed 9–15–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067–0189

Title: State/Local Exercise Data

Abstract: The State/local Exercise Annex of the CCA contains reporting requirements for exercises documented on States' Five Year Exercise Plan. This form serves to confirm their projected activities and document valuable evaluation data which may indicate the need for remedial actions. The form also assists indicating the state of national preparedness.

Type of Respondents: State or local governments

Estimate of Total Annual Reporting and Recordkeeping Burden: 960

Number of respondents: 3,200

Estimated Average Burden Hours Per Response: .3 hours

Frequency of Response: Quarterly

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington, DC 20472.

Direct comments regarding the burden estimate or any aspect of this information collection, including suggestions for reducing this burden, to the FEMA Clearance Officer at the above address; and to Francine Picoult, (202) 395–7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503 within two weeks of this notice.

Dated: September 9, 1988.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 88–21134 Filed 9–15–88; 8:45 am]

BILLING CODE 6718-01-M

Board of Visitors for the National Fire Academy; Open 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: Board of Visitors for the National Fire Academy

Dates of Meeting: October 16–18, 1988

Place: National Emergency Training Center, G Bldg., 2nd Floor Conference Room, Emmitsburg, MD 21727

Time:

October 16—2:00 p.m. to 5:00 p.m.
October 17—9:00 a.m. to 5:00 p.m.
October 18—9:00 a.m. to 12:00 m.

Proposed Agenda: Old Business, New Business; Board of Visitors Visitation to National Fire Academy Classes and Facilities Survey

The meeting will be open to the public with seating available on a first-come, first-serve basis. Members of the general public who plan to attend the meeting should contact the Office of the Superintendent, National Fire Academy, Office of Training, 16825 South Seton Avenue, Emmitsburg, Maryland 21727 (telephone number, 301–447–1123) on or before October 7, 1988.

Minutes of the meeting will be prepared by the Board and will be available for public viewing in the Director's Office, Office of Training, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472. Copies of the minutes will be available upon request 30 days after the meeting.

Dated: September 2, 1988.

Robert H. Volland,

Acting Director, Office of Training.

[FR Doc. 88–21135 Filed 9–15–88; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL HOME LOAN BANK BOARD

American Savings and Loan Association Stockton, CA; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in [1] 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for American Savings and Loan Association, Stockton, California on September 5, 1988.

Dated: September 12, 1988.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–21149 Filed 9–15–88; 8:45 am]

BILLING CODE 6720-01-M

[No. AC–737]

Blue Chip Savings Association Cincinnati, OH; FHLBB No. 5472; Final Action; Approval of Conversion Application

Date: September 6, 1988.

Notice is hereby given that on August 18, 1988, the Office of the General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Blue Chip Savings Association, Cincinnati, Ohio for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552 and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Cincinnati, 2000 Atrium II, 221 E. 4th Street, Cincinnati, Ohio.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88–21150 Filed 9–15–88; 8:45 am]

BILLING CODE 6720-01-M

[No. AC–738]

First Federal Savings and Loan Association of Osceola County St. Cloud, FL; FHLBB No. 3259; Final Action; Approval of Conversion Application

Date: September 13, 1988.

Notice is hereby given that on September 6, 1988, the Office of the

General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of First Federal Savings and Loan Association of Osceola County, St. Cloud, Florida, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Office of the Secretariat at the Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent at the Federal Home Loan Bank of Atlanta, 1475 Peachtree Street, NE., Atlanta, Georgia 30309.

By the Federal Home Loan Bank Board.

Nadine Y. Washington,

Assistant Secretary.

[FR Doc. 88-21151 Filed 9-15-88; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 204-010064-016.

Title: U.S. Gulf/Colombia Equal Access Agreement.

Parties:

Lykes Bros. Steamship Co., Inc.
Crowley Caribbean Transport
New York Navigation Company, Inc.
Dock Express Contractors, Inc.
Flota Mercante Grancolombiana, S.A.
CTMT, Inc.

Synopsis: The proposed modification would add Maryland Ship, Incorporated, as a party to the agreement. The parties have requested a shortened review period.

Agreement No.: 204-010066-014.

Title: United States Atlantic & Pacific/Colombia Equal Access Agreement.

Parties:

Flota Mercante Grancolombiana, S.A.
CTMT, Inc.
Crowley Caribbean Transport, Inc.
Lykes Bros. Steamship Co., Inc.
United States Lines

Synopsis: The proposed modification would delete United States Lines and add Maryland Ship, Incorporated, as a party to the agreement. The parties have requested a shortened review period.

Agreement No.: 202-010636-048.

Title: U.S. Atlantic-North Europe Conference.

Parties:

Atlantic Container Line, B.V.
Orient Overseas Container Line (UK) Ltd.
Hapag-Lloyd AG
Sea-Land Service, Inc.
A.P Moller-Maersk Line
Gulf Container Line (GCL), B.V.
P&O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)
Nedlloyd Lijnen, B.V.

Synopsis: The proposed modification would further clarify the rules applicable to service contracts with respect to terminal handling and container service charges in connection with eastbound shipments from or via U.S. ports.

Agreement No.: 202-010833-015.

Title: Eurocorde-I.

Parties:

North Europe-U.S. Atlantic Conference
U.S. Atlantic-North Europe Conference
Polish Ocean Lines
American Transport Lines, Inc.
Topgallant Group, Inc.
South Atlantic Cargo Shipping N.V.
Mediterranean Shipping Co., S.A.
Orient Overseas Container Line (UK) Ltd.
Lykes Bros. Steamship Co., Inc.

Synopsis: The proposed modification would further clarify the rules applicable to service contracts with respect to terminal handling and container service charges in connection with eastbound shipments from or via U.S. ports.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: September 13, 1988.

[FR Doc. 88-21183 Filed 9-15-88; 8:45 am]

BILLING CODE 6730-01-M

Survey of Shippers

The Federal Maritime Commission recently sent surveys to shippers seeking their views as to the impact of the Shipping Act of 1984, 46 U.S.C. app. 1701 *et seq.* ("1984 Act"). The survey is being conducted as part of a five-year study mandated in section 18 of the 1984 Act, which directed the Federal Maritime Commission to "collect and analyze information concerning the impact of this Act upon the international ocean shipping industry," and to present its findings to an Advisory Commission on Conference in Ocean Shipping, to be convened five and one-half years after enactment of the 1984 Act. The surveys are the third in a series to be distributed on an annual basis through 1989.

The Federal Maritime Commission would like its survey to have the widest possible distribution. All interested shippers who have *not* received a copy of the survey are urged to contact: Ernest L. Worden; Bureau of Economic Analysis; Federal Maritime Commission; 1100 L Street, NW.; Washington, DC 20573; telephone (202) 523-5870.

Joseph C. Poking,

Secretary.

[FR Doc. 88-21114 Filed 9-15-88; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunications Privacy Advisory Committee; Meeting

Notice is hereby given that the General Services Administration's (GSA's) Federal Telecommunications Privacy Advisory Committee will meet on September 23, 1988, from 8:30 a.m. to 4:00 p.m. in Room 7511 of the GSA Regional Office Building, 7th and D Streets, SW., Washington, DC. The agenda will include presentations and discussions of the following: Telephone systems operations, Freedom of Information Act, Privacy Act, auditors and investigators use of call detail records (CDR), financial officers use of CDR, and telecommunications managers use of CDR.

The meeting will be open to the public.

Fewer than fifteen days notice of this meeting is being provided due to scheduling difficulties.

Questions regarding this meeting should be directed to John J. Landers, (202) 523-5308.

Dated: September 7, 1988.

John J. Landers,

Director, Office of Administration, Information Resources Management Service.

[FR Doc. 88-21197 Filed 9-15-88; 8:45 am]

BILLING CODE 6320-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 9, 1988.

Public Health Services

(Call Reports Clearance Office 202-245-2100 for copies of package)

1. Cancer Information Service (CIS) Call Record Form—0925-0208—The CIS provides the general public, cancer patients and their families, and health professionals with the latest information on cancer. This field evaluation involves asking a sample of CIS users 7 questions, including 5 demographics. The resulting information will be reviewed by local and national project management to monitor program progress and report findings in the professional literature. Respondents: Individuals or households; Number of Respondents: 35,562; Frequency of Response: On occasion; Estimated Annual Burden: 148 hours

2. Avoidable Mortality from Cancer in Black Populations—New—Cancer Screening Intervention in Black Women in an Inner-City Community—A lay health worker delivered cervical and breast cancer education program will be assessed using in-person interviews pre and post intervention. The data gathered will help guide the National Cancer Institute's National Cancer Prevention and Control program and provide needed information to assess the effectiveness of lay health worker delivered cervical and breast cancer educational programs in the black female population which is disproportionately effected by these cancers. Respondents: Individuals or households; Number of Respondents: 407; Frequency of Response: Single Time collection; Estimated Annual Burden: 384 hours

3. National Health Service Corp., State Loan Repayment & Special Repayment Program—New—Information will be collected from Loan Repayment Program (LRP) participants to determine approval of tax liability benefits and for approval of deferment and waiver requests. States applying for LRP will submit information to assist in awarding grants under this program. Respondents: Individuals or households, State or local governments; Number of Respondents: 86; Frequency of Response: On occasion; Estimated Annual Burden: 1,460 hours.

4. Quick Response Survey on Drug Abuse—Feasibility Study—New—Data will be collected by use of an approved Quick Response telephone survey methodology to study the feasibility of collecting drug abuse data (marijuana and cocaine) via a telephone mechanism. The information will be collected utilizing the same questions as in the 1988 National Household Survey on Drug Abuse conducted during the same time period. The study will look at three areas; response rate, comparability, and coverage. If found feasible, this mechanism will be used to update prevalence data in years other than when the National Survey is conducted. Respondents: Individuals or households; Numbr of Respondents: 3,000; Frequency of Response: 1; Estimated Annual Burden: 600 hours.

5. National Library of Medicine Regulations—0925-0276—The National Library of Medicine needs information collected in order to provide mandated access to National Library of Medicine facilities, collections, and resources to the public and health science professionals in the most equitable and efficient manner. Respondents: Individuals or households, State and local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations; Number of Respondents: 1; Frequency of Response: Annually; Estimated Annual Burden: 1 hour.

6. Involuntary Child and Spousal Support Allotments; Public Health Service Commissioned Personnel—0937-0123—Information required to obtain involuntary child and spousal support allotments owed by active-duty members of the Commissioned Corps of the Public Health Service. Respondents: Individuals or households; Number of Respondents: 1; Frequency of Response: 1; Estimated Annual Burden: 1 hour.

Health Care Financing Administration

(Call Reports Clearance Officer (301) 966-2088 for copies of package)

1. Annual Survey of Independent Prepaid and Self Insured Health Plans—0938-0249—This date is necessary to determine the number of persons receiving various forms of health benefits, the coverage and benefit expenditures, and enrollment data of independent health plans. Respondents: Non-Profit Institutions, Small Businesses or organizations; Number of Respondents: 725; Frequency of Response: 1; Estimated Annual Burden: 344 hours.

Human Development Services

(Call Reports Clearance Officer 202-472-4415 for copies of package)

1. Annual Program Performance Report—Developmental Disabilities—0980-0172—The DD Assistance and Bill of Rights Act Amendments of 1987, Section 107(a) require that States funded under Part B submit to the Secretary, in a format prescribed by the Secretary, an annual report of activities and accomplishments which are to be used to prepare the Secretary's Annual Report to Congress, the President, and the National Council on the Handicapped. Respondents: State or Local governments; Number of Respondents: 55; Frequency of Response: 1; Estimated Annual Burden: 4,400 hours. As mentioned above, copies of the information collection clearance packages can be obtained by calling the Reports Clearance Officer, on one of the following numbers:

PHS: (202) 245-2100
HCFA: (301) 966-2088
FSA: (202) 245-0652
SSA: (301) 965-4149
OS: (202) 245-6511
OHDS: (202) 472-4415

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, *ATTN:* Shannah Koss-McCallum.

Date: September 12, 1988.

James V. Oberthaler,

Deputy Assistant Secretary for Information Resources Management.

[FR Doc. 88-21148 Filed 9-15-88; 8:45 am]

BILLING CODE 4150-04-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, October 24–25, 1988, at the Twin Bridges Marriott, 333 Jefferson Davis Highway, Arlington, Virginia 22202.

The meeting will be open to the public on October 24, from 8:00 a.m. to approximately 9:00 a.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 to sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 24 from approximately 9:00 a.m. to recess, and from 8 a.m., to adjourment on October 25, 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 personel privacy.

Ms. 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, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. David M. Monsees, Jr., Contracts, Clinical Trials and Training Review Section, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, Westwood Building, Room 550B, Bethesda, Maryland 20892. (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 Institute of Health.)

Dated: September 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–21170 Filed 9–15–88; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; National Heart, Lung, and Blood Advisory Council and Its Research Subcommittee and Training Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Heart, Lung, and Blood Advisory Council, National Heart, Lung, and Blood Institute, October 13–14, 1988, National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20892. In addition, the Research Subcommittee and the Training Subcommittee of the above Council will meet on October, 12; the Research Subcommittee at 1 p.m. in Building 31, Conference Room 9 and the Training Subcommittee at 8 p.m. in Building 31, Conference Room 10.

The Council meeting will be open to the public on October 13 from 9 a.m. to approximately 3:30 p.m. for discussion of program policies and issues. Attendance by the public is limited to space avaiable.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C., section 10(d) of Pub. L. 92–463, the Council meeting will be closed to the public from approximately 3:30 p.m. on October 13 to adjournment on October 14 for the review, discussion and evaluation of individual grant applications. The meeting of the Research Subcommittee and the Training Subcommittee of the above Council on October 12, will be closed from 1 p.m. and 8 p.m., respectively, to adjournment 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.

Ms. Terry Bellicha, Chief, Communcations and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Council members,

Ms. Arlene Zimmerman, Executive Secretary, National Heart, Lung, and Blood Advisory Council, Westwood Building, Room 7A–15, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–7548, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health.)

Dated: September 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–21168 Filed 9–15–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases; Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Allergy and Clinical Immunology Subcommittee of the Allergy, Immunology, and Transplantation Research Committee, National Institute of Allergy and Infectious Diseases, on October 11–12, 1988, at the Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

The meeting will be open to the public from 8:30 a.m. to 9:40 a.m. on October 11, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting of the Allergy and Clinical Immunology Subcommittee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:40 a.m. until recess on October 11, and from 8:30 a.m. until adjournment on October 12. These applications, proposals, and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301–496–5717), will provide a summary of the meeting and a roster of the commmittee members upon request.

Dr. Nirmal K. Das, Executive Secretary, Allergy, Immunology and Transplanation Research Committee, NIAID, NIH, Westwood Building, Room

7A03, Bethesda, Maryland 20892, telephone (301–496–7966), will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: September 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–21167 Filed 9–15–88; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Dental Research; Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Special Grants Review Committee, National Institute of Dental Research, October 18–19, 1988, to be held in the National Institutes of Health, Building 31. The Committee will meet in Conference Room 4, "A" Wing, on October 18, and in Conference Room 9, "C" Wing, on October 19. The meeting will be open to the public from 9 a.m. to 9:30 a.m. on October 18, for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Tutle 5, U.S.C. and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on October 18 from 9:30 a.m. to recess and on October 19 from 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commercial property, such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Rose Marie Petrucelli, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 519, Bethesda, MD 20892 (telephone 301/496–7658), will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13–122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13–845—Dental Research Institute; National Institutes of Health.)

Dated: September 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–21169 Filed 9–15–88; 8:45 am]

BILLING CODE 4140–01–M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meetings of the following study sections for September through November 1988, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and section 10(d) of Pub. L. 92–463, 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.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–496–7534 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contact the executive secretary to confirm the exact date, time and location. All times are a.m. unless otherwise specified.

Study section	September–November 1988 meetings	Time	Location
Allergy and Immunology: Dr. Eugene Zimmerman, Rm. 320, Tel. 301–496–7380.	Oct. 13–15	8:30	Holiday Inn, Bethesda, MD.
Bacteriology and Mycology—1: Dr. Timothy J. Henry, Rm. 304, Tel. 301–496–7340.	Oct. 12–14	8:30	Ramada Inn, Bethesda, MD.
Bacteriology and Mycology—2: Dr. William Branche, Jr., Rm. 306, Tel. 301–496–7682.	do	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine: Dr. Joan Rittenhouse, Rm. 438, Tel. 301–496–7109.	Oct. 5–7	8:00	Omni Georgetown Hotel, Washington, DC.
Biochemical Endocrinology: Dr. Michael Knecht, Rm. 226, Tel. 301–496–7430.	Oct. 10–12	8:30	Ramada Inn, Bethesda, MD.
Biochemistry—1: Dr. Adolphus P. Toliver, Rm. 318B, Tel. 301–496–7516.	Oct. 26–29	8:30	Westpark Hotel, Arlington, VA.
Biochemistry—2: Dr. Alex Liacouras, Rm. 318A, Tel. 301–496–7517.	Oct. 13–15	8:30	Holiday Inn, Georgetown, DC.
Bio-Organic and Natural Products Chemistry: Dr. Michael Rogers, Rm. 5, Tel. 301–496–7107.	Oct. 20–22	9:00	Holiday Inn, Bethesda, MD.
Biophysical Chemistry: Dr. John B. Wolff, Rm. 236B, Tel. 301–496–7070.	do	8:30	The Carlyle Suites, Washington, DC.

Study section	September–November 1988 meetings	Time	Location
Bio-Psychology: Dr. A. Keith Murray, Rm. 220, Tel. 301-496-70588.	Oct. 3-6	8:30	Ramada Inn, Bethesda, MD.
Cardiovascular and Pulmonary: Dr. Gordon L. Johnson, Rm. 439A, Tel. 301-496-7316.	Oct. 5-7	8:30	Crowne Plaza, Rockville, MD.
Cardiovascular and Renal: Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901.	Oct. 24-26	8:30	Holiday Inn, Bethesda, MD.
Cellular Biology and Physiology—1: Dr. Gerald Greenhouse, Rm. 336, Tel. 301-496-7396.	Oct. 5-7	8:00	Conference Rm. B119, Federal Building, Bethesda, MD.
Cellular Biology and Physiology—2: Dr. Gerhard Ehrenspeck, Rm. 304, Tel. 301-496-7681.	Oct. 17-19	8:30	Holiday Inn, Bethesda, MD.
Chemical Pathology: Dr. Edmund Copeland, Rm. 353, Tel. 301-496-7078.	do	8:00	Holiday Inn, Bethesda, MD.
Diagnostic Radiology: Dr. Catharine Wingate, Rm. 219B, Tel. 301-496-7650.	Oct. 19-21	8:30	Westin Hotel, Washington, DC.
Endocrinology: Dr. Harry Brodie, Rm. 333, Tel. 301-496-7346.	Oct. 12-14	8:00	The Regency, Shrewsbury, MA.
Epidemiology and Disease Control—1: Dr. Sooja Kim, Rm. 203C, Tel. 301-496-7246	do	8:30	Sheraton International Conference Center, Reston, VA.
Epidemiology and Disease Control—2: Dr. Horace Stiles, Rm. 340, Tel. 301-496-7248.	do	8:30	Sheraton International Conference Center, Reston, VA.
Experimental Cardiovascular Sciences: Dr. Richard Peabody, Rm. 234, Tel. 301-496-7940.	Sept. 25-27	8:00	University of California, San Francisco, CA.
Experimental Immunology: Dr. Calbert Laing, Rm. 222B, Tel. 301-496-7238.	Oct. 12-14	8:00	Holiday Inn, Georgetown, DC.
Experimental Therapeutics—1: Dr. Morris Kelsey, Rm. 221, Tel. 301-496-7839.	Oct. 24-26	8:00	Holiday Inn, Chevy Chase, MD.
Experimental Therapeutics—2: Dr. Marcia Litwack, Rm. 2A03, Tel. 301-496-8848.	Nov. 3-4	8:00	Room 9, Bldg. 31C, Bethesda, MD.
Experimental Virology: Dr. Garrett V. Keefer, Rm. 206, Tel. 301-496-7474.	Oct. 17-18	8:30	Room 8, Bldg. 31C, Bethesda, MD.
General Medicine A-1: Dr. Harold Davidson, Rm. 354A, Tel. 301-496-7797.	Oct. 19-21	8:30	Howard Johnson Plaza Hotel (Wellington), Washington, DC.
General Medicine A-2: Dr. Donna J. Dean, Rm. 354B, Tel. 301-496-7140.	do	8:30	Room 6, Bldg. 31C, Bethesda, MD.
General Medicine B: Dr. Daniel McDonald, Rm. 322, Tel. 301-496-7730.	Oct. 5-7	8:00	Woodfin Suites, Gaithersburg, MD.
Genetics: Dr. David Remondini, Rm. 349, Tel. 301-496-7271.	Oct. 13-15	9:00	Room 6, Bldg. 31C, Bethesda, MD.
Hearing Research: Dr. Joseph Kimm, Rm. 1A03, Tel. 301-496-7494.	Oct. 26-28	8:30	Omni Shoreham Hotel, Washington, DC.
Hematology—1: Dr. Clark Lum, Rm. 355A, Tel. 301-496-7508	Oct. 20-22	8:00	Hyatt Regency Hotel, Bethesda, MD.
Hematology—2: Dr. Joel Solomon, Rm. 355B, Tel. 301-496-7508.	Oct. 19-21	8:00	Ramada Inn, Bethesda, MD.
Human Development and Aging—1: Dr. Teresa Levitin, Rm. 303, Tel. 301-496-7025.	Oct. 12-14	9:00	Howard Johnson Plaza Hotel (Wellington), Washington, DC.
Human Development and Aging—2: Dr. Louis Quatrano, Rm. 305, Tel. 301-496-7640.	Oct. 26-28	8:30	Omni Georgetown Hotel, Washington, DC.
Human Development and Aging—3: Dr. Anita Sostek, Rm. 303A, Tel. 301-496-9403.	Oct. 19-21	8:30	Marbury House, Georgetown, DC.
Human Embryology and Development: Dr. Arthur Hoversland, Rm. 319A, Tel. 301-496-7597.	Oct. 20-21	8:30	Holiday Inn, Georgetown, DC.
Immunobiology: Dr. William Stylos, Rm. 222A, Tel. 301-496-7780.	Oct. 12-14	8:30	Holiday Inn, Bethesda, MD.
Immunological Sciences: Dr. Anita Weinblatt, Rm. 233A, Tel. 301-496-7179.	Oct. 11-13	8:30	Do

Study section	September–November 1988 meetings	Time	Location
Mammalian Genetics: Dr. Jerry Roberts, Rm. 349, Tel. 301–496–7271.	Oct. 20–22	8:00	Room 10, Bldg. 31C, Bethesda, MD.
Medicinal Chemistry: Dr. Ronald Dubois, Rm. 5, Tel. 301–496–7107	Oct. 26–28	9:00	Holiday Inn, Georgetown, DC.
Metabolic Pathology: Dr. Marcelina Powers, Rm. 435, Tel. 301–496–5251.	Oct. 23–26	8:00	High Hampton Inn, Cashiers, NC.
Metabolism: Dr. Krish Krishnan, Rm. 339A, Tel. 301–496–7091.	Oct. 27–28	8:00	Holiday Inn, Bethesda, MD.
Metallobiochemistry: Dr. Edward Zapolski, Rm. 310, Tel. 301–496–7733.	Oct. 20–22	8:30	Omni Georgetown Hotel, Washington, DC.
Microbial Physiology and Genetics—1: Dr. Martin Slater, Rm. 238, Tel. 301–496–7183	Oct. 26–28	8:30	Holiday Inn, Bethesda, MD.
Microbial Physiology and Genetics—2: Dr. Gerald Liddel, Rm. 357, Tel. 301–496–7130.	Oct. 11–13	8:30	Do.
Molecular and Cellular Biophysics: Dr. Patricia Jost, Rm. 236A, Tel. 301–496–7060.	Oct. 20–23	8:30	Governor's House, Washington, DC.
Molecular Biology: Dr. Zain Abedin, Rm. 328, Tel. 301–496–7830	Oct. 13–15	8:30	Howard Johnson Plaza Hotel (Wellington), Washington, DC.
Molecular Cytology: Dr. Ramesh Nayak, Rm. 233B, Tel. 301–496–7149.	Oct. 6–8	8:30	Ramada Inn, Bethesda, MD.
Neurological Sciences—1: Dr. Allen C. Stoolmiller, Rm. 437B, Tel. 301–496–7279.	Oct. 19–21	8:00	Omni Sheraton Hotel, Washington, DC.
Neurological Sciences—2: Dr. Stephen Gobel, Rm. 1A05, Tel. 301–496–8808.	Oct. 11–13	8:30	Holiday Inn, Bethesda, MD.
Neurology A: Dr. Catherine Woodbury, Rm. 303A, Tel. 301–496–7506.	Oct. 20–22	8:00	Omni Shoreham Hotel, Washington, DC.
Neurology B–1: Dr. Jo Ann McConnell, Rm. 152, Tel. 301–496–7846.	Oct. 11–14	8:00	Hotel Washington, Washington, DC.
Neurology B–2: Dr. Herman Teitelbaum, Rm. 152, Tel. 301–496–7422.	Oct. 25–28	8:30	Howard Johnson Plaza Hotel (Wellington), Washington, DC.
Neurology C: Dr. Kenneth Newrock, Rm. 232, Tel. 301–496–5591.	Oct. 19–21	8:30	Omni Georgetown Hotel, Washington, DC.
Nursing Research: Dr. Gertrude McFarland, Rm. A18, Tel. 301–496–0558.	Oct. 4–5	8:00	Crowne Plaza, Rockville, MD.
Nutrition: Dr. Ai Lien Wu, Rm. 204, Tel 301–496–7178	Oct. 17–19	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Oral Biology and Medicine—1: Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301–496–7818.	Oct. 17–20	8:30	Crowne Plaza, Rockville, MD.
Oral Biology and Medicine—2: Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301–496–7818.	Oct. 3–6	8:30	Do.
Orthopedics and Musculoskeletal: Dr. Ileen Stewart, Rm. 350, Tel. 301–496–7581.	Oct. 12–14	8:30	Do.
Pathobiochemistry: Dr. John Mathis, Rm. A26, Tel. 301–496–7820	Oct. 19–21	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Pathology A: Dr. John L. Meyer, Rm. 337, Tel. 301–496–7305.	Oct. 18–21	8:30	Howard Johnson Plaza Hotel (Wellington), Washington, DC.
Pathology B: Dr. Jerrold Fried, Rm. 352, Tel. 301–496–7244	Oct. 19–21	8:30	Howard Johnson Plaza Hotel, (Wellington), Washington, DC.
Pharmacology: Dr. Joseph Kaiser, Rm. 206, Tel. 301–496–7408.	Oct. 18–20	8:30	American Inn, Bethesda, MD.
Physical Biochemistry: Dr. Gopa Rakhit, Rm. 218B, Tel. 301–496–7120.	Oct. 17–19	8:30	Crowne Plaza, Rockville, MD.
Physiological Chemistry: Dr. Stanley Burrous, Rm. 339B, Tel. 301–496–7837.	Oct. 20–22	8:00	Holiday Inn, Bethesda, MD.
Physiology: Dr. Michael A. Lang, Rm. 209, Tel. 301–496–7878.	Oct. 12–14	8:30	Ramada Inn, Bethesda, MD.
Radiation: Dr. John Zimbrick, Rm. 219A, Tel. 301–496–7073.	Oct. 24–27	8:30	Holiday Inn, Bethesda, MD.

Study section	September–November 1988 meetings	Time	Location
Reproductive Biology: Dr. Dharam Dhindsa, Rm. 307, Tel. 301–496–7318.	Oct. 3–6	8:30	Do.
Reproductive Endocrinology: Dr. Abubakar A. Shaikh, Rm. 325B, Tel. 301–496–8857.	Oct. 16–18	3:00 p.m.	The Regency, Shrewsbury, MA.
Respiratory and Applied Physiology: Dr. Clyde Watkins, Rm. 218A, Tel. 301–496–7320.	Oct. 17–19	8:30	Crowne Plaza, Rockville, MD.
Safety and Occupational Health: Dr. Richard Rhoden, Rm. 154, Tel. 301–496–6723.	Oct. 12–14	8:30	Congressional Park, Days Inn, Rockville, MD.
Sensory Disorders and Language: Dr. Michael Halasz, Rm. 3A–07, Tel. 301–496–7550.	Oct. 26–28	8:30	Capitol Holiday Inn, Washington, DC.
Social Sciences and Population: Ms. Carol Campbell, Rm. 210, Tel. 301–496–7906.	Oct. 6–8	9:00	Holiday Inn, Bethesda, MD.
Surgery and Bioengineering: Dr. Paul F. Parakkal, Rm. 322, Tel. 301–496–7027.	Oct. 16–18	8:00	Do.
Surgery, Anesthesiology and Trauma: Dr. Keith Kraner, Rm. 319B, Tel. 301–496–7771.	Oct. 19–21	2:00 p.m.	Do.
Toxicology: Dr. Alfred Marozzi, Rm. 205, Tel. 301–496–7570.	....do	8:00	Holiday Inn, Georgetown, DC.
Tropical Medicine and Parasitology: Dr. Jean Hickman, Rm. 334, Tel. 301–496–1190.	Oct. 17–19	8:00	Do.
Virology: Dr. Bruce Maurer, Rm. 309, Tel. 301–496–7605.	Oct. 20–22	8:00	Crowne Plaza, Rockville, MD.
Visual Sciences A–1: Dr. Luigi Giacometti, Rm. 207, Tel. 301–496–7000.	Oct. 26–28	9:00	Holiday Inn, Bethesda, MD.
Visual Sciences A–2: Dr. Jane Hu, Rm. 439A, Tel. 301–496–7795	Oct. 18–21	8:30	Hotel Washington, Washington, DC.
Visual Sciences B: Dr. Earl Fisher, Jr., Rm. 325, Tel. 301–496–7251.	Oct. 5–7	8:30	Holiday Inn, Georgetown, DC.

(Catalog of Federal Domestic Assistance Program Nos. 13.306, 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13,892, 13.893, National Institues of Health, HHS)

Dated September 1, 1988.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 88–21166 Filed 9–15–88; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Title III, National Childhood Vaccine Injury Act of 1986; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of June 1, 1988, from the Secretary of Health and Human Services to the Assistant Secretary for Health of all the authorities vested in the Secretary under: (1) Part C, Subtitle 2 of Title XXI of the Public Health Service Act (42 U.S.C. 300aa–25 *et seq.*), as amended; and (2) sections 312, 313, 314, and 316 of Pub. L. 99–660 (42 U.S.C. 300aa–1 note and 300aa–4 note), as amended hereafter, excluding the authority to promulgate regulations and to submit reports to the Congress, the Assistant Secretary for Health has delegated the authorities under: (1) Part C, Subtitle 2 of the Title XXI of the Public Health Service Act (42 U.S.C. 300aa–25 *et seq.*), as amended; and (2) Pub L. 99–660 (42 U.S.C. 300aa–1 note), as amended hereafter, as follows:

A. To the Director, National Vaccine Program Office

Section 316 of Pub. L. 99–660—Study of the Impact on the Supply of Vaccines.

B. To the Director, Centers for Disease Control

1. Section 2125 of the PHS Act—Provider and manufacturer recording and reporting.

2. Section 2126 of the PHS Act—Vaccine Information.

3. Section 2127 of the PHS Act—Mandate for safer vaccines.

4. Section 312 of Pub. L. 99–660—Related Studies.

5. Section 313 of Pub. L. 99–660—Study of Other Vaccine Risks.

C. To the Commissioner of Food and Drugs

1. Section 2125 of the PHS Act—Provider and manufacturer recording and reporting.

2. Section 2127 of the PHS Act—Manadate for safer vaccines.

3. Section 2128 of the PHS Act—Manufacturer recordkeeping and reporting.

4. Section 314 of Pub. L. 99–660—Review of warnings, use instructions, and precautionary information.

5. Section 312 of Pub. L. 99–660—Related Studies.

6. Section 313 of Pub. L. 99–660—Study of Other Vaccine Risks.

D. To the Director, National Institutes of Health

1. Section 312 of Pub. L. 99–660—Related Studies.

2. Section 313 of Pub. L. 99–660—Study of Other Vaccine Risks.

Redelegation

These authorities may be redelegated.

Effective Date

These delegations became effective on September 7, 1988. In addition, the Assistant Secretary for Health has affirmed and ratified any action taken by the officials listed above, and their subordinates, which involved the exercise of the authorities delegated herein prior to the effective date of delegation.

Dated: September 7, 1988.

Robert E. Window,

Assistant Secretary for Health.

[FR Doc. 88–21185 Filed 9–15–88; 8:45 am]

BILLING CODE 4160–17–M

Title III, National Childhood Vaccine Injury Act of 1986; Delegation of Authority

Notice is hereby given that in furtherance of the delegation of authority of September 7, 1988, from the Assistant Secretary for Health to the Director, National Vaccine Program Office the authority under section 316 of Pub. L. 99–660 (42 U.S.C. 300aa–4 note), as amended hereafter, excluding the authority to promulgate regulations and to submit reports to the Congress, the Director, National Vaccine Program Office has delegated to the Coordinator, National Vaccine Program Office, the authority under section 316 of Pub. L. 99–660 (42 U.S.C. 300aa–4 note), as amended hereafter, concerning the study of the impact on the supply of vaccines.

Redelegation

This authority may not be redelegated.

Effective Date

This delegation was effective on September 7, 1988. In addition, the Director, National Vaccine Program Office, has affirmed and ratified any actions taken by the Coordinator of the National Vaccine Program Office which involved the exercise of the authority delegated herein prior to the effective date of delegation.

Dated: September 7, 1988.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 88–21186 Filed 9–15–88; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FES 88–30]

Availability of Final Supplemental Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of availability of a Final Supplemental Environmental Impact Statement for the Wilderness Proposal of the Final Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review for the Kenai National Wildlife Refuge, Alaska.

SUMMARY: The U.S. Fish and Wildlife Service (Service) has prepared a Final Supplemental Environmental Impact Statement for the Wilderness Proposal of the Final Comprehensive Conservation Plan/Environmental Impact Statement/Wilderness Review for the Kenai National Wildlife Refuge, Alaska, pursuant to Section 3(d) of the Wilderness Act of 1964, Section 1317 of the Alaska National Interest Lands Conservation Act of 1980 (Alaska Lands Act), and Section 102(2)(C) of the National Environmental Policy Act of 1969. The Final Supplemental Statement analyzes the impacts of five alternative wilderness proposals for the Kenai National Wildlife Refuge.

DATES: A Record of Decision will be issued no sooner than October 17, 1988.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503–6199; telephone (907) 786–3399.

SUPPLEMENTAL INFORMATION: Copies of the Final Supplemental Statement will be sent to all agencies, organizations, and persons who commented on the Draft Supplemental Statement and to all parties on the Kenai Refuge planning mailing list. A limited number of copies of the Final Statement may be obtained by contacting Mr. Knauer.

Copies of the Final Supplemental Environmental Impact Statement are also available for review at the Office of the Regional Director, address as listed previously, as well as at the office of the Kenai National Wildlife Refuge, Soldotna, Alaska, and at the following locations:

U.S. Fish and Wildlife Service, Division of Refuges, Main Interior Bldg., 18th and C Streets NW., Washington, DC 20240;

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 NE Multnomah Street, Suite 1692, Portland, OR 97232;

U.S. Fish and Wildlife Service, Refuges and Wildlife, 500 Gold Avenue SW, Albuquerque, NM 87103;

U.S. Fish and Wildlife Service, Refuges and Wildlife, Federal Building, Fort Snelling, Twin Cities, MN 55111;

U.S. Fish and Wildlife Service, Refuges and Wildlife, Richard B. Russell Federal Bldg., 75 Spring Street SW, Atlanta, GA 30303;

U.S. Fish and Wildlife Service, Refuges and Wildlife, One Gateway Center, Suite 700, Newton Corner, MA 02158; and

U.S. Fish and Wildlife Service, Refuges and Wildlife, 134 Union Blvd., Lakewood, CO 80225.

Date: September 7, 1988.

Bruce Blanchard,

Director, Office of Environmental Project Review

[FR Doc. 88–20882 Filed 9–15–88; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[AK–963–4213–15; AA–50369]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Bethel Native Corporation for approximately 12.91 acres. The lands involved are in the vicinity of Bethel, Alaska:

A parcel of land located within portions of Sections 11 and 14, T. 8 N., R. 72 W., Seward Meridian.

A previous notice of decision to issue conveyance to the named claimant was published in the Federal Register on July 8, 1988. Due to special circumstances, the decision could not be issued in time to allow a sufficient appeal period.

A notice of the decision will be published once a week, for four (4) consecutive weeks, in *The Tundra Drums*. Copies of the decision may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until October 17, 1988 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an

appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Ann Johnson,

Chief, Branch of Calista Adjudication.

[FR Doc. 88-21188 Filed 9-15-88; 8:45 am]

BILLING CODE 4310-JA-M

[CO-010-08-4333-02]

Craig, Colorado Advisory Council Meeting

Time and Date: October 12, 1988 at 10 am.

Place: Craig District Office, 455 Emerson Street, Craig, Colorado.

Matters to be Considered:

1. Recreation 2000.
2. Weed Control.
3. Follow-up discussions of riparian areas, coal royalty rates, rock art, and land exchanges.
4. Public comment.

Contact Person for More Information: Mary Pressley, Craig District Office, 455 Emerson Street, Carig, Colorado 81625-1129, Phone: (303) 824-8261.

Dated: September 9, 1988.

Jerry L. Kidd,

Associate District Manager.

[FR Doc. 88-21189 Filed 9-15-88; 8:45 am]

BILLING CODE 4310-JB-M

[NV-930-08-4333-11; NV5-88-20]

Nevada; Temporary Closure of Certain Public Lands in the Battle Mountain District for Management of the Nevada 500 Off-Highway Vehicle (OHV) Race

ACTION: Temporary closure of certain Public Lands in Nye and Esmeralda Counties, Nevada, on and adjacent to the Nevada 500 race course, on September 10, 1988. Access will be limited to race officials, entrants, law-enforcement and emergency personnel, licensed permittees and right-of-way grantees.

SUPPLEMENTARY INFORMATION: Certain public lands in the Battle Mountain District, Nye and Esmeralda Counties, Nevada will be temporarily closed to public access from 0001 hours, September 10, 1988, to 2400 hours, September 10, 1988, to protect persons, property, and public land resources on and adjacent to the 1988 Nevada 500 OHV race course. The Las Vegas District Manager is the authorized officer for the Nevada 500 OHV race and permit (NV5-88-20). These temporary closures and restrictions are made pursuant to 43 CFR Part 8364. The public lands to be closed or restricted are those lands adjacent to and including roads, trails and washes identified as the 1988 Nevada 500 OHV race course. The following public lands restricted or closed are described as: Beatty Area; T.12S., R.47E., all of sections 7, 8, 17, 18, 19, 20, and 31. Along the Grapevine WSA boundary; T.9S., R.44E., all of sections 6, 7, and 8; T.8S., R.44E., all of sections 23, 24, 25, 26 and 36. The Gold Point Area; T.7S., R.41½E., all of sections 3, 4, and 9; T.7S., R.41, R.41E., all of section 1. The Stewarts Mill Area; T.6S., R.41E., all of sections 7, 8, 17 and 18. The above legal land descriptions are for public lands within Nye and Esmeralda Counties, Nevada. A map showing specific areas closed to public access is available from the following BLM offices: the Las Vegas District Office, 4765 Vegas Drive, P.O. Box 26569, Las Vegas, Nevada 89126, (702) 646-8800, and the Battle Mountain District, Tonopah Resource Area Office Bldg., 102 Old Radar Base, P.O. Box 911, Tonopah, Nevada 89049, (702) 482-6214. Any person who fails to comply with this closure order issued under 43 CFR Part 8364 may be subject to the penalties provided in 43 CFR 8360.7.

Dated: September 7, 1988.

Charles R. Frost,

Associate District Manager, Las Vegas District.

[FR Doc. 88-21190 Filed 9-15-88; 8:45 am]

BILLING CODE 4310-HC-M

National Park Service

North Rim Development Concept Plan Grand Canyon National Park, Arizona; Availability of Draft Finding of No Significant Impact

SUMMARY: The National Park Service proposes to implement the Development Concept Plan for the North Rim, Grand Canyon National Park, Conconino County, Arizona, in accordance with Alternative B of the North Rim Development Concept Plan/Environmental Assessment. The availability of the Plan and Assessment was announced in the **Federal Register** on February 22, 1988 and the public review period ended April 1, 1988. Alternative B provides for the development of a 100 unit lodge at the North Rim Inn campground area; expansion of the existing campground; provision of a visitor contract center; improvement of traffic flow and removal of parking from the immediate front of the Grand Canyon Lodge; and the consolidation, replacement or provision of additional NPS and concessioner maintenance and employee housing facilities. Two other alternatives were considered including no action and locating the 100 unit lodge in the Upper Transept Canyon area with the North Rim Inn area left to overnight camping.

In accordance with the Council on Environmental Quality Regulations at 40 CFR 1501.4(e)(2)(i), a draft Finding of No Significant Impact (FONSI) is being made available for public review for a period of 30 days from the date of this Notice. Copies of the Draft FONSI and North Rim Development Concept Plan/Environmental Assessment are available for inspection at the following address: Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ 86023, Telephone No. (602) 638-7888.

Date: September 8, 1988

Stanley T. Albright,

Regional Director, Western Region.

[FR. Doc. 88-21184 Filed 9-15-88; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Amdt. No. 1]

Section 5a Application No. 30; [1] Tobacco Transporters Freight Traffic Bureau—Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision and request for comment.

SUMMARY: Tobacco Transporters Freight Traffic Bureau (Tobacco) has filed, pursuant to section 14(e) of the Motor Carrier Act of 1980 (MCA), an application for approval of its ratemaking agreement under 49 U.S.C. 10706(b). Since modifications are required before the agreement receives final approval, and because new and complex questions are involved in determining whether the agreement is consistent with the MCA, the Commission solicits public comment on its interpretation and application of specific rate bureau provisions.

DATES: Comments from interested persons are due October 17, 1988. Replies are due 15 days thereafter.

ADDRESS: An original and 10 copies, if possible, of comments referring to Section 5a Application No. 30 should be sent to: Office of the Secretary, Case

[1] Section 5 was recodified as section 10706.

Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Jessie R. Hodge, (202) 275–7890

or

Richard B. Felder, (202) 275–7691

(TDD for hearing impaired (202) 275–1721)

SUPPLEMENTARY INFORMATION: We have provisionally approved Tobacco's agreement as consistent with 49 U.S.C. 10706(b) and *Motor Carrier Rate Bureaus—Implementation of Pub. L. 96–296*, 364 I.C.C. 464 (1980) and 364 I.C.C. 921 (1981) (*Rate Bureau*), subject to certain conditions and modifications in the following subject areas: identification and description of member carriers; right of independent action; employee docketing; open meetings; final disposition of cases; changes in tariff structure; zone of freedom and released rates; committee membership and purpose; and territorial scope. We have also offered comments and imposed requirements concerning the agreement generally. Tobacco has been directed to file a revised agreement conforming to the imposed conditions within 120 days of service of the decision.

In light of the complexity of interpretation involved in determining whether the agreement is consistent with the MCA and the *Rate Bureau* case, *supra*, we request applicant and other interested parties to comment on our interpretation of the controlling authority and administrative criteria, and their application to Tobacco's agreement.

A copy of any comments filed with the Commission must also be served on Tobacco, which will have 15 days from the expiration of the comment period to reply. These comments will be considered in conjunction with our review of the modifications that Tobacco must submit to the Commission as a condition to final approval of its agreement.

Copies of Tobacco's proposed amended agreement are available for public inspection and copying at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, 20423, and from Tobacco's representative: Lawrence E. Lindeman, P.C., 805 King Street, Suite 400, Alexandria, VA 22314–3016.

Additional information is in the Commission decision. Copies are available from the Office of the Secretary, Room 2215, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 275–7428 (assistance for the hearing impaired is available through TDD Services, (202) 275–1721, or by pickup from Dynamic Concepts, Inc., in room 2229 at Commission headquarters).

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

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: September 8, 1988.

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

Noreta R. McGee,

Secretary.

[FR Doc. 88–21097 Filed 9–15–88; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 394 (Sub-5)]

Cost Ratio for Recyclables—1988 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Determination of Maximum Rate Ceiling For Rates on Nonferrous Recyclable Commodities For The Year 1988.

SUMMARY: The Commission has calculated the proposed 1988 revenue-to-variable cost (R/VC) ratio for rates on nonferrous recyclables under the statutory standard of 49 U.S.C. 10731(e). The calculation was made in accordance with the procedures outlined in our decision in Ex Parte No. 394 (Sub-No. 1), *Cost Ratio for Recyclables—1983 Determination*, 3 I.C.C. 2d 407 (June 19, 1985). The proposed R/VC ratio for 1988 is 147.7 percent. The new ratio will apply to all nonferrous recyclables movements during the 1988 calendar year.

EFFECTIVE DATE: October 3, 1988, unless comments are received challenging the accuracy of the new ratio, in which case a further decision will be issued.

ADDRESS: An original and 15 copies of comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: William T. Bono, (202) 275–7354 (TDD for hearing impaired (202) 275–1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact Dynamic Concepts, Inc. Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289–4357. Assistance for the hearing impaired is available through TDD Services (202) 275–1721 or by pickup from Dynamic Concepts, Inc. in Room 2229, at Commission headquarters.

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

This decision will not have a significant economic impact on a substantial number of small entities because it does not change any rules but merely updates the rate ceiling calculated under the existing rules. Thus, the impact on small business remains unchanged.

Authority: 49 U.S.C. 10321(a), 10731, 5 U.S.C. 553.

Decided: September 9, 1988.

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

Noreta R. McGee,

Secretary.

[FR Doc. 88–21098 Filed 9–15–88; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Ade O. Oni, M.D.; Revocation of Registration

On July 14, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ade O. Oni, M.D., 1201 Division Street, Nashville, Tennessee, proposing to revoke his DEA Certificate of Registration AO1441219. The statutory basis for the Order to Show Cause was Dr. Oni's lack of authorization to practice medicine and handle controlled substances in the State of Tennessee.

The Order to Show Cause was sent registered mail, return receipt requested, to Dr. Oni's registered address. The Order to Show Cause was received on July 18, 1988. More than 30 days have passed since the receipt of the Order to Show Cause, and DEA has received no response. Pursuant to 21 CFR 1301.54(a) and 1301.54(d), Dr. Oni is deemed to have waived his opportunity for a hearing. Accordingly, the Administrator now enters his final order in this matter without a hearing and based on the investigative file. 21 CFR 1301.57.

The Administrator finds that the Tennessee Board of Medical Examiners summarily suspended Dr. Oni's license to practice medicine in that state on December 23, 1987. This order was based on Dr. Oni's falsification of his

flex exam scores when applying for his Tennessee medical license. Dr. Oni filed an application for injunction against the Tennessee Health Related Boards. This application was denied on February 18, 1988. The suspension of Dr. Oni's medical license in Tennessee remains in effect. Dr. Oni is not authorized to practice medicine or handle controlled substances in Tennessee. The Administrator has consistently found that DEA does not have the authority to maintain the registration of a practitioner who is not authorized to handle controlled substances in the state in which he conducts his business. Therefore, DEA does not have the authority to maintain Dr. Oni's Certificate of Registration, and it must be revoked. See: *Emerson Emory, M.D.*, Docket No. 85–46, 51 FR 9543 (1986); *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 24308 (1985); *Agostino Carlucci, M.D.*, Docket No. 82–20, 49 FR 33184 (1984).

The Administrator concludes that since Dr. Oni is not authorized to handle controlled substances in Tennessee, there is a lawful basis for the revocation of his DEA Certificate of Registration. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AO1441219, previously issued to Ade O. Oni, M.D., be, and it hereby is, revoked. The Administrator further orders that any outstanding applications for registration submitted by Ade O. Oni be denied. This order is effective October 17, 1988.

Dated: September 9, 1988.

John C. Lawn,

Administrator.

[FR Doc. 88–21187 Filed 9–15–88; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment 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:

District of Columbia:
DC88–1 (Jan. 8, 1988) ..... p. 77.
Delaware:
DE88–2 (Jan. 8, 1988) ..... pp. 94–96.
Maryland:
MD88–1 (Jan. 8, 1988) ..... pp. 416–417.
MD88–15 (Jan. 8, 1988) ..... p. 454.
Pennsylvania:
PA88–2 (Jan. 8, 1988) ..... pp. 852–862.
Virginia:
VA88–18 (Jan. 8, 1988)..... p. 1060f.

Volume II:

Indiana:
IN88–1 (Jan. 8, 1988) ..... p. 234.
IN88–6 (Jan. 8, 1988) ..... p. 300.
Louisiana:
LA88–4 (Jan. 8, 1988) ..... p. 376.
Wisconsin:
WI88–5 (Jan. 8, 1988) ..... pp. 1100–1101.
Listing by Location (index)..... pp. xxxi–xxxii.
Listing by Decision (index)..... pp. xxxiv, li.

Volume III:

None.....

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 9th Day of September, 1988.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 88–20923 Filed 9–15–88; 8:45 am]

BILLING CODE 4510–27–M

Office of the Assistant Secretary of Veterans' Employment and Training

Secretary of Labor's Committee on Veterans' Employment; Meeting

The Secretary's Committee on Veterans' Employment was established under section 308, Title III, Pub. L. 97–306 "Veterans Compensation, Education and Employment Amendments of 1982," to bring to the attention of the Secretary, Problems, and issues relating to veterans' employment.

Notice is hereby given that the Secretary of Labor's Committee on Veterans' Employment will meet on Thursday, September 29, 1988, at 10:00 a.m., in the conference room of the Veterans of Foreign Wars of the United States located at 200 Maryland Avenue, NE., Washington, DC 20002.

The items on the agenda include:

—Department of Education Programs for Veterans

—the President's Committee on Disabled Veterans

—a briefing by the Director of the Research Center for the Handicapped, Seattle, Washington

The public is invited.

Signed at Washington, DC. this 12th day of September, 1988.

Donald E. Shasteen,

Assistant Secretary for Veterans' Employment and Training.

[FR Doc. 88–21133 Filed 9–15–88; 8:45 am]

BILLING CODE 4510–79–M

Employment and Training Administration

[TA–W–19,321]

Texas Eastern Transmission Corp., Houston, TX; Negative Determination on Remand

Pursuant to the U.S. Court of International Trade remand dated July 11, 1988 in *Former Employees of Texas Eastern Exploration Company* v. *Secretary of Labor* (USCIT 87–05–00674) the Department is issuing a negative determination on remand.

The Department requested a voluntary remand in order to provide the petitioners an opportunity to present additional information and to determine whether the petitioners were employed by Texas Eastern Exploration Company or the Texas Eastern Transmission Corporation, the parent company. On August 8, 1988 the petitioners and counsel met with officials of the Department of Labor's Office of Trade Adjustment Assistance in Washington, DC to present their information.

The initial findings show that Texas Eastern Exploration had domestic and foreign producing properties. The findings show that no crude oil or natural gas was imported by Texas Eastern Exploration during the period applicable to the investigation. Further, most of the domestic producing properties were sold before the time of the Department's investigation. Accordingly, it was difficult to obtain the production, sales and employment records for the domestic division of Texas Eastern Exploration. Corporate officials indicated that the petitioners were employed by Texas Eastern Transmission Corporation although their work was charged to Texas Eastern Exploration Company, a wholly-owned subsidiary of Texas Eastern Transmission Corporation.

On reconsideration, the Department viewed the Texas Eastern Exploration Company as an appropriate subdivision and obtained sales and production data for natural gas and crude oil and customer data from the company. The findings show that Texas Eastern Exploration was primarily a natural gas producer. Crude oil production in 1986 was not significant.

The Department's survey shows that Texas Eastern Transmission purchased the major share of the natural gas produced by Texas Eastern Exploration but had declining imports of natural gas in 1985 and 1986. A survey of Texas Eastern Transmission's natural gas customers shows that most customers did not import natural gas. None of the customers of Texas Eastern Transmission reported increased natural gas imports while reducing purchases from Texas Eastern Transmission. The survey also shows that none of Texas Eastern Transmission customers imported crude oil.

The Department's survey of Texas Eastern Exploration customers show that none of the customers reported increased natural gas purchases while reducing purchases from Texas Eastern Exploration. The Survey also showed that none of the customers of Texas Eastern Exploration imported crude oil during the period applicable to the petition. Accordingly the "contributed importantly" test of the increased import criterion of the Group Eligibility Requirements of the Trade Act of 1974 is not met.

Counsel for the plaintiff argues that the Department should have used natural gas import data for 1985 since the workers were laid off in early 1986; natural gas and crude oil imports measured in British Thermal Units (BTU)s together show an increase in energy imports in 1985 and 1986; and, the Department's decision is not consistent with its determinations in the Exxon cases (TA–W–19,624; TA–W–19,625 and TA–W–19,626).

Since the petition does not meet the "contributed importantly" test counsel's first two points on imports are irrelevant. The Department's determinations in the Exxon cases are based on much different findings. Exxon Company, U.S.A. sales of crude oil decreased in the first three quarters of 1986 compared to the same period of 1985 while Exxon increased its imports of crude oil in 1986 compared to 1985. Also, Exxon's outside customers increased their imports of crude oil in 1986 while decreasing their purchases of crude from Exxon. Investigative findings in the instant case show that Texas Eastern Exploration was, in effect, a captive gas supplier to Texas Eastern Transmission during the period applicable to the petition. Texas Eastern Transmission had decreased imports of natural gas in 1985 and 1986 and did not import crude oil. Further, none of the surveyed customers of Texas Eastern Transmission reported increased imports of natural gas while reducing their purchases from Texas Eastern Transmission. Lastly, none of the crude oil customers of Texas Eastern Exploration Company imported crude oil in the period applicable to the petition.

Conclusion

After reconsideration, it is determined that Texas Eastern Exploration Company, Houston, Texas is an

appropriate subdivision of Texas Eastern Transmission Company, Houston, Texas. I reaffirm the original denial of eligibility to apply for adjustment assistance to workers of Texas Eastern Transmission Corporation and this denial of eligibility is applicable to workers of its subsidiary, Texas Eastern Exploration Company, Houston, Texas. Signed at Washington, DC, this 9th day of September 1988.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88-21224 Filed 9-15-88; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-88-117-C]

Gap Fork Fuels, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Gap Fork Fuels, Inc., P.O. Box 3127, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Mine No. 1 (I.D. No 15-06287) located in Floyd County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. Petitioner states that due to rolls and an uneven bottom the installation of canopies on the mine's electric face equipment would result in a diminution of safety to the miners because the canopies:

(a) Knock out the roof support;

(b) Limit the equipment operator's visibility causing the miners to lean out from under the canopies to see;

(c) Create cramped and uncomfortable conditions; and

(d) Catch electrical cables and cut or damage them which may create an electrical hazard.

3. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before October 17, 1988. Copies of the petition are available for inspection at that address.

Dated: September 9, 1988.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 88-21132 Filed 9-15-88; 8:45 am]

BILLING CODE 4510-43-M

Pension and Welfare Benefits Administration

[Application Nos. D-7483 and 7485, et al.]

Proposed Exemptions; Emergency Medical Associates, Inc. Amended Multiple Employer Profit Sharing Plan 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.

ADDRESS: 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 applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices 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.

Emergency Medical Associates, Inc. Amended Multiple Employer Profit Sharing Plan (the P.S. Plan) and Emergency Medical Associates, Inc. Multiple Employer Money Purchase Pension Plan (the Pension Plan; collectively, the Plans) Located in Columbus, Ohio

[Application Nos. D-7483 and D-7485]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)((1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) a proposed extension of credit (the Loans) by the individual participant accounts (the Accounts) of T. William Evans, M.D. (Dr. Evans) in the Plans to Emergency Medical Associates, Inc. (the Employer), the sponsor of the Plans; and (2) Dr. Evans' proposed personal guarantee of the Loans; provided that all terms of the Loans are at least as favorable to the Accounts as those which the accounts

could obtain in an arm's length transaction with an unrelated party.

Temporary Nature of Exemption

The making of loans under this exemption, if granted, shall be limited to the two-year period commencing on the date on which the Final Grant of the exemption is published in the **Federal Register.**

Summary of Facts and Representations

1. The P.S. Plan is a defined contribution plan with nine participants and total assets of $2,223,137.23 as of December 31, 1987. The Pension Plan is a defined contribution plan with nine participants and total assets of $1,464,604.11 as of December 31, 1987. The Employer is a closely-held Ohio personal service corporation engaged in the practice of medicine in Columbus, Ohio. Dr. Evans is the president and chief executive officer of the Employer and owns fifty-one percent of its outstanding common stock. Each of the Plans provides for individual participant accounts and the directed investment of such accounts by the participants. The trustee of the Plans is the Society Bank of Columbus, Ohio (the Trustee), which executes investments of the Plans' assets according to individual participant direction. As of December 31, 1987 the Account balances for Dr. Evans were $670,686.09 in the P.S. Plan and $293,264.12 in the Pension Plan.

The Employer proposes to enter into a loan agreement with the Trustee (the Agreement) under which the Employer may make the Loans from the Accounts for various purposes. Dr. Evans proposes to guarantee personally the Employer's obligations under the Loans made pursuant to the Agreement. The Trustee and Dr. Evans are requesting an exemption to permit the Loans and Dr. Evans' personal guarantee of them under the terms and conditions described herein.

2. Dr. Evans has executed a written authorization directing the Trustee to enter into the Agreement with the Employer and to proceed with the making of the Loans if the exemption proposed herein is granted. Under the Agreement the Employer will be able to borrow funds from time to time from the Accounts for a period of two years commencing on the date (the Loan Date) this exemption, if granted, is published in the **Federal Register.** The aggregate outstanding balance of the Loans will not exceed the lesser of (1) $200,000 from the P.S. Plan plus $100,000 from the Pension Plan, or (2) twenty five percent of the balance of each of the Accounts at any time. Commensurate with the first of the Loans under the Agreement the Employer will execute a primissory note (the Note) evidencing the Loans which requires the Employer to reimburse the Accounts for any filing costs or similar fees required for the perfecting of security interests under the Note.

The Note provides that the Loans will be payable upon demand, if made, by the Trustee on behalf of the Accounts. In the absence of such demand, all Loans will be amortized and repaid over a twenty-year period commencing on the Loan Date in equal quarterly payments of principal and interest, to commence the first calendar quarter after the Loan Date. Loan principal shall bear interest, adjusted quarterly, at the rate of one percent above the prime rate announced and charged by BancOhio National Bank (BancOhio) in Columbus, Ohio, but in no event will the interest rate be less than eight percent. The initial interest rate shall be BancOhio's prime rate in effect on the Loan Date. Principal and interest of all Loans shall be paid in full no later than the last day of the 80th quarter following the Loan Date.

The Note provides that if any payment required thereunder is not paid when due and remains in default for ten days after written notice to the Employer, or if the Employer defaults in the performance of any other obligations under the Note, the entire principal amount outstanding under the Note, plus accrued interest and late charges, shall become due and payable at the option of the Trustee acting on behalf of the Accounts. The Note requires the Employer to pay all collection costs and expenses incurred with respect to any such default. From and after any payment default, the outstanding principal balance and any accrued interest shall bear interest at a rate which is four percent per annum above the interest rate otherwise in effect for such payment.

3. In addition to the Note, the Loans will be secured by a perfected first security interest in all the Employer's accounts receivable (the Collateral) for the duration of the term of the Loans. The Agreement requires that the value of the Collateral must remain at all times in an amount no less than two hundred percent of the outstanding principal amount of the Loan. Under the Agreement, if the value of the Collateral falls below that level, the Employer must immediately offer additional collateral to satisfy the security requirement or repay so much of the outstanding indebtedness as to cause the security requirement to be satisfied. The Agreement provides that the value of the Collateral is to be determined by independent certified public accountants and based on the Employer's historical collection record with respect to its accounts receivable. Under the Agreement the Employer warrants to own the Collateral free and clear of any encumbrances except the security interest granted to the Accounts under the Agreement.

The Employer's payment of all indebtedness under the Note will be secured further by a written unconditional guarantee which Dr. Evans will execute on the Loan Date. Dr. Evans represents his net worth to be approximately $7,034,629 as of March 31, 1988.

The terms of the proposed Loans pursuant to the Agreement and the Note have been reviewed and evaluated by Edward N. Cohn (Cohn), president of the Franklin County Division of County Savings Bank (the CSB) in Columbus, Ohio. Cohn, who states that the CSB is independent of the Employer, represents that CSB would be willing to make a loan to the Employer under the same terms and conditions as those now proposed for the Loans from the Accounts.

4. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) The transactions will affect only the Accounts, which are individually-directed participant accounts in the Plans; (2) The transactions will be pursuant to written directions of the Accounts' sole participant, Dr. Evans; (3) The Loans are repayable upon demand at any time by the Trustee on behalf of the Accounts; (4) The Loans will be secured at all times by a first lien on collateral having a value of at least 200 percent of the outstanding principal amount of the Loans; (5) The Loans will be guaranteed personally by Dr. Evans; (6) The Loan terms have been approved by the president of CSB, which is independent of the Employer, as terms under which CSB would extend credit to the Employer; and (7) Dr. Evans is the only participant in the Plans affected by the transactions and he desires that they be consummated.

Notice to Interested Persons: Because Dr. Evans is the only participant in the Plans to be affected by the proposed transactions, it has been determined 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: Ronald Willett of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Individual Retirement Account of Robert E. Keefer (IRA) Located in Hawthorne, California

[Application No. D–7525]

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 sale of a parcel of real property (the Property) to the IRA by the Robert and Suzette Keefer Family Trust (the Trust), nor to the subsequent lease of the Property by the IRA to Hawthorne Mazda, a company which is wholly owned by Mr. Keefer, provided that the terms of the transactions are no less favorable to the IRA than those obtainable in arm's-length transactions with unrelated parties.[1]

Summary of Facts and Representations

1. The IRA is a self-directed IRA described in section 408(a) of the Code with Shearson Lehman Hutton Company acting as trustee. As of July 1988, the IRA had net assets of approximately $916,610.

2. The Property, located at 11977 Hawthorne Blvd, Hawthorne, California, consists of approximately 8750 square feet and is improved with an asphalt paved parking lot. The Property is currently leased by the Trust to Hawthorne Mazda.

3. The Trust proposes to sell the Property to the IRA for $228,000 in cash, its appraised fair market value. No commissions or other expenses will be paid by the IRA in connection with the sale. The Property was appraised by Mr. John L. Schlueter (Mr. Schlueter), an unrelated appraiser with the firm of Patrick E. Keller & Associates Real Estate Appraisers & Consultants, Hawthorne, Califonria, as having a fair market value of $228,000 as of May 9, 1988.

4. The IRA proposes to lease the Property to Hawthorne Mazda for a primary term of 5 years with options for 3 additional 5 year terms. The lease is a triple net lease in favor of the IRA with annual rental payments of $27,000. The amount of the initial rental payment was determined by Mr. Schlueter in his appraisal of May 9, 1988. The lease also provides that the amount of rental will be increased annually based on the increase in the Consumer Price Index. In addition, Hawthorne Mazda will maintain fire and casualty insurance on the Property with the IRA named as loss payee.

5. In summary, the applicant represents that the proposed transactions satisfy the statutory criteria contained in section 4975(c)(2) of the Code because:

(a) No commission or other expenses will be paid by the IRA in connection with the transactions;

(b) The Property would represent less than 25% of the assets in the IRA;

(c) The purchase price and the rental payments were determined by an independent appraiser; and

(d) Mr. Keefer is the only participant in the IRA and he has determined that the transactions are appropriate for and in the best interests of the IRA and desires that the transactions be consummated.

Notice to Interested Persons: Because Mr. Keefer is the only participant in the IRA, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a public hearing are due 30 days after the publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Tarrant Services, Inc. Profit Sharing Plan and Trust (the Plan) Located in Fort Worth, Texas

[Application No. D–7628]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 184711, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of its general partnership interest (the Interest) in Galaxy Development Joint Venture II (the Partnership) to Tarrant Services, Inc. (the Employer), the sponsor of the Plan, provided that the sales price is no less than the *greater* of: (1) The fair market value on the date of the sale of the Plan's Interest in the Partnership or (2) the costs to the Plan associated with the acquisition and holding of the Interest; and provided further that the Plan, the Partnership, and the Employer execute appropriate documents that reflect the substitution of the Employer as a partner in the partnership and acknowledge that the Plan has been absolved and released of any further and continuing obligations in connection with the Partnership.

Summary of Facts and Representations

1. The Plan, established January 1, 1981, is a defined compensation plan with approximately nine (9) participants. As of 1986, the approximate fair market value of the assets of the Plan was $272,417. The trustees (the Trustees) of the Plan are Perry Hoover (Mr. Hoover) and Phillip Godbey (Mr. Godbey). Both of the Trustees are participants in the Plan.

2. The Employer, located at 710 Main Street, Fort Worth, Texas, is engaged in the repair of real properties damaged by casualty losses, in the sale of carpet to builders of new residential construction, in the construction of new single family residential properties and home improvements, and in other miscellaneous activities related to construction. Mr. Hoover and Mr. Godbey serve, respectively, as president and secretary of the Employer and are each directors, employees, and fifty percent (50%) shareholders of the Employer. The Trustees and the Employer (the Applicants) jointly filed the application requesting the exemption of the proposed transaction.

3. In 1985, the Plan acquired at a price of $10,561 a 12.5% general partnership interest in the Partnership from Lowry Davidson (Mr. Davidson) who was acting on behalf of Great Western Galaxy, Inc. (Great Western). It is represented that both Mr. Davidson and Great Western were unrelated third parties with respect to the Plan. The Partnership was formed for the sole purpose of acquiring a tract of land (the Land), consisting of approximately 6.732 acres on U.S. Highway 377 in Keller, Texas. The Land is approximately 18 miles west of the central business district of Fort Worth and 18 miles west of the Dallas/Fort Worth International Airport. It is represented that the Land is the only property owned by the Partnership.

[1] Because the IRA does not meet the conditions described in 29 CFR 2510.3–2(d), there is no jurisdiction under Title I of the Act. However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

In acquiring its 12.5% interest in the Partnership, the Plan also became a co-maker in the original first mortgage (the Mortgage) from an unrelated bank in the amount of $477,000 which the Partnership used to acquire the Land. The terms of the Mortgage include an interest rate of 10% per annum payable semi-annually to the bank. The entire principal balance on the Mortgage is due and payable on September 30, 1995.[2]

Subsequently, the Plan's 12.5% interest in the Partnership was increased to 28⅛%, because certain general partners in the Partnership defaulted and could not make capital contributions to the Partnership. As a result, the defaulting partners' ownership interests in the Partnership were distributed *pro rata* to the remaining partners, including the Plan. In addition, the defaulting partners forfeited to the Partnership all of their prior capital contributions. It is represented that none of the defaulting partners were parties in interest with respect to the Plan. It is represented that none of the general partners of the Partnership is a party in interest with respect to the Plan.

5. On August 9, 1988, Kerry McCombs (Mr. McCombs), a general partner and owner of a 15.62% interest in the Partnership, was asked by the Applicants to value the Plan's interest in the Partnership. Mr. McCombs represents his independence from the proposed transaction in that he is not an owner, director, officer, or employee of the Employer, nor is he a participant or beneficiary in the Plan. Mr. McCombs states that he is familiar with the value of real estate in the Dallas/Fort Worth area and has been dealing in real estate both as a buyer and seller, since 1972. In evaluating the Plan's Interest in the Partnership, Mr. McCombs took into consideration the book value of the Partnership, its financial condition, lack of earning capacity, the potential return on the investment, goodwill, and other intangibles of the Partnership. In addition, Mr. McCombs considered the history and the nature of the Partnership and the lack of a market or comparable sales for the Plan's Interest in the Partnership. In Mr. McCombs' opinion, the Plan's Interest in the Partnership has no value in itself. Further, Mr. McCombs states that the only value to be attributed to the Plan's Interest in the Partnership is the underlying value of the Land owned by the Partnership.

5. The Land underlying the Partnership was appraised by Mark Costanza (Mr. Costanza) in May 1988, at a value of $586,000. Mr. Costanza represents that as a real estate agent/broker since 1983, he has been actively engaged in real estate sales and in providing market studies, appraisals, and counseling with respect to all types of real property to government agencies, corporations, attorneys, accountants, and other individuals. Mr. Costanza is currently associated with Century 21 in Euless, Texas and specializes in sales of raw land and investment properties. Mr. Costanza is independent in that he has no ownership interest in the Employer, he is not a director, officer, or employee of the Employer, nor is he a participant or beneficiary of the Plan.

In his appraisal report. Mr. Costanza notes that no value has been placed on the two existing houses located on the Land, even though these houses do have a current rental value, because they would have to be removed for the Land to be developed. In Mr. Costanza's opinion, the current use of the Land is not the highest and best use for the property. Mr. Costanza states that maximum productivity from the Land would be achieved by commercial or retail development to serve an increasing population in the area. However, it is represented by Mr. Costanza that such development should be deferred for several years until economic circumstances in the area improve and demand increases sufficiently to make development financially feasible.

6. The Employer represents that in 1986 the Plan made distributions in the amount of $62,000 or 30% of the assets of the Plan to three former participants of the Plan. As a result, the Trustees maintain that the Plan's remaining assets are illiquid. To remedy this situation and to avoid a forced sale of Plan assets in order to pay future benefits, the Trustees have decided to sell the Plan's Interest in the Partnership, rather than continue to hold it for appreciation. Also, it is represented that currently the Plan is receiving no income from its investment in the Partnership. Because real property values have decreased in Texas, it is represented that there is a general lack of a market for the sale to third parties of the Plan's Interest in the Partnership. Consequently, the Employer proposes to purchase for cash the Plan's 28⅛% Interest in the Partnership. Based on an appraised value of $586,000 for the Land underlying the Partnership, the Applicants represent that the fair market value of the Plan's 28⅛% Interest in the Partnership is approximately $167,000. However, the Plan's *pro rata* share of the Mortgage in the amount of $477,000 would be approximately $135,000. Therefore, the fair market value of the Plan's net equity Interest in the Partnership is represented to be $31,000. The Employer proposes to relieve the Plans of its share of the liability for the Mortgage and to pay to the Plan the *greater* of the Plan's net equity Interest in the Partnership on the date of the sale or the total cost to the Plan to acquire and hold the Interest which, as of July 1988, was estimated to be $34,544. It is represented that the Plan will not be required to pay any real estate fees, commissions, finders fees, or any other remuneration to any third party with respect to the proposed transaction.

7. In summary, the Applicants represent that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The sale of the Plan's Interest in the Partnership will be a one time transaction for cash;

(b) The Plan will not incur expenses on the sale;

(c) The Plan will be able to improve the liquidity of the Plan's assets with the proceeds of the sale;

(d) The sales price is based on a fair market value of the Land underlying the Partnership as determined by a qualified independent appraiser;

(e) The Plan will receive the *greater* of its net equity Interest in the Partnership on the date of the sale or its total expenses incurred in acquiring and holding its Interest in the Partnership; and

(f) The Plan will be relieved of any liability with respect to the existing Mortgage on the Land underlying the Partnership.

For Further Information Contact: Angelena C. Le Blanc of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

Health Care Administration Company Profit Sharing Plan and Trust (the Plan) Located in San Antonio, Texas

[Application No. D-7648]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code,

[2] The Department herein is not proposing relief for any violation of Part IV of the Act which may have arisen as a result of the acquisition of the Interest by the Plan.

by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale by the Plan of certain certificates of deposit (the CDs) and certain oil well interests (the Oil Well Interests) to Health Care Administration Company (HCAC), the Plan sponsor, provided that the price paid be no less than the greater of the fair market value of the CDs and the Oil Well Interests as of the date of sale or the original prices paid for the CDs and Oil Well Interests and all expenses to the Plan is connection with its acquisition and holding of the CDs and Oil Well Interests to the date of sale.

Summary of Facts and Representations

1. The Plan is a terminated defined contribution profit sharing plan sponsored by HCAC, owners and operators of nursing and retirement facilities. The trustees of the Plan are Robert T. Bowers and Gary L. Bowers, who also own a majority interest in HCAC. As of March 31, 1987, the termination date for the Plan, the Plan had $359,043 in assets and 80 participants.

2. Among the Plan's assets are two CDs issued by First Republicbank of San Antonio. The CDs are: #4652, purchased on August 27, 1985 and maturing on August 27, 1990 for $15,000 plus interest at 10%; and #4816, purchased on September 25, 1985 maturing on September 25, 1990 for $12,000 plus interest at 9.95%.

3. The Plan's assets also include a 1.5625% working interest in two oil wells (the Schwarz well and the Biller #1 well) located in Canadian County, Oklahoma. The Plan paid $12,452.89 in May 1986, for its interest in the Schwarz well and has received a net income from that well of $1,316.32. The Plan paid $10,462.53 in June 1986, for its interest in the Biller #1 well and has received a net income from that well of $464.55.

4. On July 27, 1987, Bob B. Hunt, President of Hunt Engineering, Inc., a petroleum consulting and property management enterprise located in Oklahoma City, Oklahoma, an independent and qualified appraiser, stated that the fair market value of the Plan's interests in the two wells is $3,662.

5. The applicant proposes, in order to expedite the distribution of the terminated Plan's assets to participants and beneficiaries, that the Plan sponsor purchase the CDs and the Oil Well Interests for cash. The CDs will be purchased for fair market value current as of the date of sale without any interest penalty. The Oil Well Interests will be purchased for the greater of their fair market value as of the date of sale or for the total amount expended by the Plan in connection with its acquisition and holding of the Oil Well Interests.

6. In summary, the applicant represents that the proposed transaction will satisfy the criteria of section 408(a) of the Act because, among other things: (a) The sale represents a one-time transaction for cash, which can be easily verified, (b) the Plan will receive for the CDs their fair market value as of the date of sale, without incurring any interest penalty; (c) the Plan will receive the greater of the fair market value of Oil Well Interests as of the date of sale or the total amount expended by the Plan in connection with its acquisition and holding of the Oil Well Interests; (d) the terms of the transaction will be more favorable to the Plan than those obtainable by the Plan in arm's-length transaction with unrelated third parties; (e) the Plan will not pay any commissions, fees, or taxes in connection with the sale of the CDs and Oil Well Interests; and (f) the Plan will be able to complete distribution of its assets in a timely manner.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Plan of First Wachovia Diversified Funds for Retirement Trusts (the Plan) Located in Winston-Salem, North Carolina

[Application No. D–7674]

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 proposed merger of the First Wachovia Income Fund (the First Atlanta Fund), trusteed by First National Bank of Atlanta (First Atlanta Bank), into the First Wachovia Fixed Income Fund (the Wachovia Fund), trusteed by Wachovia Bank and Trust Company, N.A. (Wachovia Bank), provided that upon completion of the merger the aggregate fair market value of the interest of each employee benefit plan participating (Participating Plan) in the two funds (collectively the Funds) equals the aggregate fair market value of each such Participating Plan's interest in the Funds immediately preceding the merger.

Summary of Facts and Representations

1. The Plan became effective on January 19, 1988, pursuant to an opinion letter issued by the Internal Revenue Service. The Plan was created for the purpose of consolidating various commnon trust funds under it that had been extablished by Wachovia Bank and First Atlanta Bank, respectively. This consolidation was undertaken in order to form a system of interbank common trust funds for the collective investment and reinvestment of funds held by the two banks, in their respective capacity as fiduciaries of Participating Plans created or organized in the United States and forming part of a pension, profit sharing, or stock bonus plan which is exempt from Federal income taxation under section 501(a) of the Code by reason of qualifying under section 401(a) of the Code. As a consequence of the consolidation under the Plan, two trust funds, the Wachovia Fund and the First Atlanta Fund, respectively, became part of the Plan. These Funds have substantially identical investment objectives with assets of each invested in similar types of fixed income securities.

2. As of March 31, 1988, there were 1,334 Participating Plan with total net assets of approximately $941,220,047 invested in various funds under the Plan. Also as of March 31, 1988, 211 of the Participating Plans had approximately $265,273,287 of their net assets invested in the Wachovia Fund and 36 Participating Plans had approximately $24,588,405 of their net assets invested in the First Atlanta Fund.

3. Wachovia Bank and First Atlanta Bank are members of an "affiliated group" as defined in section 1504 of the Code and each is a National Banking Association under the laws of United States. Wachovia Bank is the principal subsidiary of Wachovia Corporation, a North Carolina corporation and First Atlanta Bank is the principal subsidiary of First Atanta Corporation, a Georgia corporation. In addition, Wachovia Corporation and First Atlanta Corporation are the principal subsidiaries of First Wachovia Corporation, a North Carolina corporation, and all three corporations are registered bank holding corporations under the Bank Holding Company Act of 1956.

4. The First Atlanta Bank and the Wachovia Bank in their fiduciary capacities, respectively, propose that the First Atlanta Fund merge into Wachovia Fund, and that the First Atlanta Fund cease to exist. The merger will become effective on a date to be determined following receipt of the requested exemption.

5. To accomplish the merger the assets, including all accrued income, of the Funds will be valued at their fair market value as of the merger date. First Atlanta Bank will transfer the assets of the First Atlanta Fund as of the date of the merger to the Wachovia Fund. The transferred assets of the First Atlantia Fund will be commingled with the Wachovia Fund for investment following the date of the merger and all income earned during the fiscal year in the First Atlanta Fund, preceding and following the date of merger, will be deemed to have been earned in the Wachovia Fund.

Participating Plans in the First Atlanta Fund will become Participating Plan in the Wachovia Fund as of the date of the merger. A Participating Plan may withdraw any or all of its assets on the last day of the month. As of the date of the merger, the First Atlanta Fund will have allocated to its units in the Wachovia Fund representing the fair market value of the assets transferred from the First Atlanta Fund. Each Participating Plan in the First Atlanta Fund immediately preceding the merger will have allocated to it as of the date of the merger the proportion of such Wachovia Fund units equal to its proportion of the units in the First Atlanta Fund immediately preceding the merger. No fractional units of participation in the Wachovia Fund will be issued in the merger. The Wachovia Fund will pay cash equal to the fair market value of any such fractional unit to which a Participating Plan in the First Atlanta Fund would otherwise have been entitled. Neither Wachovia Bank, First Atlanta Bank, nor any affiliated party will receive any fee or commission with respect to the merger. The merger of the Funds will not result in any additional fees for the Participating Plans.

6. The applicants, the Wachovia Bank and the First Atlanta Bank, represent that because the investment objectives of the Funds are substantially identical, the Participating Plans best interests will be served by merging the Funds in order to achieve certain operational efficiencies and economies of scale, and to make available greater opportunities for diversification of investments.

7. In summary the applicants represent that the proposed merger meets the statutory criteria contained in section 408(a) of the Act because (a) neither Wachovia Bank, First Atlanta Bank, nor any affiliate of either bank will receive any fee or commission in connection with the merger; (b) the fair market value of the interests of the Participating Plans in the Funds will remain unchanged by the proposed merger; (c) the assets of each Participating Plan will be invested in the same type of investment both before and after the proposed merger; and (d) the proposed merger will result in greater operational efficiencies and economies of scale, and greater opportunities for diversification of investment with the larger size of a single fund.

For further Information Contact: Mr. C.E. Beaver 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) Before an exemption may be granted under secton 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 13th day of September, 1988.

Robert J. Doyle,

Acting Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88–21226 Filed 9–15–88; 8:45 am]

BILLING CODE 4510–29–M

[Prohibited Transaction Exemption 88–91; Exemption Application No. D–7519 et al.]

Grant of Individual Exemptions; Sholom Home, Inc. Pension Plan and Trust (the Plan) et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition, the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless othewise 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.

Sholom Home, Inc. Pension Plan and Trust (the Plan) Located in Minneapolis, Minnesota

[Prohibited Transaction Exemption 88–91; Exemption Application No. D–7519]

Exemption

The restrictions of sections 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 by the Plan to Sholom Home, Inc., the Plan sponsor, of all rights under a group annuity contract (the Contract) in exchange for a cash payment to the Plan of not less than the fair market value of the Contract 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 July 15, 1988 at 53 FR 26913.

For Further Information Contact: Joseph L. Roberts III 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 13th day of September 1988.

Robert J. Doyle,

Acting Director of Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 88–21225 Filed 9–15–88; 8:45 am]

BILING CODE 4510–29–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts.

ACTION: Notice.

SUMMARY: The National Endowment for the Arts (NEA) has sent to the Office of Management and Budget (OMB) the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATES: Comments on this information collection must be submitted by October 17, 1988.

ADDRESSES: Send comments to Mr. Jim Houser, Office of Management and Budget, New Executive Office Building, 726 Jackson Place NW., Room 3002, Washington, DC 20503; (202–395–7316). In addition, copies of such comments may be sent to Anne Cowperthwaite, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC. 20506; (202–682–5401).

FOR FURTHER INFORMATION CONTACT: Anne Cowperthwaite, National Endowment for the Arts, Administrative Services Division, Room 203, 1100 Pennsylvania Avenue NW., Washington, DC 20506; (202–682–5401) from whom copies of the documents are available.

SUPPLEMENTARY INFORMATION: The Endowment requests a review of the revision of a currently approved collection. This entry is issued by the Endowment and contains the following information:

(1) The title of the form; (2) how often the required information must be reported; (3) who will be required or asked to report; (4) what the form will be used for; (5) an estimate of the number of responses; (6) the average burden hours per response; (7) an estimate of the total number of hours needed to prepare the form. This entry is not subject to 44 U.S.C. 3504(h).

Title: Dance on Tour FY 1990

Frequency of Collection: One-time

Respondents: State or local governments; Non-profit institutions

Use: The Dance on Tour category of the National Endowment for the Arts (formerly the Dance/Inter-Arts/State Programs Presenting/Touring Initiative) provides financial support to state arts agencies and regional arts organizations to assist arts presenting organizations to book dance companies and dance artists of the highest artistic level and of national or regional significance. Review of applications for financial assistance is performed by an advisory panel and awards are made on the basis of various criteria outlined in the Program guidelines.

Estimated Number of Respondents: 20

Average Burden Hours per Response: 35

Total Estimated Burden: 700

Anne E. Cowperthwaite,

Administrative Services Division, National Endowment for the Arts.

[FR Doc. 88–21117 Filed 9–15–88; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public.

Agency Clearance Officer: Herman G. Fleming, (202) 357–9520.

OMB Desk Officer: Written comments to: Office of Information and Regulatory Affairs, ATTN: Jim Houser, Desk Officer, OMB, 722 Jackson Place, Room 3208, NEOB, Washington, DC 20503.

Title: Follow-up to the 1985 National Survey of Science and Mathematics Education.
Affected Public: Individuals.
Responses/Burden Hours: 600 responses; 15 minutes per response—150 burden hours.
Abstract: Information on the effect of teacher salary and working conditions on the retention of science and mathematics teachers is needed for Federal policymaking purposes, both by NSF and by the Congress.

Dated: September 13, 1988.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 88-21131 Filed 9-15-88; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-269, 50-270 and 50-287]

Duke Power Co., Environmental Assessment and Finding of No Significant Impact

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR-38, DPR-47, and DPR-55 issued to Duke Power Company, (the licensee) for operation of the Oconee Nuclear Station, Units 1, 2 and 3, located in Oconee County, South Carolina.

Environmental Assessment

Identification of Proposed Action: The proposed amendments would revise the Technical Specifications (TS) to support operation of Oconee Unit 3, Cycle 11 at full rated power and to include other revisions. To support the reload TS revisions, Duke submitted the report, "Oconee Unit 3 Cycle 11, Reload Report," DPC-RD-2011, May 1988. These amendments would revise the following 4 areas: (1) Update the operational power imbalance envelope. These envelopes would be revised for all three units; (2) Increase the minimum boron concentration in the borated water storage tank (BWST) from 1835 to 1950 parts per million; (3) Increase the minimum volume of the concentrated boric acid storage tank (CBAST) from 1020 to 1110 cubic feet. The increase in volume would ensure that the CBAST can borate the reactor coolant system to 1% delta k/k subcritical with the following assumptions: Cold conditions with the maximum worth stuck rod, and no credit for xenon at the most limiting time in the core life; and (4) Revise other areas of the TS that are administrative in nature.

The proposed action is in accordance with the licensee's application for amendments dated May 16, 1988.

The Need for the Proposed Action: The proposed change to the TS is needed in order to support operation of Oconee Unit 3 at full rated power during Cycle 11. Updating of the operational power imbalance envelope provides appropriate operating flexibility for each of the three Oconee units.

Environmental Impacts of the Proposed Action: The proposed revisions to the TS provide safe operation with the proposed changes in the fuel load and for operation with increased core flow and revised core power imbalance limits. The TS changes ensure that the capability to maintain adequate shutdown margins during operation, refueling, or in the event of accidents is preserved. The proposed changes do not increase the probability or consequences of any accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed change to the TS involves systems located within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed amendments.

The Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on July 29, 1988 (53 FR 28735). No request for hearing or petition for leave to intervene was filed following this notice.

Alternative to the Proposed Action: Since the Commission concluded that there are no significant environmental effects that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendments. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources: This action does not involve the use of any resources not previoulsy considered in the Final Environmental Statement for the Oconee Nuclear Station.

Agencies and Persons Consulted: The NRC staff has reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for the amendments dated May 16, 1988 which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina 29691.

Dated at Rockville, Maryland, this 12th day of September 1988.

David B. Matthews,

Director, Project Directorate II-3, Division of Reactor Projects I/II.

[FR Doc. 88-21180 Filed 9-15-88; 8:45 am]

BILLING CODE 7590-01-M

Issuance and Availability for Public Comment of Proposed Revision 3 to the Standard Review Plan Sections 2.3.2 (Floods) and 2.4.3 (Probable Maximum Flood (PMF) on Streams and Rivers)

The U.S. Nuclear Regulatory Commission (NRC) staff is issuing for public comment proposed Revision 3 to Standard Review Plan (SRP) Sections 2.4.2 (Floods) and 2.4.3 (Probable Maximum Flood (PMF) on Streams and Rivers) as part of the resolution of Generic Safety Issue 103, "Design for Probable Maximum Precipitation."

Revision 2 to the Standard Review Plan for Review of Safety Analysis Reports for Nuclear Power Plants (NUREG-0800) was issued in July of 1981. Section 2.4.2 (Floods) and 2.4.3 (Probable Maximum Flood (PMF) on Streams and Rivers) indicate that design procedures that use the National Oceanic and Atmospheric Administration (NOAA)/National Weather Service (NWS) publications to determine the probable maximum precipitation (PMP) are acceptable to the staff (page 2.4.2-4). The SRP also indicates that new information that becomes available after the issuance of the Construction Permit (CP) will be

used by the staff in evaluating an Operating License (OL) application (page 2.4.2–4).

Although the current version (Revision 2) of Sections 2.4.2 and 2.4.3 of the SRP was used by the staff during the licensing review of most of the nuclear power plants now operating, it is clearly out of date. The hydrometeorological reports of the U.S. Weather Bureau (not the National Weather Service, NOAA) used in these reviews were published from 1937 through 1973. Of the 49 reports referenced in the SRP, 35 were published prior to 1960, 10 between 1960 and 1969, and 4 (including one draft report) were published between 1970 and 1973.

Over the past few years, NOAA/NWS has issued additional publications to provide the results of its data assessments. Between 1978 and 1984 the NWS published eight reports of particular relevance, which provide the results of recent data on probable maximum precipitation collected in various regions of the United States. In many cases, these reports show an increase in the short-duration, localized rainfall that may occur.

The NRC staff proposes to revise (Revision 3) Sections 2.4.2 and 2.4.3 of the SRP to incorporate the PMP procedures and criteria contained in the latest NOAA/NWS publications. The revised SRP sections will be used in the review of new CP and OL applications docketed after the final issuance date of these proposed revisions. The impact of staff-identified information that becomes available between the issuance of the CP and the OL application would be addressed by the applicant, and its safety significance would be addressed in the staff's Safety Evaluation Report.

The issuance of the proposed Revision 3 to SRP Sections 2.4.2 and 2.4.3, along with a Generic Letter to be sent to licensees, will serve as the staff's resolution of Generic Safety Issue 103, "Design for Probable Maximum Precipitation."

Copies of the proposed Revision 3 to Standard Review Plan Sections 2.4.2 and 2.4.3 will be sent directly to utilities, utility industry groups and associations, and environmental and public interest groups. A free single copy of these documents may be requested by those considering public comment by writing to the U.S. Nuclear Regulatory Commission, ATTN: Distribution Section, Room P–130A, Washington, DC 20555. A copy is also available for inspection and/or coping at the NRC Public Document Room, 2120 L Street NW., Washington, DC, and at the Commission's Local Public Document Rooms located in the vicinity of nuclear power plants. Addresses of these Local Public Document Rooms can be obtained from the Chief, Local Public Document Room Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7536.

Comments should be forwarded in writing to Mr. Robert Baer, Division of Safety Issue Resolution, U.S. Nuclear Regulatory Commission, Washington, DC 20555 by November 15, 1988.

Dated at Rockville, Maryland, this 8th day of September, 1988.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Director, Division of Safety Issue Resolution, Office of Nuclear Regulatory Research.

[FR Doc. 88–21181 Filed 9–15–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–313]

Arkansas Power and Light Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–51, issued to Arkansas Power and Light Company (AP&L, the licensee), for operation of Arkansas Nuclear One, Unit 1 (ANO–1) located in Pope County, Arkansas.

The amendment would revise Sections 2.1, 2.3, 3.5.2, and 5.3.1 of the Technical Specifications to reflect the Cycle 9 core reload, and to change the Reactor Protection System Variable Low Pressure Trip Setpoint.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By October 17, 1988, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceedings, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street, NW.,

Washington, DC by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to Jose A. Calvo: petitioner's name and telephone number; date Petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell & Reynolds, 1200 Seventeenth Street, NW., Suite 700, Washington, DC 20036.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the applications for amendment dated July 20 and August 31, 1988, which are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC and at the Tomlinson Library, Arkansas Technical University, Russellville, Arkansas 72801.

Dated at Rockville, Maryland, this 9th day of September 1988.

For the Nuclear Regulatory Commission.

Jose A. Calvo,

Director, Project Directorate—IV Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc 88–21182 Filed 9–15–88; 8:45 am]

BILLING CODE 7590–01–M

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

Privacy Act of 1974; New Blanket Routine Uses

AGENCY: Occupational Safety and Health Review Commission.

ACTION: Notice.

SUMMARY: The purpose of this notice is to announce two new blanket routine uses for existing systems of records.

DATES: Comments must be submitted on or before October 17, 1988. The new routine uses will be implemented on October 17, 1988, without any further notice in the **Federal Register**, unless comments necessitate otherwise.

ADDRESSES: Interested persons are invited to submit written comments to: Executive Director, Occupational Safety and Health Review Commission, 1825 K Street NW., Room 411A, Washington, DC 20006–1246.

SUPPLEMENTARY INFORMATION: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and the Occupational Safety and Health Act of 1970 (29 U.S.C. 651–678), the Occupational Safety and Health Review Commission, hereafter referred to as the Commission or OSHRC, proposes to establish two new blanket routine uses for its systems of records: (1) A routine use for disclosure to the Department of Justice for use in litigation; and (2) a routine use for Commission disclosure in litigation. In its "Privacy Act Guidance Update" of May 24, 1985, the Office of Management and Budget recommended that agencies adopt these routine uses to support disclosure of Privacy Act records during litigation. The proposed blanket routine uses set forth below apply to all OSHRC systems of records now in effect.

NEW BLANKET ROUTINE USES

(1) Blanket Routine Use for Disclosure to the Department of Justice for Use in Litigation:

It shall be a routine use of the records in the Commission's systems of records to disclose them to the Department of Justice when—

(a) The Commission, or any component thereof, or

(b) Any employee of the Commission in his or her official capacity, or

(c) Any employee of the Commission in his or her individual capacity where the Commission has agreed to represent the employee, or

(d) The United States, where the Commission determines that litigation is likely to affect the Commission or any of its components,

is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice is deemed by the Commission to be relevant and necessary to the litigation, provided, however, that in each case, the Commission determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

(2) Blanket Routine Use for Commission Disclosure in Litigation:

It shall be a routine use of the records contained in the systems of records maintained by the Commission to disclose them in a proceeding before a court or adjudicative body before which the Commission is authorized to appear, when—

(a) The Commission, or any component thereof, or

(b) Any employee of the Commission in his or her official capacity, or

(c) Any employee of the Commission in his or her individual capacity where the Commission has agreed to represent the employee, or

(d) The United States, where the Commission determines that litigation is likely to affect the Commission or any of its components,

is a party to litigation or has an interest in such litigation, and the Commission determines that use of such records is relevant and necessary to the litigation, provided, however, that in each case, the Commission determines that disclosure of the records to a court or adjudicative body is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

Dated at Washington, DC, on September 12, 1988.

Earl R. Ohman, Jr.,

General Counsel.

[FR Doc. 88–21118 Filed 9–15–88; 8:45 am]

BILLING CODE 7600–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–26070; File No. SR–DTC–88–17]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change of the Depository Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 3, 1988, the

Depository Trust Company ("DTC") filed a proposed rule change that would extend the application of its charge-back policy for erroneous or improper credits to payments made in its Same-Day Funds Settlement system ("SDFS")

The proposed rule change clarifies that the charge-back policy, which applies to Next-Day Funds Settlement Service, also applies to SDFS. DTC generally credits dividend and interest payments to participants on payable date. DTC also may credit participants for payments of principal on redemptions of certain types of securities in advance of DTC's receiving such payment. If DTC subsequently determines that a credit was mistakenly made, whether due to the issuer's default on the payment, an error on DTC's part, or for some other reason, DTC reserves the right to use its charge-back policy to charge the account of SDFS participants.

DTC believes that the proposed rule change is consistent with the requirements of section 17A of the Act because it will improve the procedures for safeguarding funds in DTC's custody or control. DTC also believes that the proposal will improve the timeliness of dividend and redemption payments to DTC's participants and will improve processing and recordkeeping in the Dividends and Reorganization Departments of DTC and it participants.

The rule change has become effective pursuant to section 19(b)(3)(A) of the Act. The Commission may summarily abrogate the rule change at any time within 60 days of its filing if it appears to the Commission that abrogation is necessary or appropriate in the public interest, or the protection of investors, or otherwise in furtherance of the purpose of the Act.

You may submit written comments within 21 days after notice is published in the **Federal Register**. Please file six copies of your comment with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, with accompanying exhibits, and all written comments, except for material that may be withheld from the public under 5 U.S.C. 552, are available at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-88-17.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: September 9, 1988.

[FR Doc. 88-21145 Filed 9-15-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26072; File No. SR-NASD-88-17]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change To Provide the NASD Board of Governors and a Proposed Committee the Authority to Take Action During Extraordinary Market Conditions

On May 13, 1988, the National Association of Securities Dealers, Inc. ("NASD") submitted a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] to add section 3 to Article VII and amend Article XI, section 4 of the NASD By-Laws, to provide the NASD Board of Governors and a proposed Committee, comprised of the NASD Chairman of the Board, the NASD President, and a member of the Executive Committee, the authority to respond promptly to emergency conditions or extraordinary market conditions.[3] The NASD is authorized to take any action regarding: (1) Trading in or the operation of any automated system owned or operated by the NASD or any subsidiary of the NASD; (2) participation in any such system of any or all persons; (3) trading therein of any or all securities; and (4) the operation of any or all member firms' offices or systems.[4]

The NASD Board of Governors approved the grant of emergency power as a method of ensuring the continued, efficient operation of the NASD trading systems, over-the-counter markets, and member firms, in times of highly volatile market conditions.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 25761, May 27, 1988) and by publication in the **Federal Register** (53 FR 20923, June 7, 1988).[5] No comments were received on the proposal.

The Commission believes the proposal, as amended, is consistent with the Act. As discussed below, the Commission believes the proposal provides the NASD with the flexibility to deal with extraordinary market conditions such as existed in October, 1987. The Commission also believes that the proposed rule change is consistent with the NASD's duty to protect investors and the public interest.

Specifically, in the event that extraordinary market conditions necessitate the exercise of the emergency powers, the proposal requires that: (1) An NASD officer use his "best efforts" to consult with the Commission in advance of taking any actions pursuant to the emergency powers granted by the proposed rule change; (2) the NASD provide the Commission as well as the Executive Committee and the NASD Board of Governors with a written report describing the actions taken and the reasons therefore; and (3) the NASD prepare and maintain with its corporate records a record of any actions taken under the proposed rule change. These requirements should assure that the NASD will give careful consideration to all appropriate factors before using its authority granted under the proposed rule change.[6]

---

[1] *See* 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] The NASD has represented to the Commission that "emergency conditions" include unexpected events such as a declaration of war, a presidential assassination or an electrical black-out. The term "extraordinary market conditions" refers to events such as the October, 1987, market decline and any other occasions where the market is experiencing highly volatile trading conditions such that prompt intervention is necessary for its continued efficient operation. *See* letter to Katherine England, Branch Chief, SEC, from Eneida Rosa, Assistant General Counsel, NASD, dated August 22, 1988.

[4] The NASD may use the emergency power regarding the operation of member firms' offices to require member firms' offices to remain open if necessary to process increased volume or, to close if necessary to limit volume. In addition, the NASD anticipates that it may exercise its authority pursuant to this proposal over member firms' trading systems as the systems apply, effect or relate to the over-the-counter securities market. The NASD will consider the actions of other self-regulatory organizations when taking any action involving the operation of member firms' trading systems.

[5] The NASD has submitted two technical amendments to the proposed rule change, one on July 19, 1988 and one on September 9, 1988. Copies of the amendments are available for inspection and copying at the Commission Public Reference Room.

[6] Generally, action taken pursuant to the emergency authority provided under this proposal would require the NASD to file promptly thereafter a proposed rule change under section 19(b)(3)(A) of the Act. In particular trading contexts, however, a section 19(b)(3)(A) filing would not be necessary (i.e., trading halts ordered for short periods of time). In contrast, if a system were required to be closed, as experienced during October, 1987, a section 19(b)(3)(A) filing would be essential.

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 the requirements of section 15A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned rule change 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: September 12, 1988.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 88-21146 Filed 9-15-88; 8:45 am]

BILLING CODE 8010-01-M

Coast Guard

[CGD 88-078]

Towing Safety Advisory Committee; Meeting of Subcommittees

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: Persuant to section 10(a)(2) of the Federal Advisory Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of all Subcommittees of the Towing Safety Advisory Committee (TSCA). The subcommittee meetings will be held on October 5, 1988 at the Henry VIII Hotel and Conference Center, 4690 N. Lindberg Street, St. Louis, MO. The meeting will begin at 1:30 p.m. and end at 4:00 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of the following topics:
(a) Personnel Manning and Licensing.
(b) Tug-Barge Constructiion, Certification and Operations.
(c) Port Facilities and Operations.
(d) Personnel Safety and Work Place Standards.
(e) Miscellaneous:
(1) Air Quality/Vapor Control/ Recovery.
(2) NAV Rules Update.
3. Presentation of any new items for consideration of the Subcommittees.
4. Adjournment.

Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting.

FOR FURTHER INFORMATION CONTACT: Cdr. R.J. Asaro, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G-MP-3), Washington, DC 20593-0001, (202) 267-0449.

Dated: September 8, 1988.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 88-21155 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-14-M

[CGD 88-077]

Towing Safety Advisory Committee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of public meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; App. I), notice is hereby given of a meeting of the Towing Safety Advisory Committee (TSAC). The meeting will be held on October 6, 1988, at the Henry VIII Hotel and Conference Center, 4690 N. Lindberg Street, St. Louis, MO. The meeting is scheduled to begin at 8:00 a.m. and end at 4:00 p.m. Attendance is open to the public. The agenda, which includes docketed rulemakings where indicated, is expected to be as follows:

1. Approval of minutes from July 1988 TSAC meeting.
2. Reports on the following items:
(a) Licensing of Pilots (CGD 84-060).
(b) Inland Radar Observer Courses.
(c) Licensing of Maritime Personnel (CGD 81-059).
(d) Intervals for Required Internal Examination and Hydrostatic Testing of Pressure Type Cargo Tanks (CGD 85-061).
(e) Drydock and Tailshaft Requirements.
(f) Hazardous Substances Regulations (CGD 86-034).
(g) Tankerman Requirements (CGD 79-116).
(h) Special Area Designation of Gulf of Mexico.
(i) Programs for Chemical Drug and Alcohol Testing of Commercial Vessel Personnel.
(j) OSHA's Proposed Benzene Standard.
(k) Air/Vapor Quality Control/ Recovery.
(l) NAV Rules Update.
(m) Any other matter properly brought before the Committee. Where appropriate, reports on the above items may be followed by TSAC discussion, deliberation, and recommendations concerning these subjects, including rulemaking projects.
3. Summary of Action Items.
4. Adjournment.

With advance notice, and at the discretion of the Chairman, if time permits, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should notify the Executive Director of TSAC no later than the day before the meeting. Written statements or materials may be submitted for presentation to the Committee. To ensure distribution to each member of the Committee, 30 copies of written material should be submitted to the Executive Director no later than October 4, 1988.

FOR FURTHER INFORMATION CONTACT: Cdr. R.J. Asaro, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G-MP-3), Washington, DC 25093-0001, (202) 267-0449.

Dated: September 8, 1988.

M.J. Schiro,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 21156 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular; Dynamic Testing of Part 23 Airplane Seat/Restraint Systems and Occupant Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Proposed Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides information and guidance concerning dynamic testing of Part 23 airplane seat/restraint systems and occupant protection.

DATE: Commenters must identify File 23.562-X; Subject: Dynamic Testing of Part 23 Airplane Seat/Restraint Systems and Occupant Protection, and comments must be received on or before October 17, 1988.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, ATTN: Standards Office (ACE-110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ronald K. Rathgeber, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426-6941, or FTS 867-6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal

Aviation Administration, Small Airplane Directorate, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited: Interested parties are invited to submit comments on the proposed AC. The proposed AC and comments received may be inspected at the Standards Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background: The FAA published Amendment 36 to Part 23 of the Federal Aviation Regulation in the **Federal Register** on August 15, 1988 (53 FR 30802). This amendment upgrades the standards for cabin safety and occupant protection during emergency landing conditions for airplanes type certificated to the airworthiness standards of Part 23.

The proposed AC provides guidance concerning acceptable means of compliance with the standards for dynamic testing of seats using an anthropomorphic test dummy.

An earlier proposed AC was published for public comment on December 12, 1986 (51 FR 44889). Since that time, the AC has undergone a major revision; therefore, the public is invited to comment again.

Issued in Kansas City, Missouri, September 2, 1988.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 88–21129 Filed 9–15–88; 8:45 am]

BILLING CODE 4910–13–M

Noise Exposure Map Notice, Receipt of Noise Compatibility Program, and Request for Review, Naples Municipal Airport; Naples, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the Noise Exposure Maps (NEM) submitted by the City of Naples Airport Authority under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for Naples Municipal Airport under Part 150 in conjunction with the Noise Exposure Maps (NEM), and that this program will be approved or disapproved on or before February 17, 1989.

DATES: The effective date of the FAA's determination on the Noise Exposure Maps and of the start of its review of the associated noise compatibility program is August 22, 1988. The public comment period ends October 20, 1988.

FOR FURTHER INFORMATION CONTACT: Pablo G. Auffant, Airport Planning Specialist, FAA, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, Florida 32827, Telephone (407) 648–6583.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the Noise Exposure Maps submitted for Naples Municipal Airport are in compliance with applicable requirements of Part 150, effective August 22, 1988. Further, the FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before February 17, 1989. This notice will also announce the availability of this program for public review and comment.

Under Section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA Noise Exposure Maps which meet applicable regulations and which depict noncompatible land uses as of the date of submissions of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted Noise Exposure Maps that are found by the FAA to be in compliance with the requirements of the Federal Aviation Regulations, Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for the FAA's approval which sets forth the measures the operator has taken, or proposes, for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The City of Naples Airport Authority submitted to the FAA on May 19, 1988, Noise Exposure Maps, description and other documentation which were produced during an airport noise compatibility planning study from June 12, 1986, to April 13, 1987. It was requested that the FAA review this material as the Noise Exposure Maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and the surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the Noise Exposure Maps and related descriptions submitted by the City of Naples Airport Authority. The specific maps under consideration are "Baseline Noise Exposure Map (1986)" and "Future Noise Exposure Map (1991)". The FAA has determined that these maps for Naples Municipal Airport are in compliance with applicable requirements. This determination is effective on August 22, 1988. The FAA's determination on an airport operator's Noise Exposure Maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approved a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on Noise Exposure Maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the Noise Exposure Maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land-use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through the FAA's review of Noise Exposure Maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for the City of Naples Airport Authority also effective on August 22, 1988. Preliminary

review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before February 17, 1989.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land-use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps and the proposed noise compatibility program are available for examination of the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC

Federal Aviation Administration, Orlando Airports District Office, 4100 Tradecenter Street, Orlando, Florida 32827

City of Naples Airport Authority, 160 Aviation Drive, North, Naples, Florida 33942

Questions may be directed to the individual named above under the heading, **"FOR FURTHER INFORMATION CONTACT."**

Issued in Orlando, Florida, August 22, 1988.

James E. Sheppard,

Manager, Orlando Airports, District Office.

[FR Doc. 88-21128 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Fairbanks, AL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Fairbanks, Alaska.

FOR FURTHER INFORMATION CONTACT:

Thomas Neunaber, Field Operations Engineer, Federal Highway Administration, P.O. Box 21648, Juneau, Alaska 99802-1648, Telephone: (907) 586-7428

Michael Tinker, Regional Environmental Coordinator, Department of Transportation and Public Facilities, 2301 Peger Road, Fairbanks, Alaska 99709-5316, Telephone: (909) 451-2238

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities, will prepare an Environmental Impact Statement (EIS) on a proposal to improve an urban arterial in Fairbanks, Alaska. The proposed improvement would involve reconstruction and possible realignment of approximately 1.5 miles of College Road (Federal-Aid Project No. RS-M-0649[5]) between Illinois Street and Aurora Drive. Also included with the proposed action is Federal-Aid Project No. RS-M-0649(6): Margaret Street/College Road/Antoinette street Intersection.

The proposal includes upgrading the existing facility from four sub-standard driving lanes to widths that meet current design standards. Through-lanes would be widened and turn lanes added; intersections would be upgraded, realigned and signalized where necessary. The proposed project is recommended in the Fairbanks Area Metropolitan Transportation Study.

Alternatives under consideration include (1) taking no action, (2) transportation systems management, (3) developing a couplet system, and (4) widening the existing four-lane facility to meet current design standards. Incorporated into and studied with the various building alternatives will be design variations of grade and alignment.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed, or are known to have an interest in this proposal. No formal scoping meeting is planned at this time. A public hearing will be held after the Draft Environmental Impact Statement has been completed and made available for public and agency review and comment.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposal and the EIS should be directed to the Alaska Department of Transportation and Public Facilities at the address noted above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on September 6, 1988.

Barry Morehead,

Division Administrator, FHWA, Alaska Division.

[FR Doc. 88-21191 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-22-M

National Motor Carrier Advisory Committee; Meetings

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

SUMMARY: The FHWA announces that the National Motor Carrier Advisory Committee will hold meetings on September 20 and 21, 1988, in Washington, DC, at the Department of Transportation's headquarters building, room 4234, 400 Seventh Street, SW. The meetings are open to the public and will begin at 9:30 a.m. on Tuesday, September 20, and at 9:00 a.m. on Wednesday, September 21.

The September 20 meeting will begin with the swearing in of new members. The agenda will include a report by the Committee's safety group on drug testing and reports on the status of FHWA rulemaking activities related to motor carriers; implementation of the commercial driver's license (CDL) program; the FHWA's motor carrier rsesearch program; various motor carrier issues, including reasonable access and the bridge formula as it relates to steering axle placement; and implementation of the National Governors' Association Working Groups' consensus on Uniform State Motor Carrier Procedures.

FOR FURTHER INFORMATION CONTACT:

MR. Joseph S. Toole, Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HOA-1, Room 4218, 400 7th Street, SW., Washington, DC 20590, (202) 366-2238. Office hours are form 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

Issued on September 13, 1988.

Robert E. Farris,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 88-21251 Filed 9-15-88; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

Petition for Exemption or Waiver of Compliance

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with a requirement of its safety standards. The individual petitions are described below, including the party seeking relief, the regulatory provision involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested Party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST-84-21) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington DC 20590. Communications received before November 2, 1988, will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Delta Valley and Southern Railway Company (Waiver Petition Docket Number RSGM-88-11)

The Delta Valley and Southern Railway Company (DVS) seeks a permanent waiver of compliance with certain provisions of the Safety Grazing Standards (49 CFR Part 223) for one locomotive. The locomotive operates over approximately 2 miles of track near Wilson, Arkansas. The area of operations is rural farmland with no overpasses or exposure to the general public. DVS records indicate there have been no reported incidents of vandalism against the railroad. The carrier feels that the installation of certified glazing would be an unnecessary financial burden to its operation.

Citizens Better Transit, Inc. (Waiver Petition Docket Number RSGM-88-12)

Citizens Better Transit, Inc. seeks a permanent waiver of compliance with certain provision of the Safety Glazing Standards (49 CFR Part 223) for one self-propelled passenger car. The petitioner plans to operate the car in tourist-excursion service on the Port of Tillamook Bay Railroad between Tillamook, Oregon, and the Port Industrial Park, a distance of approximately 2 miles. The petitioner feels that the installation of certified glazing would be an unnecessary financial burden to its limited operating budget.

Rochester and Southern Railroad, Inc. (Waiver Petition Docket Number RSGM-88-13)

The Rochester and Southern Railroad, Inc. (RSR) seeks a permanent waiver of compliance with certain provision of the Safety Glazing Standards (49 CFR Part 223) for one caboose. The caboose operates over ¼-mile of the former Rochester subway system in Rochester, New York. The carrier states that the caboose is used only to switch the Gannett Newspaper Company located within the former subway system and is not used in local yard or road service.

Dardanelle and Russellville Railroad (Waiver Petition Docket Number RSGM-88-14)

The Dardanelle and Russellville Railroad (DR) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for three locomotives. The locomotives operate over approximately 5 miles of main line track through both city and rural areas in Dardanelle, Arkansas. The DR states that it has not experienced any incidents of vandalism or violence. The petitioner feels that the installation of certified glazing would be an unnecessary financial burden to its operation.

Bauxite and Northern Railway Company (Waiver Petition Docket Number RSGM-88-15)

The Bauxite and Northern Railway Company (BXN) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for two locomotives. The locomotives operate over 3 miles of main line track that extends primarily through a rural area near Bauxite Junction, Arkansas. The BXN does not recall any incidents of vandalism directed toward the railway or its employees. The petitioner feels that the installation of certified glazing would be an unnecessary financial burden to its operation.

Oil Creek Railway Historical Society, Inc. (Waiver Petition Docket Number RSGM-88-16)

The Oil Creek Railway Historical Society seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for nine passenger coaches. The coaches are operated in seasonal passenger excursions over approximately 15 miles of track between Titusville and Ryndfarm, Pennsylvania. The petitioner indicates that the area of operation is rural with the majority of the run through a state park. The railroad states that it has never had problems with window breakage due to vandalism, nor had to replace glazing due to breakage from flying objects. Because of the low risk exposure to crew and passengers, the railroad feels that the cost to install certified glazing would be an unnecessary financial burden to its operation.

National Park Service (Waiver Petition Docket Number RSGM-88-17)

The National Park Service seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for one railbus. The railbus, owned by the Federal Railroad Administration, has been transferred to the National Park Service, Steamtown National Historic Site. The vehicle will operate in seasonal captive service over approximately ¼-mile of track in Scranton, Pennsylvania. The area of operation will be controlled by National Park Service Rangers. The petitioner states that during the operation, exposure to those elements which would fall into the scope of the glazing requirements is not anticipated to occur.

Texas North Western Railway Company (Waiver Petition Docket Number RSGM-88-18)

The Texas North Western Railway Company (TXNW) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for one locomotive. The locomotive operated over approximately 46 miles of track

between Etter and Morse, Texas. The area of operation is rural farm country in the extreme northwest Texas Panhandle. The TXNW states that there have been no acts of vandalism reported since it began operations in November 1982. The petitioner feels that the installation certified glazing would be an unnecessary financial burden to its operation.

Stewartstown Railroad Company (Waiver Petition Docket Number RSGM–88–19)

The Stewartstown Railroad Company (STRT) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for three locomotives. The locomotives operate over approximately 24.4 miles of track between Stewartstown and Hyde, Pennsylvania. The STRT states that it has had no glass breakage since it resumed service in January 1985. The petitioner indicates the estimated cost to equip the three locomoties with certified glazing is approximately $4,800. The STRT feels that the installation of cerified glazing would place an undue burden upon its operating costs.

Issued in Washington, DC, on September 6, 1988.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 88–21154 Filed 9–15–88; 8:45 am]

BILLING CODE 4910–06–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Approval of Request for Removal, Without Disapproval, From the Roster of Approved Trustees; Rhode Island Hospital Trust National Association

On September 3, 1988, there was published in the **Federal Register** (51 FR 29358), pursuant to 46 CFR 221.28, a Notice of Request for Removal, Without Disapproval, from Roster of Approved Trustees. This notice was based on the request of Rhode Island Hospital Trust National Association, with offices at One Hospital Plaza, Providence, Rhode Island.

Therefore, pursuant to Pub. L. 89–346 and 46 CFR 221.21–221.30, Rhode Island Hospital Trust National Association is removed from the Roster of Approved Trustees.

This notice shall become effective on date of publication.

Dated: September 6, 1988.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 88–21196 Filed 9–15–88; 8:45 am]

BILLING CODE 4910–81–M

[Docket S–836]

Farrell Lines Inc.; Application for a Waiver of Section 804(a) of the Merchant Marine Act

By application of September 9, 1988, Farrell Lines Incorporated (Farrell), requests a waiver of the provisions of section 804(a) of the Merchant Marine Act, 1936, as amended (Act), to permit it to charter a foreign-flag vessell specifically for the purpose of operating a United States/Ivory Coast commercial cocoa express service for a six-month period commencing October 1988, including any additional time required by the vessel to complete a voyage which commences before the end of the six-month period.

Farrell advises that the vessel would sail alternatively with a vessel of Societe Ivoirienne de Transport Maritime (SITRAM), the national carrier of the Ivory Coast. In order to satisfy the heavy requirement of the cocoa season, it will be necessary for two vessels to sail every 20 days in a service dedicated to the carriage of cocoa. Farrell also advises that it has been unable to obtain suitable U.S.-flag tonnage for the charter.

Farrell states that for the past several years U.S.-flag carriers have been excluded from the Ivory Coast/United States cocoa market by the Ivoirienne government which has restricted the carriage of this primary commodity to its national flag fleet. However, an agreement has not been concluded with that government which authorizes the sharing of the transportation of cocoa on vessels operated by U.S.-flag carriers.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 p.m. on September 23, 1988. This notice is published as a matter of discretion. The Maritime Administration will consider any comments submitted and take such actions with respect thereof as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies.)

Dated: September 14, 1988.

By Order of the Maritime Administrator.

James E. Saari,

Secretary.

[FR Doc. 88–21255 Filed 9–15–88; 8:45 am]

BILLING CODE 4910–81–M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 180
Friday, September 16, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MARITIME COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 9, 1988—53 FR 35150.

PREVIOUSLY ANNOUNCED DATE AND TIME OF THE MEETING: September 15, 1988, 10:00 a.m.

CHANGE IN THE MEETING:

Addition to the Closed Session:
2. Docket No. 87–6—Actions to Adjust or Meet Conditions Unfavorable to Shipping in the United States/Peru Trade
Change in time of the Meeting—10:30 a.m.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523–5725.

Joseph C. Polking,
Secretary.

[FR Doc. 88–21300 Filed 9–14–88; 3:00 pm]
BILLING CODE 6730–01–M

SECURITIES AND EXCHANGE COMMISSION

Agency Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of September 19, 1988.

A closed meeting will be held on Tuesday, September 20, 1988, at 10:00 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, September 20, 1988, at 10:00 a.m., will be:

Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Settlement of administrative proceedings of an enforcement nature.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Karen Burgess at (202) 272–2000.

Jonathan G. Katz,
Secretary.

September 14, 1988.

[FR Doc. 88–21261 Filed 9–14–88; 1:35 pm]
BILLING CODE 8010–01–M

Corrections

Federal Register
Vol. 53, No. 180
Friday, September 16, 1988

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

Correction

In notice document 88-20357 appearing on page 34836 in the issue of Thursday, September 8, 1988, make the following correction:

On page 34836, in the second column, "*Agreement No.:* 224-200017-003" should read "*Agreement No.:* 224-200017-002".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 88-NM-13-AD; Amdt. 39-6007]

Airworthiness Directives; Boeing Model 737 Series Airplanes

Correction

In rule document 88-19027 beginning on page 32030 in the issue of Tuesday, August 23, 1988, make the following correction:

§ 39.13 [Corrected]

On page 32031, in the second column, in § 39.13, in the airworthiness directive, in paragraph A, in the third line, "737-21-1906" should read "737-21-1096".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 87-AGL-21]

Alteration of VOR Federal Airways; Illinois

Correction

In rule document 88-19768 beginning on page 33451 in the issue of Wednesday, August 31, 1988, make the following correction:

§ 71.123 [Corrected]

On page 33452, in the second column, in § 71.123 under **V-100**, in the second line, "190°" should read "290°".

BILLING CODE 1505-01-D

federal register

Friday
September 16, 1988

Part II

Department of Justice

Drug Enforcement Administration

21 CFR Part 1308

Exempt Chemical Preparations; Interim Rule and Request for Comments

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Exempt Chemical Preparations

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule amends § 1308.24 of Title 21 of the Code of Federal Regulations. The below-listed chemical preparations and mixtures which contain controlled substances replace the list of exempt chemical preparations set forth in § 1308.24(i). This action is DEA's periodic review of the exempt chemical preparation list. Preparations included in the list are exempted from the application of specific provisions of the Comprehensive Drug Abuse Prevention and Control Act of 1970, and from certain Drug Enforcement Administration regulations.

DATES: *Effective* October 17, 1988. Comments must be submitted on or before October 17, 1988.

ADDRESS: Comments should be submitted to Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, 1405 I Street, NW., Washington DC 20537.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION: The Controlled Substances Act as amended by the Dangerous Drug Diversion Control Act of 1984 authorizes the Attorney General in accordance with 21 U.S.C. 811 (g)(3)(B) to exempt from specific provisions of the Act, a compound, mixture, or preparation which contains any controlled substance, which is not for administration to a human being or animal and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse.

The Deputy Assistant Administrator of the Drug Enforcement Administration's Office of Diversion Control has received applications pursuant to § 1308.23 of Title 21 of the Code of Federal Regulations requesting approval of exempt status provided for in 21 CFR 1308.24. The Deputy Assistant Administrator hereby finds that each of the following preparations and mixtures is intended for laboratory, industrial, educational, or special research purposes, is not intended for general administration to man or animal, and either (a) contains no narcotic controlled substances and is packaged in such a form or concentration that the packaged quantity does not present any significant potential for abuse, (b) contains either a narcotic or non-narcotic controlled substance and one or more adulterating or denaturing agents in such a manner, combination, quantity, proportion, or concentration that the preparation or mixture does not present any potential for abuse, or (c) the formulation of such preparation or mixture incorporates methods of denaturing or other means so that the controlled substance cannot in practice be removed, and therefore the preparation or mixture does not present any significant potential for abuse. The Deputy Assistant Administrator further finds that exemption of the following chemical preparations and mixtures is consistent with the public health and safety as well as the needs of the researchers, chemical analysts, and suppliers of these products.

The Deputy Assistant Administrator for the Office of Diversion Control hereby certifies that these matters will have no significant impact upon small businesses or other entities within the meaning and intent of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* The addition of preparations to the list of exempt chemical preparations has the effect of exempting them from certain sections of the Controlled Substances Act of 1970 and its regulations.

It has been determined that these changes are internal matters which do not require formal OMB review.

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by section 202(d) of the Act (21 U.S.C. 811 (g)(3)(B)) and delegated to the Administrator of the Drug Enforcement Administration by regulations of the Department of Justice (28 CFR 0.100), and redelegated to the Deputy Assistant Administrator of the Drug Enforcement Administration, Office of Diversion Control, pursuant to 47 FR 43370, the Deputy Assistant Administrator of the Office of Diversion Control hereby amends 21 CFR Part 1308 as set forth below.

Dated: August 25, 1988.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

PART 1308—SCHEDULE OF CONTROLLED SUBSTANCES

1. The authority for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b), unless otherwise noted.

2. In § 1308.24(i) the table is revised to read as follows:

§ 1308.24 Exempt chemical preparations.

* * * * *

(i) * * *

EXEMPT CHEMICAL PREPARATIONS

Manufacturer or supplier	Product name/description	Form of product	Date of application
Abbott Laboratories			
Abbott Laboratories	0.05M Barbital Buffer Reagent: No. 05930	Polyethylene Bag with metalized mylar: 60 liters.	03/09/88
Abbott Laboratories	125I Cholylglycyltyrosine Reagent Solution, No. 7816	Plastic Bottle: 20 ml	04/07/78
Abbott Laboratories	125I-Thyroxine Reagent Solution	Plastic Bottle: 25 ml, 5 ml	04/22/76
Abbott Laboratories	125I-Thyroxine Reagent Solution: No. 05928	Carboy: 10 liters	03/09/88
Abbott Laboratories	ADx Benzoylecgonine Fluorescein Tracer Solution	Bottle: 3.2 ml	12/02/86
Abbott Laboratories	ADx Cannabinoids Fluorescein Tracer Solution	Bottle: 3.2 ml	12/02/86
Abbott Laboratories	ADx Cannabinoids Reagent Pack (No. 9671–55)	Reagent Pack: 50 tests	12/02/86
Abbott Laboratories	ADx Cocaine Metabolite Reagent Pack (No. 9670–55)	Reagent Pack: 50 tests	12/02/86
Abbott Laboratories	ADx Opiates Fluorescein Tracer Solution	Bottle: 3.2 ml	12/02/86
Abbott Laboratories	ADx Opiates Reagent Pack (No. 9673–55)	Reagent Pack: 50 tests	12/02/86
Abbott Laboratories	Amphetamine Bulk Calibrators, B–F	Flask: 2 liter	10/09/85
Abbott Laboratories	Amphetamine Bulk Controls, L and H	Flask: 2 liter	12/09/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Abbott Laboratories	Amphetamine Class Bulk Calibrator B–F	Carboy: 10 liters; Flask: 6 liters, 2 liters, 1 liter, 250 ml, 200 ml.	03/01/88
Abbott Laboratories	Amphetamine Class Bulk Control L and H	Carboy: 10 liters; Flask: 6 liters, 2 liters, 1 liter, 250 ml, 200 ml.	03/01/88
Abbott Laboratories	Amphetamine Class Bulk Tracer: No. 94699	Carboy: 10 liters; Flask: 6 liters, 2 liters.	03/01/88
Abbott Laboratories	Amphetamine Class Stock Tracer: No. 94700	Bottle: 30 ml	03/01/88
Abbott Laboratories	Amphetamine Stock Standard, No. 97072	Bottle: 125 ml	09/30/85
Abbott Laboratories	Amphetamine/ Metamphetamine QC Primary Bulk Control M, No. 9668–M.	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Amphetamine/ Methamphetamine QC Primary Standard Control M, No. 9668–M.	Bottle: 5 ml	11/10/87
Abbott Laboratories	Barbital Buffer 0.05 Molar	Plastic Bottle: 25 ml, 5 ml	04/22/76
Abbott Laboratories	Barbital Buffer, 0.06 M Reagent Solution No. 7824	Plastic Bottle: 2.5 ml	04/07/78
Abbott Laboratories	Barbiturates QC Primary Bulk Control M, No. 9669–M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Barbiturates QC Primary Standard Control M, No. 9669–M	Bottle: 5 ml	11/10/87
Abbott Laboratories	Benzodiazepines Bulk Calibrators, A–F No. 9674	Flasks: 2 liter	04/21/86
Abbott Laboratories	Benzodiazepines Bulk Controls, L and H No. 9674	Flasks: 2 liter	04/21/86
Abbott Laboratories	Benzodiazepines QC Primary Bulk Control M, No. 9674–M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Benzodiazepines QC Primary Bulk Control M, No. 9674–M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Benzodiazepines Serum Bulk Calibrators B–F: Code No. 9682 B–F	Carboy: 10 liters; Flask: 6 liters, 2 liters.	12/07/87
Abbott Laboratories	Benzodiazepines Serum Bulk Calibrators: No. 9682 B–F	Carboy: 20 liters, 10 liters; Flask: 6 liters, 2 liters, 1 liter.	05/02/88
Abbott Laboratories	Benzodiazepines Serum Bulk Controls L, M, & H: Code No. 9682 L, M, & H.	Carboy: 10 liters; Flask: 6 liters, 2 liters.	12/07/87
Abbott Laboratories	Benzodiazepines Serum Bulk Controls: No. 9682 L, M, H	Carboy: 20 liters, 10 liters; Flask: 6 liters, 2 liters, 1 liter, 250 ml, 200 ml.	05/02/88
Abbott Laboratories	Benzoylecgonine Stock Standard, No. 97182	Bottle: 125 ml	11/21/85
Abbott Laboratories	CG RIA Diagnostic Kit No. 7815	Kit: 100 tests	04/07/78
Abbott Laboratories	Cannabinoids Bulk Calibrators B–F	Flasks: 2 liters	10/24/86
Abbott Laboratories	Cannabinoids Bulk Calibrators B–F	Flask: 6 liter	06/19/87
Abbott Laboratories	Cannabinoids Bulk Controls L, M, and H	Flask: 6 liters	06/19/87
Abbott Laboratories	Cannabinoids Bulk Controls L, M, H	Flasks: 2 liters	10/24/86
Abbott Laboratories	Cannabinoids Bulk Tracer (No. 94192)	Flasks: 4 liters	10/27/86
Abbott Laboratories	Cannabinoids Stock Standard (94568)	Bottle: 125 ml	06/19/87
Abbott Laboratories	Cannabinoids Stock Standard (No. 94193)	Bottle: 125 ml	10/24/86
Abbott Laboratories	Cannabinoids Stock Tracer (No. 94194)	Flask: 5 ml	10/27/86
Abbott Laboratories	Cholylglycine Antiserum (Rabbit) Reagent Solution No. 7817	Plastic Bottle: 20 ml	04/07/78
Abbott Laboratories	Cocaine Metabolite Bulk Calibrator, B–F No. 9670	Flask: 2 liter	10/28/85
Abbott Laboratories	Cocaine Metabolite Bulk Controls, L and H No. 9670	Flask: 2 liter	10/28/85
Abbott Laboratories	Cocaine Metabolite Bulk Tracer, No. 9670	Flask: 4 liter	10/29/85
Abbott Laboratories	Cocaine Metabolite QC Primary Bulk Control M, No. 9670–M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Cocaine Metabolite QC Primary Standard Control M, No. 9670–M	Bottle: 5 ml	11/10/87
Abbott Laboratories	Cocaine Metabolite Stock Tracer, No. 9670	Vial: 5 ml	10/29/85
Abbott Laboratories	Morphine Stock Standard, No. 97291	Vial: 125 ml	10/16/85
Abbott Laboratories	Multiconstituent Bulk Controls L, M, H (No. 9687–L,M, H)	Flask: 10 liters	09/03/87
Abbott Laboratories	Nordiazepam Serum Bulk Stock Standard No. 94941	Carboy: 10 liters; Flask: 6 liters, 2 liters, 1 liter.	05/02/88
Abbott Laboratories	Nordiazepam Serum Bulk Stock Standard: Code No. 94941	Carboy: 10 liters; Flask: 6 liters, 2 liters.	12/07/87
Abbott Laboratories	Nordiazepam Serum Stock Standard: Code No. 94941	Bottle: 125 ml	12/07/87
Abbott Laboratories	Nordiazepam Serum Stock Standard: No. 94941	Bottle: 125 ml	05/02/88
Abbott Laboratories	Nordiazepam Stock Standard, No. 97757	Bottle: 125 ml	04/21/86
Abbott Laboratories	Opiate Bulk Calibrators, B–F No. 9673	Flasks: 2 liter	05/07/86
Abbott Laboratories	Opiate Bulk Controls, L and H No. 9673	Flasks: 2 liter	05/07/86
Abbott Laboratories	Opiates Bulk Calibrators B–F: No. 9673 B–F	Carboy: 10 liters	02/29/88
Abbott Laboratories	Opiates Bulk Controls L and H: No. 9673 L, H	Carboy: 10 liter	02/29/88
Abbott Laboratories	Opiates Bulk Tracer, No. 97458	Flask: 4 liter	05/07/86
Abbott Laboratories	Opiates Bulk Tracer: No. 97458	Carboy: 10 liters	02/29/88
Abbott Laboratories	Opiates QC Primary Bulk Control M, No. 9673–M	Flasks: 1 liter, 250 ml, and 200 ml	11/10/87
Abbott Laboratories	Opiates QC Primary Standard Control M, No. 9673–M	Bottle: 5 ml	11/10/87
Abbott Laboratories	Opiates Stock Tracer, No. 98718	Bottle: 30 ml	05/07/86
Abbott Laboratories	Phencyclidine Bulk Calibrator, B–F No. 9672	Flask: 2 liter	03/21/86
Abbott Laboratories	Phencyclidine Bulk Control M No. 9672	Flask: 2 Liters	09/26/86
Abbott Laboratories	Phencyclidine Bulk Controls, L and H No. 9672	Flask: 2 liter	03/21/86
Abbott Laboratories	Phencyclidine Stock Standard, No. 97158	Bottle: 125 ml	11/21/85
Abbott Laboratories	Phenobarbital Enzyme Inhibitor Stock	Vial: 2 ml	01/20/84
Abbott Laboratories	Phenobarbital Stock Solution 1 mg/ ml Code No. 94312	Plastic Bottle: 125 ml	03/23/87
Abbott Laboratories	Phenobarbital Stock Solution 10 mg/ ml Code No. 94313	Plastic Bottle: 125 ml	03/23/87
Abbott Laboratories	Phenobarbital Stock Standard Solution	Bottle: 1 liter	08/12/82
Abbott Laboratories	Polyethylene Glycol 8000, 16% Solution in 0.09 M Barbital Buffer, No. 7541.	Plastic Bottle: 300 ml, 150 ml	09/21/77
Abbott Laboratories	Polyethylene Glycol 8000, 18% Solution in 0.09M Barbital Buffer: No. 07602.	Stainless Steel Tank: 1000 liters	03/09/88
Abbott Laboratories	Secobarbital Bulk Calibrator, B–F No. 9669	Flask: 2 liter	03/21/86
Abbott Laboratories	Secobarbital Bulk Controls, L and H No. 9669	Flask: 2 liter	03/21/86
Abbott Laboratories	Secobarbital Stock Standard, No. 97171	Bottle: 125 ml	11/21/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Abbott Laboratories	Spectrum Phenobarbital Calibrator II-VI, Nos. 9755, 9757, 9759, 9761, 9763.	Bottle: 4 ml	10/03/85
Abbott Laboratories	Spectrum Phenobarbital Control, Nos. 9876, 9878, 9880. (L,M,H)	Bottle: 4 ml	10/03/85
Abbott Laboratories	T 4 RIA (PEG) Diagnostic Kit	Kit: 500 tests, 100 tests, 50 tests	04/22/76
Abbott Laboratories	TDx Amphetamine Class Calibrators 9667-01	Kit containing 6 vials	03/01/88
Abbott Laboratories	TDx Amphetamine Class Calibrators B-F	Bottle: 5 ml	03/01/88
Abbott Laboratories	TDx Amphetamine Class Control L and H	Bottle: 5 ml	03/01/88
Abbott Laboratories	TDx Amphetamine Class Controls 9667-10	Kit containing 2 vials	03/01/88
Abbott Laboratories	TDx Amphetamine Class Reagent Pack 9667-20	Kit: 100 tests	03/01/88
Abbott Laboratories	TDx Amphetamine Class Tracer 9667-T	Bottle: 5 ml	03/01/88
Abbott Laboratories	TDx Amphetamine/Methamphetamine Calibrator, No. 9668-01	Bottles: 4 ml	08/23/85
Abbott Laboratories	TDx Amphetamine/Methamphetamine Controls, No. 9668-10	Bottles: 4 ml	08/23/85
Abbott Laboratories	TDx Barbiturates Calibrators, B-F No. 9669	Bottle: 4 ml	10/08/85
Abbott Laboratories	TDx Barbiturates Control, L and H No. 9669	Bottle: 4 ml	10/08/85
Abbott Laboratories	TDx Benzodiazepines Calibrators, No. 9674-01	Bottles: 4 ml	04/21/86
Abbott Laboratories	TDx Benzodiazepines Controls, No. 9674-10	Bottles: 4 ml	04/21/86
Abbott Laboratories	TDx Benzodiazepines Serum Calibrator No. 9682 B-F	Bottle: 4 ml	05/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators B-F: Code No. 9682 B-F	Bottle: 4 ml	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators: Code No. 9682-01	Kit	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Calibrators: No. 9682-01	Kit containing 6 vials	05/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls L,M, & H: No. 9682 L,M,H	Bottle: 4 ml	12/07/87
Abbott Laboratories	TDx Benzodiazepines Serum Controls L,M,H: No. 9682 L,M,H	Bottle: 4 ml	05/02/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls: Code No. 9682-10	Kit	12/07/88
Abbott Laboratories	TDx Benzodiazepines Serum Controls: No. 9682-10	Kit containing 3 vials	05/02/88
Abbott Laboratories	TDx Cannabinoids Calibrators B-F (9671-02)	Bottle: 5 ml	06/19/87
Abbott Laboratories	TDx Cannabinoids Calibrators B-F (No. 9671-01)	Bottles: 5 ml	10/24/86
Abbott Laboratories	TDx Cannabinoids Controls L,M, and H (9671-11)	Bottle: 5 ml	06/19/87
Abbott Laboratories	TDx Cannabinoids Controls L,M,H (No. 9671-10)	Bottles: 5 ml	10/24/86
Abbott Laboratories	TDx Cannabinoids Fluorescein Tracer Solution (No. 9671-T)	Bottle: 5 ml	10/27/86
Abbott Laboratories	TDx Cannabinoids Reagent Pack (No. 9671-20)	100 tests	10/27/86
Abbott Laboratories	TDx Cocaine Metabolite Calibrator, B-F No. 9670	Bottle: 4 ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Control, L and H No. 9669	Bottle: 4 ml	10/02/85
Abbott Laboratories	TDx Cocaine Metabolite Reagent Pack	Reagent well: 5 ml	10/02/85
Abbott Laboratories	TDx Multiconstituent Controls L,M,H (No. 9687-L,M,H)	Bottle: 5 ml	09/03/87
Abbott Laboratories	TDx Opiates Calibrators B-F: No. 9673-01	Vial: 4 ml	02/29/88
Abbott Laboratories	TDx Opiates Calibrators, B-F No. 9673	Vial: 4 ml	05/07/86
Abbott Laboratories	TDx Opiates Controls L and H: No. 9673 L,H	Vial: 4 ml	02/29/88
Abbott Laboratories	TDx Opiates Controls, L and H No. 9673	Vial: 4 ml	05/07/86
Abbott Laboratories	TDx Opiates Fluorescein Tracer Solution: No. 9673-T	Reagent Well: 5 ml	02/29/88
Abbott Laboratories	TDx Opiates Reagent, Pack No. 9673-20	Reagent Well: 5 ml	05/07/86
Abbott Laboratories	TDx Phencyclidine Calibrators, B-F No. 9672	Bottle: 4 ml	10/09/85
Abbott Laboratories	TDx Phencyclidine Control M No. 9672	Bottle: 4 ml	09/26/86
Abbott Laboratories	TDx Phencyclidine Controls, L and H No. 9672	Bottle: 4 ml	10/09/85
Abbott Laboratories	TDx Phenobarbital Calibrator—0.0, 5.0, 10.0, 20.0, 40.0, and 80.0 mcg/ ml.	Kit ctg: 6 vials	08/31/81
Abbott Laboratories	TDx Phenobarbital Controls—15.0, 30.0, 50.0 mcg/ ml	Kit ctg: 3 vials	08/31/81
Abbott Laboratories	TDx Systems Multiconstituent Controls for Abused Drug (No. 9687-10).	Kit: 6 Bottles	09/03/87
Abbott Laboratories	Thyroxine Antiserum (Sheep, Rabbit, or Goat)	Plastic Bottle: 200 ml, 20 ml	04/22/76
Abbott Laboratories	Thyroxine Antiserum: No. 05929	Polyethylene Bag with metalized mylar: 200 liters.	03/09/88
Abbott Laboratories	Thyroxine Binding Globulin, Thyroxine I 125	Glass Bottle: 13 ml. Plastic Bottle: 250 ml.	04/22/76
Adri/Technam			
Adri/Technam	3-Ortho-Carboxymethylmorphine	Screw Cap Vial	05/03/73
Adri/Technam	5-Ethyl-5-(1-Carboxy-n-propyl) Barbituric Acid	Screw Cap Vial	05/03/73
Adri/Technam	5-Ethyl-5-(1-Carboxy-n-propyl) Barbituric Acid-Bovine Serum Albumin.	Vaccine Vial: 10 ml	05/03/73
Adri/Technam	5-Ethyl-5-(1-Carboxy-n-propyl) Barbituric Acid-Rabbit Serum Albumin.	Vaccine Vial: 10 ml	05/03/73
Adri/Technam	Barbiturate Standard	Screw-cap vial: 10 ml	07/17/76
Adri/Technam	Barbituric Acid Sensitized Red Blood Cells	Vaccine Vial: 50 ml	05/03/73
Adri/Technam	Benzoyl Ecgonine	Screw-cap vial: 10 ml	04/18/74
Adri/Technam	Benzoyl Ecgonine Sensitized Red Blood Cells	Vaccine Vial: 50 ml	05/03/73
Adri/Technam	Benzoyl Ecgonine Standard	Screw-cap vial: 10 ml	07/17/76
Adri/Technam	Benzoyl Ecgonine-BSA	Vaccine Vial	07/21/75
Adri/Technam	Benzoyl Ecgonine-RSA	Vaccine Vial	07/21/75
Adri/Technam	CMM-BSA and CMM-RSA (Carboxymethylmorphine Bovine Serum Albumin or Carboxymethylmorphine Rabbit Serum Albumin).	Vaccine Vial: 10 ml	05/03/73
Adri/Technam	Cannabuse Cannabidiol Standard	Disks: 25/package	05/03/85
Adri/Technam	Cannabuse Delta 8 THC Carboxylic Acid Standard	Disks: 25/package	09/19/84
Adri/Technam	Cannabuse Delta 8 THC Carboxylic Acid Standard	Vial: 6 ml	09/19/84
Adri/Technam	Cannabuse Delta 9 THC Carboxylic Acid Standard	Vial: 6 ml	09/19/84
Adri/Technam	Cannabuse Delta 9 THC Carboxylic Acid Standard	Disks: 25/package	09/19/84
Adri/Technam	Cannabuse Delta 9 THC Standard	Disks: 25/package	09/19/84
Adri/Technam	Cannabuse Delta 9 THC Standard	Vial: 6 ml	09/19/84
Adri/Technam	Drug Standards, Acid/Neutral Mixture A and B	Disks: 25/package	11/15/85
Adri/Technam	Drug Standards, Basic Mixture A and B	Disks: 25/package	11/15/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Adri/Technam	Methadone Standard	Screw-cap vial: 10 ml	07/17/76
Adri/Technam	Morphine Sensitized Red Blood Cells	Vaccine Vial: 50 ml	05/03/73
Adri/Technam	Morphine Standard (in distilled water)	Screw-cap vial: 10 ml	07/17/77
Adri/Technam	Tropinecarboxylic Acid (ecgonine)	Screw-cap Bottle: 10 ml	05/03/73
American Monitor Corporation			
American Monitor Corporation	Qualify I	Glass Vial: 10 ml	10/09/75
American Monitor Corporation	Qualify II	Glass Vial: 10 ml	10/09/75
Amersham Corporation			
Amersham Corporation	Amerlex T-3 RIA Kit, IM 2000, IM 2001, IM 2004	Kit: 50 tests, 100 tests, 400 tests	02/18/80
Amersham Corporation	Amerlex T-4 RIA Kit, IM 2010, IM 2011, IM 2014	Kit: 50 tests, 100 tests, 400 tests	02/06/80
Amersham Corporation	Amerlex-M B-hCG Radioimmunoassay Kit IM 3091, IM 3094	Kit: 100 tests, 400 tests	06/19/85
Amersham Corporation	Amerlex-M T3 RIA Kit, 1M.3001, 1M.3004	Kit: 100 Tests, 400 Tests	08/27/86
Amersham Corporation	Amerlex-M T4 RIA Kit, 1M.3011, 1M.3014	Kit: 100 Tests, 400 Tests	08/27/86
Amersham Corporation	Amerlite TT3 Assay: Catalog Code Lan. 0003, Lan. 1003, and Lan. 2003.	Kit: 144 tests, 240 tests, 480 tests	11/24/87
Amersham Corporation	Amerlite TT4 Assay: Catalog Code Lan. 0002, Lan. 1002, Lan. 2002	Kit: 144 tests, 240 tests, 480 tests	11/24/87
Amersham Corporation	Codeine (N-methyl-C14) Hydrochloride	Custom Preparation	03/27/72
Amersham Corporation	Morphine (N-methyl-C14) Hydrocloride No. CFA-363	Vial: 0.32 to 1.89mg	03/27/72
Amersham Corporation	Pheno [2-14C] barbital Catalog No. CFA 537	Vial: 0.39 to 5.85mg	11/05/74
Amersham Corporation	Prolactin RIA Kit, IM 1060, 1061	Kit: 50 tests, 100 tests	03/28/80
Amersham Corporation	T-3 Uptake (MAA) Kit-IM 1020, IM 1021, IM 1024	Kit: 50 tests, 100 tests, 400 tests	02/05/79
Amersham Corporation	[1(N)-3H] Hydromorphone TRQ 4729	Vial: 47.5-95 micrograms	07/31/87
Amersham Corporation	[1(n)-3H] Codeine, No. TRK 448	Ampule: 0.002mg to 0.015mg	02/26/74
Amersham Corporation	[1(n)-3H]Morphine, No. TRK-447	Vial: 0.002 mg to 0.015 mg	02/26/74
Amersham Corporation	[1,7,8(n)-3H]Dihydromorphine, No. TRK-450	Vial: 0.0008 mg to 0.008 mg	02/26/74
Amersham Corporation	[15, 16(n)-3H] Etorphine, Catalog No. TRK 476	Vial: 3.45 to 6.9 micrograms	11/19/74
Amersham Corporation	[15,16(n)-3H] Etorphine Catalog No. TRK 476	Vial: 13.8 to 27.6 micrograms	02/17/75
Amersham Corporation	[2(n)-3H] Lysergic Acid Diethylamide, No. TRK. 461	Vial: 0.003mg to 0.04mg	05/22/74
Amersham Corporation	[2-14C] Diazepam Catalog No. CFA.591	Multidose Glass Vial: 56mm x 25mm	09/28/77
Amersham Corporation	[N-methyl-3H] Diazepam Catalog Code: TRK.572	Multidose Glass Vial: 56mm x 25mm	09/28/77
Analytical Systems, Div. Marion Laboratories, Inc.			
Analytical Systems, Div Marion Laboratories, Inc.	Proficiency Sample	Plastic Bottle Containing 40 ml	06/22/82
Analytical Systems, Div Marion Laboratories, Inc.	Special Toxi-Discs	Plastic Vial or Bottle Containing 50 Standard Discs.	03/30/77
Analytical Systems, Div Marion Laboratories, Inc.	Toxi-Control	Plastic Bottle Containing 50 ml	03/30/77
Analytical Systems, Div. Marion Laboratories, Inc.	Toxi-Control THC	Plastic Bottle Containing 50 ml	10/05/83
Analytical Systems, Div. Marion Laboratories, Inc.	Toxi-Disc A Series	Plastic Vial Containing 50 Standard Discs.	05/06/75
Analytical Systems, Div. Marion Laboratories, Inc.	Toxi-Disc B Series	Plastic Vial Containing 50 Standard Discs.	05/06/75
Analytical Systems, Div. Marion Laboratories, Inc.	Toxi-Discs THC	Plastic Vial Containing 50 Standard Discs.	10/05/83
Analytical Systems, Div Marion Laboratories, Inc.	Toxi-Grams	Glass Jar Containing 50 or 100 Chromatograms.	09/24/80
Analytical Systems, Div Marion Laboratories, Inc.	Toxi-Lab Cannabinoid (THC) Screen	Kit: 50 tests	10/05/83
Applied Science Laboratories			
Applied Science Laboratories	6-Monoacetylmorphine HCl	Vial: 1 ml	03/30/88
Applied Science Laboratories	Allylisobutylbarbituric Acid	Vial: 1 ml	01/24/73
Applied Science Laboratories	Alphaprodine HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Alphenal	Vial: 1 ml	01/24/73
Applied Science Laboratories	Alprazolam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Amobarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Amphetamine HCL	Vial: 1 ml	01/24/73
Applied Science Laboratories	Aprobarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Barbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Barbiturates, Mixture 4	Vial: 10 ml	10/04/72
Applied Science Laboratories	Benzoylecgonine Tetrahydrate	Vial: 1 ml	04/16/85
Applied Science Laboratories	Benzphetamine HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Butabarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Butethal	Vial: 1 ml	01/24/73
Applied Science Laboratories	Cannabidiol	Vial: 1 ml	03/30/88
Applied Science Laboratories	Cannabinol	Vial: 1 ml	03/30/88
Applied Science Laboratones	Chloral Hydrate	Vial: 1 ml	04/16/85
Applied Science Laboratories	Chlordiazepoxide HCL	Vial: 1 ml	04/16/85
Applied Science Laboratones	Clonazepam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Clorazepate Dipotassium	Vial: 1 ml	04/16/85
Applied Science Laboratories	Cocaine	Vial: 1 ml	01/24/73
Applied Science Laboratones	Codeine	Vial: 1 ml	01/24/73
Applied Science Laboratones	Delta-8-Tetrahydro-cannabinol	Vial: 1 ml	03/30/88
Applied Science Laboratories	Delta-9-Tetrahydrocannabinol	Vial: 1 ml	04/16/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Applied Science Laboratories	Depressants, Mixture 3	Vial: 10 ml	10/04/72
Applied Science Laboratories	Dextropropoxyphene HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Diacetylmorphine HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Diallybarbituric acid	Vial: 1 ml	01/24/73
Applied Science Laboratories	Diazepam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Diethylpropion HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Dihydrocodeine	Vial: 1 ml	04/16/85
Applied Science Laboratories	Dimethyltryptamine	Vial: 1 ml	04/16/85
Applied Science Laboratories	Drug Mix Four	Ampoule: 1 ml	11/03/86
Applied Science Laboratories	Drug Mix One	Ampoule: 1 ml	10/21/86
Applied Science Laboratories	Drug Mix Three	Ampoule: 1 ml	11/03/86
Applied Science Laboratories	Drug Mix Two	Ampoule: 1 ml	10/21/86
Applied Science Laboratories	Ecgonine HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Ecgonine Methyl Ester HCl	Vial: 1 ml	03/30/88
Applied Science Laboratories	Ethchlorvynol	Vial: 1 ml	01/24/73
Applied Science Laboratories	Ethinamate	Vial: 1 ml	01/24/73
Applied Science Laboratories	Ethylmorphine HCL	Vial: 1 ml	01/24/73
Applied Science Laboratories	Fenfluramine HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Fentanyl	Vial: 1 ml	04/16/85
Applied Science Laboratories	Flurazepam HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Glutethimide	Vial: 1 ml	01/24/73
Applied Science Laboratories	Halazepam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Hexobarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Hydrocodone Bitartrate	Vial: 1 ml	01/24/73
Applied Science Laboratories	Hydromorphone HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Levorphanol Tartrate	Vial: 1 ml	04/16/85
Applied Science Laboratories	Lorazepam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Lysergic Acid	Vial: 1 ml	04/16/85
Applied Science Laboratories	Lysergic Acid N-(methylpropyl) amide	Vial: 1 ml	04/16/85
Applied Science Laboratories	Lysergic Acid diethylamide	Vial: 1 ml	04/16/85
Applied Science Laboratories	MDA HCl	Vial: 1 ml	03/30/88
Applied Science Laboratories	MDMA HCl	Vial: 1 ml	03/30/88
Applied Science Laboratories	Meperidine HCL	Vial: 1 ml	01/24/73
Applied Science Laboratories	Mephobarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Meprobamate	Vial: 1 ml	01/24/73
Applied Science Laboratories	Mescaline	Vial: 1 ml	01/24/73
Applied Science Laboratories	Methadone HCL	Vial: 1 ml	01/24/73
Applied Science Laboratories	Methamphetamine HCL	Vial: 1 ml	01/24/73
Applied Science Laboratories	Methaqualone HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Methohexital	Vial: 1 ml	04/16/85
Applied Science Laboratories	Methylphenidate	Vial: 1 ml	01/24/73
Applied Science Laboratories	Methyprylon	Vial: 1 ml	04/16/85
Applied Science Laboratories	Mixture 1—Opiates	Vial: 1 ml	10/04/72
Applied Science Laboratories	Mixture 2—Stimulants	Vial: 1 ml	10/04/72
Applied Science Laboratories	Mixture 3—Depressants	Vial: 1 ml	10/04/72
Applied Science Laboratories	Mixture 4—Barbiturates	Vial: 1 ml	10/04/72
Applied Science Laboratories	Mixture 5—Kit of Representatives	Vial: 1 ml	10/04/72
Applied Science Laboratories	Morphine	Vial: 1 ml	01/24/73
Applied Science Laboratories	Nalorphine	Vial: 1 ml	01/24/73
Applied Science Laboratories	Nitrazepam	Vial: 1 ml	03/30/88
Applied Science Laboratories	Norcodeine HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Nordiazepam	Vial: 1 ml	03/30/88
Applied Science Laboratories	Normorphine	Vial: 1 ml	04/16/85
Applied Science Laboratories	Opiates, Mixture 1	Vial: 10 ml	10/04/72
Applied Science Laboratories	Oxazepam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Oxycodone HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Oxymorphone HCL	Vial: 1 ml	04/16/85
Applied Science Laboratories	Paraldehyde	Vial: 1 ml	04/16/85
Applied Science Laboratories	Pemoline	Vial: 1 ml	04/16/85
Applied Science Laboratories	Pentazocine	Vial: 1 ml	04/16/85
Applied Science Laboratories	Pentobarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Phenazocine HBr	Vial: 1 ml	01/24/73
Applied Science Laboratories	Phencyclidine HCL	Vial: 1 ml	01/24/73
Applied Science Laboratories	Phendimetrazine Bitartrate	Vial: 1 ml	04/16/85
Applied Science Laboratories	Phenobarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Phentermine	Vial: 1 ml	04/16/85
Applied Science Laboratories	Prazepam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Propylbenzoyl-ecgonine	Vial: 1 ml	03/30/88
Applied Science Laboratories	Psilocybin	Vial: 1 ml	04/16/85
Applied Science Laboratories	Psilocyn	Vial: 1 ml	11/06/87
Applied Science Laboratories	Secobarbital	Vial: 1 ml	01/24/73
Applied Science Laboratories	Stimulants, Mixture 2	Vial: 10 ml	10/04/72
Applied Science Laboratories	Temazepam	Vial: 1 ml	04/16/85
Applied Science Laboratories	Thebaine	Vial: 1 ml	01/24/73
Applied Science Laboratories	Thiamylal	Vial: 1 ml	01/24/73
Applied Science Laboratories	Toxi Clean Test Mix	Vial: 1 ml	03/30/88
Applied Science Laboratories	Triazolam	Vial: 1 ml	04/16/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Armed Forces Institute of Pathology			
Armed Forces Institute of Pathology	11-nor-9-carboxy-delta 8-THC in Ethanol Ampules	Glass Ampule: 1 mg/ml, 1 ml, 5 ml, 10 ml.	01/25/82
Astral Medical Systems			
Astral Medical Systems	Barbital Buffer	Plastic bag: 12.2 g/bag	05/01/85
Astral Medical Systems	Barbital Lactate Buffer	Plastic bag: 18 g/bag	05/01/85
Astral Medical Systems	Isoenzyme Buffer	Plastic bag: 14 g/bag	05/01/85
Astral Medical Systems	Tris-Barbital Sodium Barbital Buffer	Plastic bag: 18 g/bag	05/01/85
BHP Diagnostix			
BHP Diagnostix	Kodak Ektachem-DT Calibrator	Bottle: 6 ml	01/05/85
Baxter Healthcare Corporation, Dade Division			
Baxter Healthcare Corporation, Dade Division.	(125I) Human TSH Tracer (Lyophilized), Catalog No. CA-2691	Glass Vial: 10 ml	09/09/86
Baxter Healthcare Corporation, Dade Division.	(125I) Human TSH Tracer, Catalog No. CA-2611	Glass Vial: 10 ml	09/09/86
Baxter Healthcare Corporation, Dade Division.	Absorbed Plasma and Serum Reagents Kit (Catalog No. B4233-2)	Kit: 5 Vials	03/10/87
Baxter Healthcare Corporation, Dade Division.	Absorbed Plasma and Serum Reagents Kit B4233-2	Glass Vial: 5 ml (Lyophilized Material)	08/16/71
Baxter Healthcare Corporation, Dade Division.	Anticonvulsant Drug Controls, Levels I and II, Catalog Nos. CA-2419 and CA-2420.	Glass Vial: 3.5 ml	09/09/86
Baxter Healthcare Corporation, Dade Division.	Bovine Chemistry Control I.X Special Order Request B5107-55XX	Bottle: 18 ml (Lyophilized Material)	01/29/86
Baxter Healthcare Corporation, Dade Division.	Bovine Chemistry Control II.X Special Order Request B5107-65XX	Bottle: 18 ml (Lyophilized Material)	01/29/86
Baxter Healthcare Corporation, Dade Division.	Buffered Thrombin (Bovine) Catalog No. B4233-40	Bottle: 5 ml (Lyophilized Material)	01/24/86
Baxter Healthcare Corporation, Dade Division.	Clinical Assays GammaCoat (125I) Phenobarbital Radioimmunoassay Kit Catalog Nos. CA-2545, CA-2565.	Kit: 50 Assays, 500 Assays	09/09/86
Baxter Healthcare Corporation, Dade Division.	Clinical Assays GammaCoat (125I) Phenytoin Radioimmunoassay Kit Catalog Nos. CA-2537, CA-2557.	Kit: 50 Assays, 500 Assays	09/09/86
Baxter Healthcare Corporation, Dade Division.	Clinical Assays GammaCoat (125I) T3 Uptake Radioimmunoassay Kit Catalog Nos. CA-2539, CA-2539J, CA-2559, CA-2559J.	Kit: 100 Assays, 100 Assays, 500 Assays, 500 Assays.	09/09/86
Baxter Healthcare Corporation, Dade Division.	Clinical Assays GammaDab (125I) HS-HTSH Radioimmunoassay Kit Catalog No. CA-1573.	Kit: 125 Assays	09/09/86
Baxter Healthcare Corporation, Dade Division.	Clinical Assays GammaDab (125I) HTSH Radioimmunoassay Kit Catalog No. CA-2591J.	Kit: 125 Assays	09/09/86
Baxter Healthcare Corporation, Dade Division.	Dade Immunoassay Control, Level I-Low	Bottle: 9 ml (Lyophilized Material)	04/25/86
Baxter Healthcare Corporation, Dade Division.	Dade Immunoassay Control, Level I-Low	Bottle: 9 ml (Lyophilized Material)	04/25/86
Baxter Healthcare Corporation, Dade Division.	Dade Immunoassay Control, Level II-Intermediate	Bottle: 9 ml (Lyophilized Material)	04/25/86
Baxter Healthcare Corporation, Dade Division.	Dade Immunoassay Control, Level III-High	Bottle: 9 ml (Lyophilized Material)	04/25/86
Baxter Healthcare Corporation, Dade Division.	Dade Tri-Rac R Tri Level Immunoassay Controls	Bottle: 9 ml 6 bottles per kit (Lyophilized Material).	04/11/85
Baxter Healthcare Corporation, Dade Division.	Data-Fi Fibrin Monomer Control Catalog Nos. B4233-30 & B4233-38.	Glass Vial: 5 ml (Lyophilized Material)	01/24/86
Baxter Healthcare Corporation, Dade Division.	Data-Fi Protamine Sulfate Reagents Kit (Catalog No. B4233-30)	Kit: 10 Vials	03/10/87
Baxter Healthcare Corporation, Dade Division.	Data-Fi Thrombin Reagent	Bottle: 9 ml (Lyophilized Material)	07/20/83
Baxter Healthcare Corporation, Dade Division.	Data-Fi Thrombin Reagent	Bottle: 5 ml (Lyophilized Material)	05/18/81
Baxter Healthcare Corporation, Dade Division.	HTSH Non-Specific Binding Reagent, Catalog No. CA-2752	Glass Vial: 3.5 ml	09/09/86
Baxter Healthcare Corporation, Dade Division.	HTSH Non-Specific Binding Reagent, Catalog No. CA-2780	Glass Vial: 3.5 ml	09/09/86
Baxter Healthcare Corporation, Dade Division.	Human TSH Controls Levels I and II, Catalog Nos. CA-2452 and CA-2453.	Glass Vial: 3.5 ml	09/09/86
Baxter Healthcare Corporation, Dade Division.	Moni-Trol Level I Chemistry Control, Assayed, Special Order Request. B5103-XXX.	Bottle: 9 ml (Lyophilzed Material)	01/20/84
Baxter Healthcare Corporation, Dade Division.	Moni-Trol Level I.X Special Order Request B5106-5X	Bottle: 18 ml (Lyophilized Material)	06/30/83
Baxter Healthcare Corporation, Dade Division.	Moni-Trol Level II Chemistry Control, Assayed, Special Order Request. B5103-XXX, B5113-XXX.	Bottle: 9 ml (Lyophilized Material)	01/20/84
Baxter Healthcare Corporation, Dade Division.	Moni-Trol Level II.X Special Order Request B5106-6X	Bottle: 18 ml (Lyophilized Material)	06/30/83
Baxter Healthcare Corporation, Dade Division.	Moni-Trol. ES Level I Chemistry Control, Assayed	Bottles: 9 ml, 6.7 ml (Lyophilized Material).	07/15/83
Baxter Healthcare Corporation, Dade Division.	Moni-Trol. ES Level I.X Special Order Request Catalog No. B5106-75AAA Catalog No. B5106-1XAAA.	Bottle: 18 ml, 9 ml (Lyophilized Material).	06/27/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Baxter Healthcare Corporation, Dade Division.	Moni-Trol. ES Level II Chemistry Control, Assayed	Bottles: 9 ml, 6.7 ml (Lyophilized Material).	07/15/83
Baxter Healthcare Corporation, Dade Division.	Moni-Trol. ES Level II.X Special Order Request Catalog No. B5106-85AAA Catalog No. B5106-2XAAA.	Bottles: 18 ml, 9 ml (Lyophilized Material).	06/27/86
Baxter Healthcare Corporation, Dade Division.	Owren's Veronal Buffer	Bottle: 18 ml	08/16/71
Baxter Healthcare Corporation, Dade Division.	Rabbit Anti-Human TSH Serum, Catalog No. CA-2109	Glass Vial: 20 ml	09/09/86
Baxter Healthcare Corporation, Dade Division.	Stratus Phenobarbital Calibrators B, C, D, E, & F	Glass Vial: 3 ml	06/27/83
Baxter Healthcare Corporation, Dade Division.	Stratus Phenobarbital Conjugate	Glass Vial: 6 ml	01/25/82
Baxter Healthcare Corporation, Dade Division.	Stratus Phenobarbital Fluorometric Enzyme Immunoassay Kit (Catalog No. B5700-22).	Kit: 120 tests	03/10/87
Baxter Healthcare Corporation, Dade Division.	Stratus TDM Control Level I-Low B5700-2	Glass Vial: 9 ml (Lyophilized Material)	01/21/82
Baxter Healthcare Corporation, Dade Division.	Stratus TDM Control Level II-Intermediate B5700-3	Glass Vial: 9 ml (Lyophilized Material)	01/21/82
Baxter Healthcare Corporation, Dade Division.	Stratus TDM Control Level III-High B5700-4	Glass Vial: 9 ml (Lyophilized Material)	01/21/82
Baxter Healthcare Corporation, Dade Division.	Stratus Therapeutic Drug Monitoring (TDM) Controls (Catalog No. B5700-1).	Kit: 9 Vials	03/10/87
Baxter Healthcare Corporation, Dade Division.	Thrombin Reagent (Bovine)	Bottle: 5 ml (Lyophilized Material)	08/16/71
Baxter Healthcare Corporation, Dade Division.	Tri Rac R Immunoassay Control Level II Intermediate	Bottle: 9 ml (Lyophilized Material)	04/11/85
Baxter Healthcare Corporation, Dade Division.	Tri Rac R Immunoassay Control Level III High	Bottle: 9 ml (Lyophilized Material)	04/11/85
Baxter Healthcare Corporation, Dade Division.	Tri-Rac R Immunoassay Control, Level I-Low	Bottle: 9 ml (Lyophilized Material)	04/11/85
Beckman Instruments, Inc			
Beckman Instruments, Inc	Beckman B-1 Buffer	Plastic Vial: 15 g.	05/22/79
Beckman Instruments, Inc	Beckman Buffer B-2	Packet: 18.16 g.	04/24/71
Beckman Instruments, Inc	Beckman ICS Drug Calibrators A, B, C, D, and E	Vials: 5 ml	10/29/80
Beckman Instruments, Inc	Beckman ICS Drug Control Sera	Kit containing: 6-1 ml bottles	11/11/80
Beckman Instruments, Inc	Beckman ICS Phenobarbital Conjugate	Vial: 5 ml	10/29/80
Beckman Instruments, Inc	Beckman LD Buffer	Bottle: 14.3 grams	07/31/86
Beckman Instruments, Inc	Paragon Electrophoresis System: Immunofixation Electrophoresis (IFE) Kit.	Plastic Tray: 3.5 ml	07/31/86
Beckman Instruments, Inc	Paragon Electrophoresis System: Lactate Dehydrogenase Isoenzyme Electrophoresis (LD) Kit.	Plastic Tray: 3.5 ml	07/31/86
Beckman Instruments, Inc	Paragon Electrophoresis System: Protein Electrophoresis (SPE-II) Kit.	Plastic Tray: 3.5 ml	07/31/86
Becton Dickinson & Company			
Becton Dickinson & Company	Antibody Coated Tubes	Metallized Plastic Bag: 50 Tubes/Bag	02/13/78
Becton Dickinson & Company	Barbital Buffer Solution, Catalog No. 246514	Bottle: 1 ounce	08/01/84
Becton Dickinson & Company	Euthyroid Reference Standard, Catalog No. 237418	Vial: 4 ml	09/27/78
Becton Dickinson & Company	Human Thyroid Stimulating Hormone (hTSH) Radioimmunoassay Kit [125I], Catalog No. 262994.	Kit: 200 tubes	09/04/86
Becton Dickinson & Company	Human Thyroid Stimulating Hormone (hTSH) Radioimmunoassay Kit (125I) Catalog No. 258423.	Kit: 250 tubes	08/01/84
Becton Dickinson & Company	IQ Immunochemistry System, Thyroid Stimulating Hormone Catalog No. 3010.	Kit: 25 tests	06/30/87
Becton Dickinson & Company	Neonatal TSH Antiserum, Catalog No. 244716	Vial: 50 ml	08/01/84
Becton Dickinson & Company	Precipitating Antiserum, Catalog No. 247618	Vial: 50 ml	08/01/84
Becton Dickinson & Company	Simul Trac Free T4/TSH Antiserum, No. 262641	Vial: 1 oz.	02/21/86
Becton Dickinson & Company	Simul Trac Free T4[57 Co]/TSH[125I] Radioimmunoassay Kit, No. 262625.	Kit: 200 tubes	02/21/86
Becton Dickinson & Company	T3 Antibody Coated Tubes, Catalog No. 237213	Box containing 100 tubes	09/27/78
Becton Dickinson & Company	T3 Tracer Solution Catalog No. 237728	Bottle: 125 ml	09/27/78
Becton Dickinson & Company	T4 Tracer Solution Catalog No. 232611	White NALGENE Polypropylene Bottle: 125 ml.	02/13/78
Becton Dickinson & Company	TSH (125I) Tracer, Catalog No. 243621	Vial: 50 ml	08/01/84
Becton Dickinson & Company	TSH Antiserum, Catalog No. 263001	Clear Vial: 10 ml	09/04/86
Becton Dickinson & Company	TSH Antiserum, Catalog No. 258431	Vial: 50 ml	08/01/84
Becton Dickinson & Company	TSH Standard A, Catalog No. 259829	Amber Vial: 10 ml	09/04/86
Becton Dickinson & Company	TSH Standard B, Catalog No. 259837	Amber Vial: 10 ml	09/04/86
Becton Dickinson & Company	TSH Standard C, Catalog No. 259845	Amber Vial: 10 ml	09/04/86
Becton Dickinson & Company	TSH Standard D, Catalog No. 259853	Amber Vial: 10 ml	09/04/86
Becton Dickinson & Company	TSH Standard E, Catalog No. 263052	Amber Vial: 10 ml	09/04/86
Becton Dickinson & Company	TSH Standard F, Catalog No. 263061	Amber Vial: 10 ml	09/04/86
Becton Dickinson & Company	TSH [125I] Tracer, Catalog No. 259624	Clear vial: 10 ml	09/04/86
Behring Dianostics			
Behring Diagnostics	IEP Buffer, 793001 pH 8.2	Foil Pouch: 6.5 g	09/17/79
Behring Diagnostics	Immuno-tec II Agarose Plate, 839013, 850013	Foil Pouch: "5.35" x "5.25"	09/17/79

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Bio-Rad Laboratories			
Bio-Rad Laboratories	Dade Urine Chemistry Control Levels I AND II	Vial: 20 ml, 50 ml	01/05/88
Bio-Rad Laboratories	Dade Urine Toxiology Control	Vial: 50 ml	01/05/88
Bio-Rad Laboratories	Lyphochek Therapeutic Drug Monitoring Control (TDM), Levels I, II, III.	Vial: 10 ml	08/20/84
Bio-Rad Laboratories	Lypochek Immunoassay Control Levels I, II, III	Vial: 10 ml	09/24/87
Bio-Rad Laboratories	Lypochek Quantitative Urine Control Levels I and II	Vial: 20 ml, 50 ml	09/24/87
Bio-Rad Laboratories	Lypochek Unassayed Chemistry Control (Bovine) Levels I, II	Vial: 20 ml	09/24/87
Bio-Rad Laboratories	Lypochek Unassayed Chemistry Control (Human) Levels I, II	Vial: 20 ml	09/24/87
Bio-Rad Laboratories	Quantaphase Thyroxine RIA-125I Tracer/Dissociating Reagent	Plastic bottle: 60 ml, 260 ml	05/06/81
Bio-Rad Laboratories	Quantaphase Thyroxine RIA-Thyroxine Immunobeads	Plastic bottle: 60 ml, 260 ml	05/06/81
Bio-Rad Laboratories	Quantimune Barbital Buffer	Plastic Bottle: 1000 ml, 250 ml, 200 ml.	05/31/78
Bio-Rad Laboratories	Quantimune Radioimmunoassay T-4 Tracer, Iodine-125	Vial: 10 ml	07/21/76
Bio-Rad Laboratories	Quantimune T-3 RIA Barbital Buffer	Bottle: 220 ml	09/24/82
Bio-Rad Laboratories	Quantimune T-3 RIA Test Kit	Kit: 500 tests, 100 tests	05/31/78
Bio-Rad Laboratories	Quantimune T-4 RIA Kit	Kit: 500 tests	07/01/77
Bio-Rad Laboratories	Quantimune T-4 RIA Test Kit	Kit: 5000 tests, 100 tests	05/31/78
Bio-Rad Laboratories	Quantimune Thyroxine Radioimmunoassay Barbital Buffer	Plastic Bottle with Screw cap: 1 liter	07/01/77
Bio-Rad Laboratories	Quantimune Thyroxine Radioimmunoassay T-4 125I Tracer/Dissociating Agent.	Glass Serum Vial: 10 ml	07/01/77
Bio-Rad Laboratories	T-4 Competitive Binding Reagent, Iodine-125	Bottle: 385 ml	07/21/76
Bio-Rad Laboratories	Urine Toxicology Control No. C-470-25	Amber Vial: 50 ml	09/19/79
Bio-Rad Laboratories			
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer	Vial: 10 ml	07/21/76
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer Powder	Plastic bottle: 250 ml	07/21/76
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer Powder	Plastic bottle: 250 ml	09/09/77
Bio-Rad Laboratories, (Chemical Division).	Barbital Buffer-Dry Pack	Packages: 9.11 g., 18.21 g., 12.14 g	05/09/74
Bio-Rad Laboratories, (Chemical Division).	Bio-Rad Electrophoresis Buffer	Bottle: 500 ml	12/14/72
Bio-Rad Laboratories, (Chemical Division).	Electrophoresis Buffer, Dry-Pack	Package: 6.15 g	12/14/72
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer I, pH 8.6	Dry-pack: 25.6 g	08/06/75
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer II, pH 8.6	Dry-pack: 15.61 g	08/06/75
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer III, pH 8.6	Dry-pack: 6.82 g	01/22/76
Bio-Rad Laboratories, (Chemical Division).	Immunoelectrophoresis Barbital Buffer III-a, pH 8.8	Dry-pack: 15.07 g	08/06/75
Bio-Rad Laboratories, (Chemical Division).	Reagent No. 3	Bottle: 165 ml	12/14/72
Biodiagnostic International			
Biodiagnostic International	Liqui-Ura Toxic Control	Vial: 5 ml	03/11/85
Biodiagnostic International	Urine—Tox Control	Vial: 5 ml	04/01/85
Bioscientific, Corporation			
Bioscientific, Corporation	ECA Buffer, Catalog No. ECA 05805	Plastic Packet: 18.0 g., 10 packets per box.	07/14/77
California Bionuclear Corporation			
California Bionuclear Corporation	Amobarbital-2-C-14, Catalog No. 72077	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Cocaine (methoxy-C-14) Catalog No. 72182	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	01/08/75
California Bionuclear Corporation	D-Amphetamine (propyl-1-C-14) Sulfate, Catalog No. 72078	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	01/08/75
California Bionuclear Corporation	DL-Amphetamine (propyl-1-C-14) Sulfate, Catalog No. 72079	Screw Cap Vial: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Meperidine (N-methyl-C-14) Hydrochloride, Catalog No. 72508	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Mescaline (aminomethylene-C-14) Hydrochloride, Catalog No. 72512	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Methadone (heptanone-2-C-14) Hydrochloride, Catalog No. 72516	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Methamphetamine (propyl-1-C-14) Sulfate, Catalog No. 72517	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Methylphenidate (carbonyl-C-14) Hydrochloride, Catalog No. 72550	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Morphine (n-methyl-C-14) Hydrochloride, Catalog No. 72560	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	01/08/75
California Bionuclear Corporation	Pentobarbital-2-C-14, Catalog No. 72618	Screw Cap Vial: 50 microcuries, 0.1, 0.5, 1.0 millicuries.	01/08/75

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
California Bionuclear Corporation	Secobarbital-2-C-14, Catalog No. 72675	Ampule: 50 microcuries, 0.1, 0.5, and 1.0 millicuries.	01/08/75
Cambridge Medical Diagnostics, Incorporated			
Cambridge Medical Diagnostics, Incorporated.	125I Human Parathyroid Hormone 44-68	Vial: 5 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	125I-Tetraiodothyronine	Vial: 11 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	125I-Triiodothyronine	Vial: 11 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	Donkey Anti Goat Gamma Globulin	Vial: 5 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	Parathyroid Hormone (Human 1-84) Standard	6 Vials: 5 ml each	03/29/85
Cambridge Medical Diagnostics, Incorporated.	Parathyroid Hormone Assay Buffer	Vial: 10 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	T3 AntiSerum (Rabbit)	Vial: 11 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	T3 Standard	Vial: 1 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	T4 Antiserum (Rabbit)	Vial: 11 ml	03/29/85
Cambridge Medical Diagnostics, Incorporated.	T4 Standard	Vial: 1 ml	03/29/85
Ciba Corning Diagnostics Corp.			
Ciba Corning Diagnostics Corp.	AACC Tox	Glass Vial: 30 ml	01/20/86
Ciba Corning Diagnostics Corp.	Gilford Bi-Level Anticonvulsant/Antiasthmatic Control	Kit Contains: 5 Vials each level	10/22/85
Ciba Corning Diagnostics Corp.	Gilford Bi-Level Anticonvulsant/Antiasthmatic Control, Level I & II	Vials: 10 ml	10/22/85
Ciba Corning Diagnostics Corp.	Gilford Bi-Level Toxicology Control	Kit: Contains: 5 Vials each level	12/16/85
Ciba Corning Diagnostics Corp.	Gilford Bi-Level Toxicology Control, Level I & II	Vials: 10 ml	12/16/85
Ciba Corning Diagnostics Corp.	Gilford TDM Control Levels I-III	Vial: 6 ml	10/22/85
Ciba Corning Diagnostics Corp.	Gilford Tri Level TDM Control	Kit Contains: 5 Vials each level	10/22/85
Ciba Corning Diagnostics Corp.	Gilford Urine Control II	Vial: 30 ml	05/22/85
Ciba Corning Diagnostics Corp.	Gilford Urine Toxicology Control	Vial: 30 ml	12/16/85
Ciba Corning Diagnostics Corp.	Immophase Ferritin Controls	Glass Vial: 3 ml	01/19/87
Ciba Corning Diagnostics Corp.	Immophase Ferritin Standards	Glass Vial: 5 ml	09/16/86
Ciba Corning Diagnostics Corp.	Magic Ferritin 2000 Standard	Plastic Vial: 1 ml	01/19/87
Ciba Corning Diagnostics Corp.	Magic Ferritin Controls	Plastic Vial: 5 ml	01/19/87
Ciba Corning Diagnostics Corp.	Magic Ferritin Standards	Polypropylene Vial: 3 ml	09/16/86
Ciba Corning Diagnostics Corp.	Magic Ferritin Zero Standard	Plastic Vial: 50 ml	01/19/87
Ciba Corning Diagnostics Corp.	Reagent A—Alt 14	Vial: 15 ml	03/24/79
Ciba Corning Diagnostics Corp.	Reagent A—Alt 7	Vial: 15 ml	03/24/79
Ciba Corning Diagnostics Corp.	Reagent A—Ammonia 10	Vial: 10 ml	03/24/79
Ciba Corning Diagnostics Corp.	Special Barbital Buffer Set, Catalog No. 470182	Vial: 3 per kit	04/17/79
Ciba Corning Diagnostics Corp.	Universal Electrophoresis Film Agarose, Catalog No. 470100	Plates: 12 per kit	04/17/79
Ciba Corning Diagnostics Corp.	Universal PHAB Buffer Set Catalog No. 470180	Kit: 3 vials per kit	09/26/79
Cone Biotech, Inc			
Cone Biotech, Inc	CAP/Cocaine Reference Material Levels II, III, and IV	Vial: 20 ml	03/07/88
Cone Biotech, Inc	QCM-UTI	Vial: 20 ml	03/07/85
Cone Biotech, Inc	RIATRAC—Three Level Ligand Assay Controls	Vials: 8 ml	02/27/84
Cone Biotech, Inc	UDM-CAP/AACC Forensic Urine Drug Testing Survey (Initial Phase)	Bottle: 60 ml	08/31/87
Cone Biotech, Inc	UDS and UDC CAP/AACC Forensic Urine Drug Testing	Vial: 30 ml	01/06/88
Diagnostic Products Corporation			
Diagnostic Products Corporation	125-I Barbiturate Isotope: Cat. No. TBA2, TBAY2	Vial: 110 ml, 550 ml	03/01/88
Diagnostic Products Corporation	125-I Benzolyecgonine Isotope: Cat. No. TCN2, TCNY2	Vial: 100 ml, 550 ml	03/01/88
Diagnostic Products Corporation	125-I Benzoylecgonine Isotope (DA): Cat. No. CND2, YCND2	Vial: 10 ml, 100 ml, 675 ml	03/01/88
Diagnostic Products Corporation	125-I Fentanyl Isotope: Cat. No. TFN2	Vial: 500 ml	03/01/88
Diagnostic Products Corporation	125-I Methadone Isotope: Cat. No. TMD2	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	125-I Methaqualone Isotope: Cat. No. TMQ2	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	125-I Morphine Isotope: Cat. No. TMP2, TMPY2	Vial: 110 ml, 550 ml	03/01/88
Diagnostic Products Corporation	125-I PCP Isotope: Cat. No. TPC2, TPCY2	Vial: 110 ml, 550 ml	03/01/88
Diagnostic Products Corporation	125-I Serum Morphine Isotope: Cat. No. TSM2	Vial: 110 ml	03/01/88
Diagnostic Products Corporation	125-I THC Isotope: Cat. No. THD2, YTHD2	Vial: 20 ml, 110 ml, 550 ml	03/01/88
Diagnostic Products Corporation	Amphetamine Calibrators B-F: Cat. No. APD4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Amphetamine Controls: Cat. No. 5AC01, 5ACO2	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	Amphetamine Isotope: Cat. No. APD2, 5APD2, YAPD2	Vial: 20 ml, 100 ml, 550 ml	03/01/88
Diagnostic Products Corporation	Amphetamine Reference Preparation: Cat. No. 5YAP7	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	Barbiturate Calibrators B-G: Cat. No. BAC4-9	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Barbiturate Reference Preparations: Cat. No. 5YBA5	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	Benzoylecgonine Calibrators (CAC) B-F: Cat. No. COC4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Benzoylecgonine Calibrators (DA) B-F: Cat. No. CND4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Benzoylecgonine Calibrators (DA): Cat. No. CNC4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Benzoylecgonine Reference Preparation (DA): Cat. No. 5YCN5	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	Benzoylecgonine Reference Preparation: Cat. No. 5YCN5	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	C-Terminal PTH Antiserum: Cat. No. PCD1	Vial: 10 ml	03/01/88

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Diagnostic Products Corporation	Canine T3 Isotope: Cat. No. TC32	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	Coat-A-Count Barbiturates In Urine: Cat. No. TKBA1,TKBA5	Kit: 100 tests, 500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Barbiturates Qualitative Determination In Urine: Cat. No. TKBAY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Canine T3: Cat. No. TKC31, TKC35	Kit: 100 tests, 500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Cocaine Metabolite: Cat. No. TKCN1, TKCN5	Kit: 100 tests, 500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Fentanyl: Cat. No. TKFN1	Kit: 100 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Metabolite Qualitative Determinants In Urine: Cat. No. TKCNY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Methadone: Cat. No. TKMD1	Kit: 100 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Methaqualone: Cat. No. TKMQ1	Kit: 100 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Morphine Qualitative Determinations In Urine: Cat. No. TKMPY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Morphine: Cat. No. TKMP1, TKMP5, TKMPX	Kit: 100 tests, 500 tests, 1000 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Opiates Screen Qualitative Determinations In Urine: Cat. No. TKOSY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Opiates Screen: Cat. No. TK0S1, TKOS5	Kit: 100 tests, 500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count PCP (Phencyclidine) In Urine: Cat. NO. TKCY1	Kit: 100 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count PCP (Phencyclidine) Qaulitative Determinations In Urine: Cat. No. TKPCY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Coat-A-Count Serum Morphine: Cat. No. TKSM1	Kit: 100 tests	03/01/88
Diagnostic Products Corporation	Donkey Anti-Goat Gamma Globulin (PTH-Ultra): Cat. No. PTDG	Vial: 10 ml	03/01/88
Diagnostic Products Corporation	Double Antibody Amphetamine, Qualitative Determinations In Urine: Cat. No. KAPDY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Double Antibody Amphetamine: Cat. No. KAPD1, KAPD5	Kit: 100 tests, 500 tests	03/01/88
Diagnostic Products Corporation	Double Antibody Cannabinoids (THC) In Urine: Cat. No. KTHD1, KTHD5.	Kit: 100 tests, 500 tests	03/01/88
Diagnostic Products Corporation	Double Antibody Cannabinoids (THC) Quantitative Determinations In Urine: Cat. No. KTHDY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Double Antibody Cocaine Metabolite Qualitative Determination In Urine: Cat. No. KCNDY.	Kit: 2500 tests	03/01/88
Diagnostic Products Corporation	Double Antibody Cocaine Metabolite: Cat. No. KCND1, KCND5	Kit: 100 tests, 500 tests	03/01/88
Diagnostic Products Corporation	Double Antibody PTH-C: KPCD1, KPCD2	Kit: 70 tests, 140 tests	03/01/88
Diagnostic Products Corporation	Double Antibody PTH-M: Cat. No. KPMD1	Kit: 70 tests	03/01/88
Diagnostic Products Corporation	Double Antibody Ultra-PTH: Cat. No. KPTD1, KPTD2	Kit: 70 tests, 140 tests	03/01/88
Diagnostic Products Corporation	Fentanyl Calibrators: Cat. No. FNC4-9	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Goat Anti-Rabbit Gamma Globulin/4% PEG Saline: Cat. No. 5N6	Vial: 110 ml, 320 ml	03/01/88
Diagnostic Products Corporation	Low and High Barbiturate Urinary Controls: Cat. No. 5BCO1, 5BCO2	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	Low and High Benzoylecgonine Urinary Controls (DA): Cat. No. 5COO1, 5COO2, CNC02, CNCO3.	Vial: 3.5 ml, 100 ml	03/01/88
Diagnostic Products Corporation	Low and High Cannabinoid Urinary Controls: Cat. No. 5TC01, 5TCO2.	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	Low and High Morphine Urinary Controls: Cat. No. 5MCO1, 5MCO2	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	Low and High Opiate Urinary Controls: Cat. No. 5OCO1, 5OCO2	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	Low and High PCP Urinary Controls: Cat. No. 5PCO1, 5PCO2	Vial: 100 ml	03/01/88
Diagnostic Products Corporation	Methaqualone Calibrators: Cat. No. MQC4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Mid-Molecule PTH Antiserum: Cat. No. PMD1	Vial: 10 ml	03/01/88
Diagnostic Products Corporation	Morphine Calibrators: Cat. No. MPC4-8	Vial: 3.5 ml, 10 ml	03/01/88
Diagnostic Products Corporation	Morphine Reference Preparation: Cat. No. 5YMPY7	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	Opiate Calibrators: Cat. No. OSC4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Opiates Reference Preparation: Cat. No. 5YOS7	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	PCP Calibrators: Cat. No. PCC4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	PCP Reference Preparation: Cat. No. 5YPC6	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	PTH (C-Terminal) Isotope: Cat. No. PCD2	Vial: 10 ml	03/01/88
Diagnostic Products Corporation	PTH (Ultra) Antiserum: Cat. No. PTD1	Vial: 5 ml	03/01/88
Diagnostic Products Corporation	PTH (Ultra) Isotope: Cat. No. PTD2	Vial 5 ml	03/01/88
Diagnostic Products Corporation	PTH-M Isotope: Cat. No. PMD2	Vial: 10 ml	03/01/88
Diagnostic Products Corporation	Serum Morphine Calibrators: Cat. No. SMC4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	Serum Morphine Controls: Cat. No. SMCO2, SMCO3	Vail: 3.5 ml	03/01/88
Diagnostic Products Corporation	THC Calibrators B-F: Cat. No. THD4-8	Vial: 3.5 ml	03/01/88
Diagnostic Products Corporation	THC Reference Preparation: Cat. No. 5YTH7	Vial: 120 ml	03/01/88
Diagnostic Products Corporation	Triiodothyronine (T3) Isotope: Cat. No. TT32	Vial: 120 ml	03/01/88
Diamedix Corporation			
Diamedix Corporation	Barbital-Acetate Buffer, Powder 709-317	Package: 20 envelopes—10.65 g. per envelope.	07/27/72
Diamedix Corporation	CEP Plate-Amebiasis Testing 40 Test No. 730-274	Plate: 40mm x 80mm x 2.5mm	08/09/73
Diamedix Corporation	CEP VI No. 709-339	Plate: 40mm x 80mm x 2.5mm	08/09/73
Diamedix Corporation	Counterelectrophoresis (CEP) Plates for Trichinosis Testing	Plastic plates: 40mm x 80mm x 2.5mm.	06/16/75
Diamedix Corporation	EDTA (0.014M)-GVB Buffer, 753-034	Bottle: 5 ml	08/09/73
Diamedix Corporation	EDTA (0.01M)-GVB Buffer, 753-031	Bottle: 5 ml	08/09/73
Diamedix Corporation	GVB(3+) Buffer 753-037	Bottle: 50 ml	08/09/73
Diamedix Corporation	Glucose-GVB 1 Buffer, 753-036	Bottle: 50 ml	08/09/73
Duo Research, Inc.			
Duo Research, Inc	Drug Testing Assessment Program Quality Control Samples	Kit: 25 bottles	12/26/86
Duo Research, Inc	Drug Testing Assessment Program—Quality Control Sample	Bottle: 65 ml	02/27/86
Duo Research, Inc	Drug Testing Assessment Program—Quality Control Sample Kit	Kit: 5-65 ml bottles	02/27/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
E.I. duPont de Nemours & Co., Incorporated			
E.I. duPont de Nemours & Co., Incorporated.	(1) PREP Sample Preparation and Analysis Kit	Kit containing following:	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(2) PREP Buffer/Internal Standard and Liquid Chromatography Verifier.	Box containing following:	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(2a) PREP Liquid Chromatography Verifier	Vial: 10 ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(2b) PREP Buffer/Internal Standard	Vial: 100 ml (3 vials/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(3) PREP Calibrators	Box containing following:	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(3a) PREP Calibrator—Level 1	Vial: 10 ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(3b) PREP Calibrator—Level 2	Vial: 10 ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(3c) PREP Calibrator—Level 3	Vial: 10 ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(3d) PREP Calibrator—Level 4	Vial: 10 ml (1 vial/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(4) PREP Controls	Box containing following:	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(4a) PREP Control—Low Level	Vial: 10 ml (2 vials/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	(4b) PREP Control—High Level	Vial: 10 ml (2 vials/box)	09/25/78
E.I. duPont de Nemours & Co., Incorporated.	DuPont Drug Calibrators—Levels 1 through 5	Vial: 6 ml (1 vial and 2 vials/box)	04/04/86
E.I. duPont de Nemours & Co., Incorporated.	DuPont Phenobarbital Assay	Vial:6 ml	10/13/86
E.I. duPont de Nemours & Co., Incorporated.	DuPont U Amp Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Incorporated.	DuPont U Barb Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Incorporated.	DuPont U Benz Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Incorporated.	DuPont U COC Enzyme Pack Reagent	Bottle: 1 liter	10/19/87
E.I. duPont de Nemours & Co., Incorporated.	DuPont U OPI Enzyme Pack Reagent	Bottle: 1 liter	08/28/87
E.I. duPont de Nemours & Co., Incorporated.	DuPont U THC Enzyme Pack Reagent	Bottle: 1 liter	01/04/88
E.I. duPont de Nemours & Co., Incorporated.	DuPont Urine Drugs-of-Abuse Calibrator (Levels 0, 1, 2)	Box: 6 Vials, 6 ml Vial	07/27/87
E.I. duPont de Nemours & Co., Incorporated.	DuPont Urine Drugs-of-Abuse Control	Vial: 6 ml	08/03/87
E.I. duPont de Nemours & Co., Incorporated.	DuPont aca Barbiturate Screen Analytical Test Pack	Plastic Packs: 25 tests	12/23/84
E.I. duPont de Nemours & Co., Incorporated.	DuPont aca Barbiturate Screen/Benzodiazepine Screen Calibrator	6 Vials: 3 ml	02/23/84
E.I. duPont de Nemours & Co., Incorporated.	DuPont aca Benzodiazepine Screen Analytical Test Pack	Plastic Packs: 25 tests	02/23/84
E.I. duPont de Nemours & Co., Incorporated.	Phenobarbital Calibrator— Level 1	Vial: 6 ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co., Incorporated.	Phenobarbital Calibrator— Level 2	Vial: 6 ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co., Incorporated.	Phenobarbital Calibrator— Level 3	Vial: 6 ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co., Incorporated.	Phenobarbital Calibrator— Level 4	Vial: 6 ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co., Incorporated.	Phenobarbital Calibrator— Level 5	Vial: 6 ml (1 vial/box)	04/02/86
E.I. duPont de Nemours & Co., Incorporated.	Thyronine (TU) Uptake Flex(tm) Reagent Cartridge	Plastic container: 2.3 ml (20 tests)	04/28/86
E.I. duPont de Nemours & Co., Incorporated.	Urine Amphetamine (U Amp) Test Pack	Carton: 50 tests	08/27/87
E.I. duPont de Nemours & Co., Incorporated.	Urine Barbiturate (U Barb) Test Pack	Carton: 50 tests	08/27/87
E.I. duPont de Nemours & Co., Incorporated.	Urine Benzodiazepine (U Benz) Test Pack	Carton: 50 tests	08/27/87
E.I. duPont de Nemours & Co., Incorporated.	Urine Cannabinoid (U THC) Test Pack	Carton: 50 tests	11/09/87
E.I. duPont de Nemours & Co., Incorporated.	Urine Cocaine (U COC) Test Pack	Carton: 50 tests	08/27/87
E.I. duPont de Nemours & Co., Incorporated.	Urine Opiate (U OPI) Test Pack	Carton: 50 tests	07/08/87
E.I. duPont de Nemours & Co., Incorporated.	aca PHNO Analytical Test Pack	Carton: 40 tests packs	08/25/77

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
E.I. duPont de Nemours & Co., Incorporated.	aca Thyronine Uptake Analytical Test Pack	Plastic Pack: 1 test	08/25/83
E.I. duPont de Nemours & Co., Inc., Medical Products			
E.I. duPont de Nemours & Co., Inc., Medical Products.	5-Cyclohexenyl-3,5,-Dimethyl barbituric Acid (3H(G)), Catalog No. NET-426.	Combi-Vial: 250 microcuries , 1 millicurie, and 5 millicuries.	01/04/77
E.I. duPont de Nemours & Co., Inc., Medical Products.	Acetaldehyde (1,2-14C) as Paraldehyde, Catalog No. NEC-158	Pyrex Glass Breakseal Tube: 250 microcuries, 1 millicurie.	01/04/77
E.I. duPont de Nemours & Co.,Inc., Medical Products.	Cocaine, Levo-[Benzoyl] [3.4-3H(N)] Catalog No. NET-510	Combi-Vial: 100 microcuries, 250 microcuries.	01/04/77
E.I. duPont de Nemours & Co., Inc., Medical Products.	Diazepam [Methyl-3H] Catalog No. NET-564	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	09/06/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydromorphine [7,8-3H(N)]	Combi-Vial: 250 microcuries, 1 millicurie.	01/04/77
E.I. duPont de Nemours & Co., Inc., Medical Products.	Dihydromorphine[N-Methyl-3H] NET-658	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	02/29/80
E.I. duPont de Nemours & Co., Inc., Medical Products.	Flunitrazepam [Methyl-3H] NET 567	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	04/29/87
E.I. duPont de Nemours & Co., Inc., Medical Products.	LSD [N-Methyl-3H] NET-638	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	11/06/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	Mazindol (4'-3H) Catalog No.NET-816	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	05/17/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Methylenedioxymethamphetamine, (+)3,4-[N-methyl-3H] NET 957	Combi-Vial: 0.0250 millicuries, 0.25 millicuries, 1.0 millicuries.	08/25/75
E.I. duPont de Nemours & Co., Inc., Medical Products.	Methylphenidate, +/- threo[methyl-3H]NET-857	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	06/11/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Morphine [N-methyl-3H] NET-653	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	02/29/80
E.I. duPont de Nemours & Co., Inc., Medical Products.	N-[1-(2-Thienyl) Cyclohexyl]-3,4-Piperidine (Piperidyl-3,4-3H)NET-886.	Combi-Vial: 0.250 millicuries, 1.0 millicurie.	06/11/84
E.I. duPont de Nemours & Co., Inc., Medical Products.	Phencyclidine [Piperidyl-3,4-3H(N)], Catalog No.NET-630	Combi-Vial: 0.250 millicurie, 1.0 millicurie.	09/06/79
E.I. duPont de Nemours & Co., Inc., Medical Products.	d-Amphetamine Sulfate (3H(G)), Catalog No. NET-140	Combi-Vial: 250 microcuries, 1 millicurie, and 5 millicuries.	01/04/77
EM Diagnostic Systems, Inc			
EM Diagnostic Systems, Inc	EMDS Antiepileptic Drug Calibrator Item No. 67630/95	Box: 3 Vials, 5 ml each	06/11/86
EM Diagnostic Systems, Inc	EMDS Test Packs, Phenobarbital (PHENO) Item No. 67677/95	Carton: 48 Test Packs	09/09/86
EM Diagnostic Systems, Inc	Easytest Phenobarbital Assay Item No. 67534/93	Cuvette: 1.8 ml (40 cuvettes/carton)	06/11/86
Eastman Kodak Company			
Eastman Kodak Company	Kodak EKTACHEM Specialty Calibrator	Vial: 3 ml	09/13/85
Eastman Kodak Company	Kodak EKTACHEM Specialty Control I	Vial: 3 ml	09/13/85
Eastman Kodak Company	Kodak Ektachem Specialty Control II	Glass Vial: 6 ml	11/10/87
Electro-Nucleonics Laboratories, Incorporated			
Electro-Nucleonics Laboratories, Incorporated.	VIRGO IPA Immuno-Precipitation Assay for Phenobarbital	Kit	11/30/82
Endocrine Metabolic Center			
Endocrine Metabolic Center	0.1% Lysozyme-Barbital Buffer, 0.05M	Glass Bottle: 2 liter	05/28/87
Endocrine Metabolic Center	1% Lysozyme-Barbital Buffer, 0.05M	Glass Bottle: 2 liter	05/28/87
Endocrine Metabolic Center	Barbital Buffer, 0.05M	Plastic Bottle: 3000 ml	05/28/87
Endocrine Metabolic Center	Barbital Buffer, 0.1M	Plastic Bottle: 3000 ml	05/28/87
Endocrine Metabolic Center	Tracer Diluent	Glass Bottle: 1 or 2 liter	05/28/87
Environmental Diagnostics, Inc			
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Enzyme Conjugate	Ampule: 1 ml	02/03/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Kit Catalog No. 216-2BP	Kit: 1 test	02/03/87
Environmental Diagnostics, Inc	EZ-Screen: Cannabinoid Positive Control	Ampule: 1 ml	02/03/87
Fisher Scientific			
Fisher Scientific	Electrophoretic Buffer No. 1 pH 8.60, Ionic Strength 0.05, Catalog No. E-1.	Packet: 12.14 g.	10/27/72
Fisher Scientific	Electrophoretic Buffer No. 2, pH 8.60, Ionic Strength 0.075, Catalog No. E-2.	Packet: 18.16 g.	10/27/72
Fisher Scientific	IL-Test Phenobarbital	Kit: contains 2 plastic containers of reagent 2.	03/15/88
Fisher Scientific	IL-Test Phenobarbital Conjugate, Reagent 2	Plastic Container: 16 ml	03/15/88
Fisher Scientific	Owren's Veronal Buffer, CS1094-34	Vial: 10 ml	08/18/86
Fisher Scientific	Owren's Veronal Buffer, CS1094-38	Vial: 25 ml	08/18/86
Fisher Scientific	SeraChem Abnormal Clinical Chemistry Control Serum (Human) Unassayed No. 2906.	Vial: 5 ml, 10 ml	04/16/82
Fisher Scientific	SeraChem Abnormal Clinical Chemistry Control Serum (Human), Assayed No. 2905.	Vial: 5 ml	04/16/82
Fisher Scientific	SeraChem Clinical Chemistry Control Serum (Bovine), Unassayed Level I No. 3110.	Vial: 5 ml, 10 ml	04/16/82

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Fisher Scientific	SeraChem Clinical Chemistry Control Serum (Bovine), Unassayed Level II No. 3111.	Vial: 5 ml, 10 ml	04/16/82
Fisher Scientific	SeraChem Normal Clinical Chemistry Control Serum (Human), Assayed No.2907.	Vial: 5 ml	04/16/82
Fisher Scientific	SeraChem Normal Clinical Chemistry Control Serum (Human), Unassayed No. 2908.	Vial: 5 ml, 10 ml	04/16/82
Fisher Scientific	TDM Cal	Kit: 7 Vials	11/26/86
Fisher Scientific	TDM Cal (B–F)	Vials: 5 ml	11/26/86
Fisher Scientific	Thera Chem TDC Therapeutic Drug Controls, Low and High Levels, 2840–58.	Kit: 6 vials	01/12/84
Fisher Scientific	TheraChem-Plus TDC Therapeutic Drug Controls, Tri-Level, No. 2845–94.	Kit: 9 vials	03/19/86
Fisher Scientific	Therapeutic Drug Control, High Level III, No. 2848–31	Vial: 5 ml	03/19/86
Fisher Scientific	Therapeutic Drug Control, High Level, 2842–31	Vial: 5 ml	01/12/84
Fisher Scientific	Therapeutic Drug Control, Low Level I, No. 2846–31	Vial: 5 ml	03/19/86
Fisher Scientific	Therapeutic Drug Control, Low Level, 2841–31	Vial: 5 ml	01/12/84
Fisher Scientific	Therapeutic Drug Control, Mid-Range Level II, No. 2847–31	Vial: 5 ml	03/19/86
Fisher Scientific	Urine Chemistry Control (Human) Level II, No. 2935–80	Vial: 25 ml	04/06/78
Fisher Scientific	Urine Toxicology Control No. 2950–61	Vial: 25 ml	04/06/78
Flow Laboratories			
Flow Laboratories	DGV No. 28–010	Bottle: 125 ml	04/16/73
Flow Laboratories	Human "O" DGV (Dextrose Gelatin Veronal Buffer) No. 28–080	Glass Vial: 100 ml	10/14/76
GIBCO Laboratories			
GIBCO Laboratories	Complement Fixation Buffer Solution, pH 7.3–7.4, NDC 0118115–0247–1.	Bottle: 1 liter	01/28/74
GIBCO Laboratories	Complement Fixation Buffer Solution, pH 7.3–7.4, NDC 011815–0247–2.	Bottle: 500 ml	04/05/77
GIBCO Laboratories	Dextrose-Gelatin-Veronal Buffer Solution NDC No.815–0566–1 and No.815–0566–2.	Bottle: 100 and 500 ml	07/05/73
GIBCO Laboratories	Electrophoresis Buffer Solution, pH 8.6, NDC 011815–0245–1	Bottle: 1 liter	01/28/74
GIBCO Laboratories	I.E.P. Buffer Solution pH 8.2 NDC 011815–0246–1	Bottle: 1 liter	01/28/74
Gelman Sciences, Inc			
Gelman Sciences, Inc	Drug Control Set No 51911	Set: 3 vials of 50 ml each	04/06/72
Gelman Sciences, Inc	Drug Standard Set, No 51910	Set: 3 vials of 2 ml each	04/06/72
Gelman Sciences, Inc	Hi-Phore Buffer	Glass Vial: 15 g.	02/11/82
Gelman Sciences, Inc	High Resolution Buffer-Tris Barbital Buffer No 51104	Vial: 10 dr	12/22/71
Gumm Chem. Co.			
Gumm Chem. Co	Niflow Initial Additive	Drums: 5 Gallons	09/30/85
Gumm Chem. Co	Niflow Maintenace Additive	Drums: 5 Gallons	09/30/85
Hach Chemical Co.			
Hach Chemical Co	pH 8.3 Buffer Powder Pillows. No.898–98	Pillow: 1 g. each	11/30/71
Helena Laboratories			
Helena Laboratories	CK–LD Buffer Catalog No. 5808	Packet: 18.332 g., 10 packets/box	03/26/86
Helena Laboratories	Electra B1 Buffer, Catalog No.5016	Packet: 12.14 g. 10 packets/ box	12/28/73
Helena Laboratories	Electra B2 Buffer , Catalog No. 5017	Packet: 18.2 g. 10 packets/ box	12/28/73
Helena Laboratories	Electra HR Buffer, Catalog No. 5805	Packet: 18.1 g. 10 packets/ box	12/28/73
Helena Laboratories	HDL Electrophoresis Buffer	Packet: 36 g	12/18/85
Helena Laboratories	Isoamylase Cathode Buffer	Packet: 9.7 g	12/18/85
Helena Laboratories	Isoamylase Kit Catalog No. 5925	Kit: 2 Packets Cathode Buffer	01/24/86
Helena Laboratories	REP CK Isoforms-15	Plate: 5.8" x 5.5"	03/09/88
Helena Laboratories	REP CK Isoforms-15 Kit: Cat. No. 3081	Kit: 10 plates	03/09/88
Helena Laboratories	REP CK–12	Plate: 5.8" x 2.18"	03/09/88
Helena Laboratories	REP CK–12 Isoenzyme Kit: Cat. No. 3071	Kit: 10 plates	03/09/88
Helena Laboratories	REP CK–30	Plate: 5.8" x 5.5"	03/09/88
Helena Laboratories	REP CK–30 Isoenzyme Kit	Kit: 10 plates	03/09/88
Helena Laboratories	REP CK–6	Plate: 5.8" x 1.25"	03/09/88
Helena Laboratories	REP CK–6 Isoenzyme Kit: Cat. No. 3072	Kit: 10 plates	03/09/88
Helena Laboratories	REP LD	Plates: 5.8" x 5.5", 5.8" x 2.18", 5.8" x 1.25".	03/09/88
Helena Laboratories	REP LD–12 Isoenzyme Kit: Cat. No. 3076	Kit: 10 plates	03/09/88
Helena Laboratories	REP LD–30 Isoenzyme Kit: Cat. No. 3075	Kit: 10 plates	03/09/88
Helena Laboratories	REP LD–6 Isoenzyme Kit: Cat. No. 3077	Kit: 10 plates	03/09/88
Helena Laboratories	Super Z–12XHDL Cholesterol Supply Kit Catalog No. 5470)	Kit: 3 Packages buffer 36 g	01/24/86
Helena Laboratories	Titan Gel High Resolution Protein Buffer	Packet: 25.9 g	04/12/83
Helena Laboratories	Titan Gel High Resolution Protein Kit Catalog No. 3040	Kit: 10 Plates (90mm x 75mm), 2 Packages Buffer.	03/03/86
Helena Laboratories	Titan Gel High Resolution Protein Plate	Plate: (90mm x 75mm)	03/03/86
Helena Laboratories	Titan Gel IFE Buffer	Packet: 25.9 g	12/18/85
Helena Laboratories	Titan Gel IFE Plate	Plate: (90mm x 75mm)	03/05/86
Helena Laboratories	Titan Gel Immuno Fix Kit Catalog No. 3046	Kit: 10 Plates (90mm x 75mm), 2 Packets IFE Buffer.	01/24/86
Helena Laboratories	Titan Gel Iso Dot LDH Buffer	Packet: 19.6 g	01/07/86
Helena Laboratories	Titan Gel Iso Dot LDH Isoenzyme Plate	Plate: (90mm x 75mm)	12/18/85

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Helena Laboratories	Titan Gel Iso Dot LDH Kit Catalog No. 3062	Kit: 10 Plates (90mm x 75mm),1 Packet Iso Dot LDH Buffer.	01/24/86
Helena Laboratories	Titan Gel LD Buffer	Packet: 21.5 g	11/26/86
Helena Laboratories	Titan Gel LD Isoenzyme Diluent	Bottle:10 ml	11/26/86
Helena Laboratories	Titan Gel LDH Isoenzyme Buffer	Packet: 22.7 g.	03/07/83
Helena Laboratories	Titan Gel LDH Isoenzyme Plate	Plate: (90mm x 75mm)	12/18/85
Helena Laboratories	Titan Gel LDH Isoenzyme Reagent	Vial: 2 ml, 10 vials/box	01/07/86
Helena Laboratories	Titan Gel Lipoprotein Buffer	Packet: 17.3 g	12/18/85
Helena Laboratories	Titan Gel Lipoprotein Kit Catalog No. 3045	Kit: 1 Packet Buffer	01/24/86
Helena Laboratories	Titan Gel Lipoprotein Plate	Plate: (90 x 75 mm)	01/09/87
Helena Laboratories	Titan Gel Multi-Slot Lipo-17 Kit Catalog No. 3095	Kit: 10 plates (81 x 143 mm) 1 packet buffer (21.6 g).	01/09/87
Helena Laboratories	Titan Gel Multi-Slot Lipo-17 Plate	Plate: (81 x 143 mm)	01/09/87
Helena Laboratories	Titan Gel Multi-Slot SP-17 Kit Catalog No. 3091	Kit: 10 plates (81 x 143 mm) 1 packet buffer (29.1 g).	01/09/87
Helena Laboratories	Titan Gel Multi-Slot SP-17 Plate	Plate: 81 x 143 mm	01/09/87
Helena Laboratories	Titan Gel Serum Protein Buffer	Packet: 29.1 g	04/12/83
Helena Laboratories	Titan Gel Serum Protein Kit Catalog No. 3041	Kit: 10 Plates (90mm x 75mm), 1 Packet Buffer.	01/24/86
Helena Laboratories	Titan Gel Serum Protein Plate	Plate: (90mm x 75mm)	12/18/85
Helena Laboratories	Titan Gel Silver Stain Buffer	Packet: 25.9 g	12/18/85
Helena Laboratories	Titan Gel Silver Stain Kit Catalog No. 3035	Kit: 10 Plates (90mm x 75mm), 2 Packets Buffer.	01/24/86
Helena Laboratories	Titan Gel Silver Stain Plate	Plate: (90mm x 75mm)	03/03/86
Helena Laboratories	Titan Gel-PC LDH Isoenzyme Kit Catalog No. 3053	Kit: 10 Plates (90mm x 75mm), 1 Packet LDH Buffer, 1 Box LDH Reagent.	01/24/86
Helena Laboratories	Titan Gel-PC LDH Isoenzyme Plate	Plate: (90mm x 75mm)	12/18/85
Helena Laboratories	Titan III Agar Catalog No. 5023	Packet: 5 g (5 Packets/box)	12/28/73
Helena Laboratories	Titan IV IE Plate (large)	Package: plates, 3 by 4 in.	12/28/73
Helena Laboratories	Titan IV IE Plate (small)	Package: plates, 1 by 3 in.	12/28/73
Helena Laboratories	Titan IV IE Plate Kit	Kit: 10 large (3 by 4 in.) IE Plates, 1 box B1 Buffer.	12/28/73
Helena Laboratories	Titan IV IE Plate Kit	Kit: 12 small (1 by 3 in.) IE plates,1 box B1 Buffer.	12/28/73
ICL Scientific			
ICL Scientific	Therapeutic Drug Control I, TDC I (High Level)	Glass Vial: 10 ml	08/14/85
ICL Scientific	Therapeutic Drug Control I, II, III, Tri-Level TDC Multipack	Glass Vials (12): 10 ml	08/14/85
ICL Scientific	Therapeutic Drug Control II, TDC II (Mid-Level)	Glass Vial: 10 ml	08/14/85
ICL Scientific	Therapeutic Drug Control III, TDC III (Low Level)	Glass Vial: 10 ml	08/14/85
ICN Micromedic Systems, Inc.			
ICN Micromedic Systems, Inc	Immunogen: BZ-A	Plastic Vial: 1.5 ml	02/29/88
ICN Micromedic Systems, Inc	Immunogen: BZ-B	Plastic Vial: 1.5 ml	02/29/88
ICN Micromedic Systems, Inc	Immunogen: CD-A	Plastic Vial: 1.5 ml	02/29/88
ICN Micromedic Systems, Inc	Immunogen: M-A	Plastic Vial: 1.5 ml	02/29/88
ICN Micromedic Systems, Inc	Immunogen: M-B	Plastic Vial: 1.5 ml	02/29/88
ICN Micromedic Systems, Inc	Immunogen: TF-A	Plastic Vial: 1.5 ml	02/29/88
ICN Micromedic Systems, Inc	Micromedic Crackpot 57CO/125I Tracer Solution	Plastic Bottle: 50 ml, 1000 ml	02/24/88
ICN Micromedic Systems, Inc	Micromedic Crackpot Standards-2, 3, & 4	Plastic Bottle: 5 ml, 100 ml	02/24/88
ICN Micromedic Systems, Inc	Micromedic Morphine 125I Tracer Solution	Bottle: 50 ml, 1000 ml	02/29/88
ICN Micromedic Systems, Inc	Micromedic Morphine Standards 2, 3, & 4	Bottle: 5 ml, 100 ml	02/29/88
Industrial Analytical Laboratory, Inc.			
Industrial Analytical Laboratory, Inc	11-Nor-Carboxy-Delta-9-Tetrahydrocannabinol	Ampule: 1 ml	09/04/85
Industrial Analytical Laboratory, Inc	11-hydroxy-delta-9-tetrahydrocannabinol	Ampule: 1 ml	02/18/87
Industrial Optical			
Industrial Optical	Opti-Kleen	Bottle: 5 gallon	06/24/81
Innotron of Oregon, Inc.			
Innotron of Oregon, Inc	Innofluor Phenobarbital Calibrators 0.0, 3.0, 8.0, 20.0, 40.0, and 80.0 mcg/ ml.	Bottle: 3 ml	07/09/87
Innotron of Oregon, Inc	Phenobarbital Stock Tracer	Vial: 5 ml	09/23/87
Janssen Pharmaceutica, Inc.			
Janssen Pharmaceutica, Inc	3H Alfentanil	Vial: 0.5 ml	02/01/87
Janssen Pharmaceutica, Inc	3H Fentanyl	Vial: 0.5 ml	02/01/87
Janssen Pharmaceutica, Inc	3H Sufentanil	Vial: 0.5 ml	02/01/87
Janssen Pharmaceutica, Inc	Alfentanil Radioimmunoassay Kit	Kit: 200 tests	05/13/85
Janssen Pharmaceutica, Inc	Fentanyl Radioimmunoassay Kit	Kit: 200 tests	05/13/85
Janssen Pharmaceutica, Inc	Sufentanil Radioimmunoassay Kit	Kit: 500 tests	05/13/85
Kallestad Diagnostics			
Kallestad Diagnostics	Barbital Buffer 901	Vial	05/19/81
Kallestad Diagnostics	IEP Buffer No. 900	Vial: 7 Dram	12/26/78
Kallestad Diagnostics	Immunoelectrofilm Catalog No. 910	1 Film Sealed in Cardboard Container	03/11/80
Kallestad Diagnostics	Immunoelectrofilms, Catalog No. 1013	Styrofoam Container: 25 film	06/22/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Kallestad Diagnostics	Immunoelectrophoresis Reagent Kit, Catalog No. 1012	Kit: 3 Vials	06/22/87
Kallestad Diagnostics	Quanticoat 125I–T3 Uptake Kit Catalog No. 823	Kit: 400 Determinations	12/16/85
Kallestad Diagnostics	Quanticoat 125I–T3 Uptake Kit, Catalog No. 833	Kit: 100 tests	06/24/81
Kallestad Diagnostics	Quanticoat 125I–T3 Uptake Reagent Catalog No. 785	Bottle: 500 ml	12/16/85
Kallestad Diagnostics	Quanticoat 125I–T3 Uptake Reagent No. 834	2 Glass Bottles: 110 ml	06/24/81
LKB Instruments, Inc.			
LKB Instruments, Inc	Tris-barbiturate Buffer pH 8.6	Packet: each 6.788 g. 20 packets/box.	05/15/78
Lemmon Company			
Lemmon Company	Etorphine Standard Solution	Plastic Carboy: 1 Liter	10/31/83
M&T Chemicals, Inc.			
M&T Chemicals, Inc	M&T NiproTeq SB Additive	Polypropylene Containers: 5 gallons, 55 gallons.	03/10/88
M&T Chemicals, Inc	M&T NiproTeq SB Make-Up Additive	Polypropylene Containers: 5 gallons, 55 gallons.	03/10/88
MCI Biomedical			
MCI Biomedical	IEP Buffer, pH 8.2, 0.04 Ionic Strength	Package: 6.510 grams	08/28/72
Mallinckrodt Inc.			
Mallinckrodt Inc	(1) RIA–MAT Circulating T3 I125 Kit, Catalog No. 501:	KIT CONTAINS THE FOLLOWING 8 ENTRIES:.	01/28/74
Mallinckrodt Inc	(2) RIA–MAT T3 Antiserum	Vial: 2.5 ml	01/28/74
Mallinckrodt Inc	(3) RIA–MAT T3 Buffer	Bottle: 100 ml	01/28/74
Mallinckrodt Inc	(4) RIA–MAT T3 Reaction Vial	Vial: 1 ml	01/28/74
Mallinckrodt Inc	(5) RIA–MAT T3 Standard 0.5 ng/ml	Vial: 1.5 ml	01/28/74
Mallinckrodt Inc	(6) RIA–MAT T3 Standard 0 ng/ml	Vial: 1.5 ml	01/28/74
Mallinckrodt Inc	(7) RIA–MAT T3 Standard 1.0 ng/ml	Vial: 1.5 ml	01/28/74
Mallinckrodt Inc	(8) RIA–MAT T3 Standard 2.0 ng/ml	Vial: 1.5 ml	01/28/74
Mallinckrodt Inc	(9) RIA–MAT T3 Standard 6.0 ng/ml	Vial: 1.5 ml	01/28/74
Mallinckrodt Inc	RIA–MAT T4 I–125 Kit	Kit Containing: 100 Tests and 250 tests.	04/03/75
Mallinckrodt Inc	Res-O-Mat ETR Solution	Vial: 1.5 dram	02/17/72
Mallinckrodt Inc	Res-O-Mat ETR Solution	Bottle: 16 oz and imperial gallon	08/28/74
Mallinckrodt Inc	Res-O-Mat T4 Solution	Vial: 1.5 dram	02/17/72
Mallinckrodt Inc	Res-O-Mat T4 Solution	Bottle: 16 oz and imperial gallon	08/28/74
Mallinckrodt Inc	SPAC T4 RIA Kit	Kit: 50 tests, 100 tests	02/01/77
Mallinckrodt Inc	SPAC T4 RIA Kit	Kit: 500 tests	09/15/77
Mallinckrodt Inc	T4 I125 Reaction Solution	Screwcap Bottle: 2 ounce	02/01/77
Mallinckrodt Inc	T4 I125 Reaction Solution	Screwcap Bottle: 8 ounce	09/15/77
Mallinckrodt Inc	T4 Standard (10.0 ug pct)	Screwcap Vial: 5 ml	02/01/77
Mallinckrodt Inc	T4 Standard (10.0 ug%)	Screwcap Vial: 5 ml	09/15/77
Mallinckrodt Inc	T4 Standard (2.0 ug pct)	Screwcap Vial: 5 ml	02/01/77
Mallinckrodt Inc	T4 Standard (2.0 ug%)	Screwcap Vial: 5 ml	09/15/77
Mallinckrodt Inc	T4 Standard (20.0 ug pct)	Screwcap Vial: 5 ml	02/01/77
Mallinckrodt Inc	T4 Standard (20.0 ug%)	Screwcap Vial: 5 ml	09/15/77
Mallinckrodt Inc	T4 Standard (40.0 ug pct)	Screwcap Vial: 5 ml	02/01/77
Mallinckrodt Inc	T4 Standard (40.0 ug%)	Screwcap Vial: 5 ml	09/15/77
Mallinckrodt Inc	T4 Standard (5.0 ug pct)	Screwcap Vial: 5 ml	02/01/77
Mallinckrodt Inc	T4 Standard (5.0 ug%)	Screwcap Vial: 5 ml	09/15/77
Materials & Technology Systems			
Materials & Technology Systems	5-Ethyl-5-(1-Carboxy-N-Propyl) Barbituric Acid	Screw Cap Vial: 8 ml	05/03/73
Materials & Technology Systems	5-Ethyl-5-(1-Carboxy-N-Propyl)Barbituric Acid Bovine Serum Albumin or Rabbit Serum Albumin.	Vaccine Vial: 8 ml	05/03/73
Materials & Technology Systems	5-Ethyl-5-(1 -Carboxy-N-Propyl)Barbituric Acid Sensitized RBC	Vaccine Vial: 8 ml	05/03/73
Materials & Technology Systems	Barbiturate Standard	Screwcap Vial: 10 ml	09/17/76
Materials & Technology Systems	Benzoyl Ecgonine	Screw Cap Vial: 25mg and 100 mg	04/18/74
Materials & Technology Systems	Benzoylecgonine Standard	Screwcap Vial: 10 ml	09/17/76
Materials & Technology Systems	Carboxymethyl-Morphine	Screw Cap Vial: 8 ml	05/03/73
Materials & Technology Systems	Carboxymethyl-Morphine Bovine Serum Albumin or Rabbit Serum Albumin.	Vaccine Vial: 8 ml	05/03/73
Materials & Technology Systems	Carboxymethylmorphine Sensitized RBC	Vaccine Vial: 50 ml	05/03/73
Materials & Technology Systems	Ecgonine Bovine Serum Albumin or Rabbit Serum Albumin.	Vaccine Vial: 8 ml	05/03/73
Materials & Technology Systems	Ecgonine Sensitized RBC	Vaccine Vial: 50 ml	05/03/73
Materials & Technology Systems	Methadone Standard	Screwcap Vial: 10 ml	09/17/76
Materials & Technology Systems	Morphine Standard	Screw Cap Vial: 10 ml	07/17/73
Materials & Technology Systems	Tropinecarboxylic Acid	Screw Cap Vial: 8 ml, 10 ml	05/03/73
Medi-Chem, Inc			
Medi-Chem, Inc	Barbiturate Test Set (Sodium Secobarbital Standard 10mg % w/v) Catalog No. 250.	Bottle: 120 ml	02/22/74
Medical Analysis Systems, Inc.			
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 1	Glass Vial: 22 X 38mm, 5 ml	08/07/86
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 2	Glass Vial: 22 X 38mm, 5 ml	08/07/86
Medical Analysis Systems, Inc	ACE II Calibrator for the DuPont aca Level 3	Glass Vial: 22 X 38mm, 5 ml	08/07/86

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Medical Analysis Systems, Inc	ChemTrak Liquid Unassayed	Vial: 15 ml	04/30/85
Medical Analysis Systems, Inc	Chemistry Control Assayed, Level 1, 2, & 3	Vial: 15 ml	04/30/85
Medical Analysis Systems, Inc	Chemistry Control, Level 1, 2, & 3	Vial: 15 ml	04/30/85
Medical Analysis Systems, Inc	Liquid Urine Calibrator Level 1 and 2	Vial: 5 ml	04/03/87
Medical Analysis Systems, Inc	Liquid Urine Control Level 1	Vial: 5 ml	04/03/87
Medical Analysis Systems, Inc	TD Control Level 1	Vial: 5 ml	10/08/86
Medical Analysis Systems, Inc	TD Control Level 2	Vial: 5 ml	10/08/86
Medical Analysis Systems, Inc	TD Control Level 3	Vial: 5 ml	10/08/86
Meloy Labs, Inc.			
Meloy Labs, Inc	Counterelectrophoresis Plates, G-301	Plates: 10 determinations	09/05/73
Meloy Labs, Inc	Immunoelectrophoresis Plates, G-201	Plates: 6/unit	09/05/73
Micromedic Systems			
Micromedic Systems	Micromedic Neonatal T4 125I Tracer Solution	Nalgene Bottle: 4 oz	06/25/87
Micromedic Systems	Micromedic Neonatal T4 Elution Solution	Nalgene Bottle: 2 oz	06/25/87
Micromedic Systems	Neonatal T4 125I Tracer Solution	Vial: 30 ml	05/21/80
Micromedic Systems	Neonatal T4 Buffer Solution	Bottle: 8 ounce	05/21/80
Micromedic Systems	T3 RIA 125I Tracer Solution	Vial: 30 ml	12/14/76
Micromedic Systems	T3 RIA Buffer Solution	High Density Polyethylene Bottle: 8 ounce.	12/14/76
Micromedic Systems	T3 Uptake 125I Tracer Solution	Vial: 30 ml	12/14/76
Micromedic Systems	T3 Uptake Buffer Solution	High Density Polyethylene Bottle: 8 ounce.	12/14/76
Micromedic Systems	T4 RIA 125I Tracer Solution	Vial: 30 ml	12/14/76
Micromedic Systems	T4 RIA Buffer Solution	High Density Polyethylene Bottle: 8 ounce.	12/14/76
Miles Laboratories, Inc.			
Miles Laboratories, Inc	Ames Phenobarbital Assay, Kit Contains: Phenobarbital Standards; 10, 20, 40,& 60mcg/ ml.	6.1 ml Vials	03/01/79
Miles Laboratories, Inc	Ames Phenobarbital Controls, 15mcg/ ml, 30mcg/ ml, 50mcg/ ml	Vial: 6.1 ml	05/21/80
Miles Laboratories, Inc	Cliniria T-3 Uptake Test, Kit Contains: (1)125I T-3 Uptake Reagent & (2) Separating Reagent.	200 ml Bottles	11/10/78
Miles Laboratories, Inc	Clinistat Calibrator Nos. 1 and 2	Vial: 1 ml	12/19/80
Miles Laboratories, Inc	Clinistat Control B,C,D,and E	Vial: 1 ml	12/19/80
Miles Laboratories, Inc	Seralute Total T-4 (RIA) 125I Reagent Kit, No. 3304, No. 3305	Kit: 20 columns, 100 columns	03/28/77
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay Control	Vial: 1 ml	01/17/84
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay High Calibrator	Vial: 0.5 ml	01/17/84
Miles Laboratories, Inc	Seralyzer ARIS Drug Assay Low Calibrator	Vial: 0.5 ml	01/17/84
Miles Laboratories, Inc	Seralyzer ARIS Phenytoin Reagent Strips	Bottle Containing 25 and 50 Strips	05/28/86
Miles Laboratories, Inc	T-4 Buffer	Glass Screwtop Vial: ¾ ounce	03/28/77
Miles Laboratories, Inc	TDA Cross-Reactivity Cocktails	Glass Vial: 1 ml	02/01/83
Miles Laboratories, Inc	TEK-CHEK Special Urine Control (supplemental).	Vial: 25 ml	05/01/70
Miles Laboratories, Inc	Tetralute	Bottle: 4.9 g.	07/29/70
Miles Laboratories, Inc	Thyrolute I125, Reagent Kit, No. 5250	Kit: 20 columns	12/02/74
Miles Laboratories, Inc	Thyrolute I125, Reagent Kit, No. 5252	Kit: 100 columns	12/02/74
Monobind, Inc.			
Monobind, Inc	Triiodothyronine Radioimmunoassay Test System	Kit: 100 tests	11/08/77
Monobind, Inc	Monobind T3 Antibody Reagent	Test Tube w/Cap: 70 ml	11/08/77
Monobind, Inc	Monobind T3 Tracer Reagent	Wheaton Glass Container: 55 ml	11/08/77
Monobind, Inc	Monobind T4 Antibody Reagent	Test Tube w/Cap: 70 ml	11/08/77
Monobind, Inc	Monobind T4 Tracer Reagent	Wheaton Glass Container 55 ml	11/08/77
Monobind, Inc	Monobind TSH Antibody Reagent	Test Tube w/Cap: 10.5 ml	11/08/77
Monobind, Inc	Monobind TSH Non-Specific Buffer	Wheaton Glass: 1.05 ml	11/08/77
Monobind, Inc	Monobind TSH Precipitating Reagent	Plastic Container w/Cap: 105 ml	11/08/77
Monobind, Inc	Monobind TSH Tracer Reagent	Wheaton Glass Container 10.5 ml	11/08/77
Monobind, Inc	T3 Adsorbent Reagent	Glass Bottle: 110 ml, 50 ml Plastic Bottle: 260 ml.	05/15/78
Monobind, Inc	T3 Uptake Tracer Reagent	Glass Bottle: 55 ml, 30 ml Plastic Bottle: 125 ml.	05/15/78
Monobind, Inc	TSH Radioimmunoassay Test System	Kit: 100 Tests	11/08/77
Monobind, Inc	Thyroxine Radioimmunoassay Test System	Kit: 100 Tests	11/08/77
Monoclonal Antibodies, Inc.			
Monoclonal Antibodies, Inc	Test Kit for Cocaine Metabolites in Urine	Kit: 50 tests	10/17/86
Monoclonal Antibodies, Inc	Test Kit for Opiates in Urine	Kit: 50 tests	10/17/86
Monoclonal Antibodies, Inc	Test Kit for Tetrahydrocannabinol (THC) in Urine	Kit: 50 tests	10/17/86
Northrop Services, Inc.			
Northrop Services, Inc	Chloral Hydrate	Ampule: 2 ml	10/29/87
Nuclear Diagnostics, Inc.			
Nuclear Diagnostics, Inc	SPINSEP-TBG Reagent Catalog No. 17100	Polypropylene Bottle: 105 ml	12/15/77
Nuclear Diagnostics, Inc	TETRIA P.E.G. Antiserum Catalog No. 16100A	Polypropylene Bottle: 55 ml	03/10/78
Nuclear Diagnostics, Inc	TETRIA P.E.G. Reagent Catalog No. 16100	Polypropylene Bottle: 105 ml	07/08/77
Nuclear Diagnostics, Inc	TETRIA P.E.G. Reagent Catalog No. 16100R	Polypropylene Bottle: 55 ml	03/10/78
Nuclear Diagnostics, Inc	TRIA-P.E.G. Antiserum Catalog No. 12100A	Polypropylene Bottle: 55 ml	03/10/78
Nuclear Diagnostics, Inc	TRIA-P.E.G. Reagent Catalog No. 12100R	Polypropylene Bottle: 55 ml	03/10/78

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
OMI International Corporation			
OMI International Corporation	Compound N Solution	Steel Drum: 55 gallon	10/01/75
Organon Teknika Corp.			
Organon Teknika Corp	ASSURE, Levels I & II	Vial: 10 ml	06/27/80
Organon Teknika Corp	Bovine QAS Clinical Study	6 Vials/Kit (10 ml/vial)	04/28/80
Organon Teknika Corp	Liothyronine T3 125I	Boston Round Amber Bottle: 16 ounce.	01/20/76
Organon Teknika Corp	Liothyronine T3 125I	Boston Round Amber Bottle: 4 ounce	02/18/79
Organon Teknika Corp	Midwest/Illinois/New Jersey Quality Control Program, Level I & II	Vial: 10 ml, 10 vials/kit	04/16/81
Organon Teknika Corp	Owren's Veronal Buffer for FIBRIQUIK	Bottle: 37 ml	05/07/80
Organon Teknika Corp	PACP I & II	Kit: 36 vials/kit	03/07/80
Organon Teknika Corp	PROFILE Anticonvulsant Levels I & II	Vial: 10 ml	11/28/80
Organon Teknika Corp	Platelin	Vial: 7.3 ml	03/13/72
Organon Teknika Corp	Platelin Plus Activator	Vial: 7.3 ml	03/13/72
Organon Teknika Corp	Profile General Set	Kit Ctg: 6 vials	02/22/82
Organon Teknika Corp	Profile General-Levels I & II	Vial: 5 ml	02/22/82
Organon Teknika Corp	Quality Assurance Serum Level I	Vial: 16.5 ml, 6 vials/kit	08/17/78
Organon Teknika Corp	Quality Assurance Serum Level II	Vial: 16.5 ml, 6 vials/kit	08/17/78
Organon Teknika Corp	Russell's Viper Venom Reagent	Vial: 7.3 ml containing 48 mg of powder.	07/08/74
Organon Teknika Corp	Simplastin	Vial: 4.7 ml, 7.3 ml, and 16.5 ml	03/13/72
Organon Teknika Corp	Simplastin-A	Vial: 7.3 ml	03/13/72
Organon Teknika Corp	T-4 125I Reagent	Boston Round Bottle: 2 ounce, amber bottle, 7 dr.	01/20/76
Organon Teknika Corp	T-4 Antiserum (rabbit)	Boston Round Bottle: 4 ounce, clear bottle, 7 dr.	01/20/76
Organon Teknika Corp	TETRA-TAB-RIA T4 Diagnostic Kit	Kit: 40 tests, 200 tests	01/20/76
Organon Teknika Corp	TETRA-TUBE RIA T4 Diagnostic Kit	Kit: 100 tests, 500 tests	06/03/83
Organon Teknika Corp	TGTR Set	Package: 4 Tests per set	03/13/72
Organon Teknika Corp	TRI-TAB T3 Uptake Diagnostic Kit	Kit: 200 Tests	01/20/76
Organon Teknika Corp	TRI-TAB T3 Uptake Diagnostic Kit	Kit: 40 tests	02/18/79
Organon Teknika Corp	Unassayed Chemistry Serum Control, Levels I & II	Vial: 25 ml	06/27/80
Ortho Diagnostic Systems, Inc.			
Ortho Diagnostic Systems, Inc	Activated ThromboFAX No. 721000	Bottle: 3.2 ml	09/21/71
Ortho Diagnostic Systems, Inc	Ortho Activated PTT Reagent	Glass Vial: 30 determination size, 100	05/23/83
Ortho Diagnostic Systems, Inc	Ortho Plasma Coagulation Control Level I	Glass Vial: 5 ml	10/25/83
Ortho Diagnostic Systems, Inc	Ortho Plasma Coagulation Control Level II	Glass Vial: 5 ml	10/25/83
Pacific Hemostasis			
Pacific Hemostasis	Barbital Buffered Saline	Vial: 100 ml	05/24/84
Pacific Hemostasis	Barbital Buffered Saline with Heparin	Vial: 90 ml	05/24/84
Pacific Hemostasis	Diluting Fluid	Vial: 20 ml	05/24/84
Pantex			
Pantex	Immuno T3 Kit: (1) L-Triiodothyronine 125I (2) 1st Antiserum (3) 2nd Antiserum (4) Diluent (5) Standards.	Kit Containing Bottles: (1) 10 ml (2) 10 ml (3) 50 ml (4) 5 ml (5) 3 ml.	01/04/79
Pantex	Immuno-Digoxin Kit Containing: (1) Digoxin 125I (2) 1st Antiserum (3) 2nd Antiserum (4) Diluent.	Kit Containing Bottles: (1) 10 ml (2) 20 ml (3) 50 ml (4) 5 ml.	01/04/79
Pantex	Immuno-Estriol 125I Kit: 2nd Antiserum	Bottle: 50 ml	01/04/79
Pantex	Immuno-Estriol Kit: (1) Estriol 3H RIA (2) Estriol 3H Recovery (3) 1st Antiserum (4) 2nd Antiserum (5) Diluent (6) Buffer (7) Standards.	Kit Containing Bottles: (1) 10 ml (2) 5 ml (3) 10 ml (4) 20 ml (5) 100 ml (6) 50 ml (7) 5 ml.	01/04/79
Pantex	Immuno-T4 Kit: (1) Thyroxine 125I (2) 1st Antiserum (3) 2nd Antiserum (4) Diluent (5) Standards.	Kit Containing Bottles: (1) 100 ml, 1000 ml (2) 50 ml (3) 100 ml (4) 5 ml (5) 3 ml.	01/04/79
Pantex	Immuno-Testosterone 125I Kit: (1) Testosterone 125I (2) 1st Antiserum (3) 2nd Antiserum (4) Diluent (5) Standards.	Kit Containing Bottles: (1) 10 ml (2) 10 ml (3) 50 ml (4) 100 ml (5) 5 ml.	01/04/79
Pantex	T3 Uptake Kit: L-Triiodothyronine 125I	Bottle: 100 ml, 1000 ml	01/04/79
Perkin-Elmer Corporation			
Perkin-Elmer Corporation	Amphetamine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Barbiturates Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Cocaine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Methadone Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Morphine Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Perkin-Elmer Corporation	Opiates Polarization Fluoroimmunoassay Kit	Kit: 100 tests	12/18/86
Princeton Separations, Inc.			
Princeton Separations, Inc	Panagel 16	Pouch: 1 slide	06/29/87
Princeton Separations, Inc	Panagel 8	Pouch: 1 slide	06/29/87
Princeton Separations, Inc	Panagel Electrobuffer	Fiber Drum: 25 kg	06/29/87
Princeton Separations, Inc	Panagel Electrode Buffer	Pouch: 18.3 gms	06/29/87
Princeton Separations, Inc	Panagel LD Isoenzyme Electrode Buffer	Pouch: 11.85 gms	06/29/87
Princeton Separations, Inc	Panagel LD Isoenzyme Slide	Pouch: 1 slide	06/29/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Quantimetrix			
Quantimetrix	Quantimetrix Anticonvulsant Serum Drug Control, Liquid Level II Control No. 17-0303-2.	Polyethylene Dropper Bottle: 15 ml	04/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level I Control No. 17-0303-1.	Polyethylene Dropper Bottle: 15 ml	04/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level I Control No. 17-0305-1.	Polyethylene Dropper Bottle: 15 ml	04/16/86
Quantimetrix	Quantimetrix Antidepressant Serum Drug Control, Liquid Level II Control No. 17-0305-2.	Polyethylene Dropper Bottle: 15 ml	04/16/86
Quantimetrix	Urine Drugs of Abuse Control Catalog No. 12-2411-1	Dropper Bottle: 15 ml	02/23/87
Quin-Tec, Inc.			
Quin-Tec, Inc	Additive SB-1	Drum: 55 gals.	05/11/87
Quin-Tec, Inc	Quin-Tec Brightener 402	Plastic Pail: 5 gallons, Plastic Drum: 55 gallons.	10/13/81
Quin-Tec, Inc	Quin-Tec Brightener 404	Plastic Pail: 5 gallons, Plastic Drum: 55 gallons.	10/13/81
Radian Corporation			
Radian Corporation	6-Acetylmorphine	Ampule: 2 ml	12/04/87
Radian Corporation	6-Acetylmorphine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	9-Carboxy-11-nor-Delta-9-Tetrahydrocannabinol-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Amphetamine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Amphetamine-D5	Ampule: 2 ml	12/04/87
Radian Corporation	Benzoylecgonine	Ampule: 2 ml	12/04/87
Radian Corporation	Benzoylecgonine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Cocaine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Codeine	Ampule: 2 ml	03/09/88
Radian Corporation	Codeine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Delta-9-Tetrahydro-cannabinol-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Methamphetamine-D5	Ampule: 2 ml	12/04/87
Radian Corporation	Morphine	Ampule: 2 ml	03/09/88
Radian Corporation	Morphine-D3	Ampule: 2 ml	12/04/87
Radian Corporation	Phencyclidine-D5	Ampule: 2 ml	12/04/87
Radian Corporation	Phenobarbital-D5	Ampule: 2 ml	12/04/87
Research Triangle Institute			
Research Triangle Institute	11-Nor-9-carboxy-delta-9 THC Blood Standards Kit	Kit Containing: 18-21 ml Ampuls, 1-5 ml Ampul.	10/26/81
Research Triangle Institute	11-Nor-9-carboxy-delta-9 THC Plasma Standards Kit	Kit Containing: 18-21 ml Ampuls, 1-5 ml Ampul.	10/26/81
Research Triangle Institute	Delta-9 THC Blood Standards Kit	Kit Containing: 16-2 ml Ampuls, 1-5 ml Ampul.	10/26/81
Research Triangle Institute	Delta-9 THC Plasma Standards Kit	Kit Containing: 16-2 ml Ampuls, 1-5 ml Ampul.	11/02/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of 11-Nor-9-carboxy-delta-9 THC in Blood.	Kit Containing: 26-1 ml Ampuls, 2-20 ml Vials, 2-250 ml Bottles.	10/26/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of 11-Nor-9-carboxy-delta-9 THC in Plasma.	Kit Containing: 24-1 ml Ampuls, 2-20 ml Vials, 2-250 ml Bottles.	10/26/81
Research Triangle Institute	Iodine Kit for Radioimmunoassay of Delta-9 THC	Kit Containing: 20-1 ml Ampules, 2-20 ml Vials, 2-250 ml Bottles.	10/20/80
Research Triangle Institute	Iodine Kit for Radioimmunoassay of Delta-9 THC in Blood	Kit Containing: 22-1 ml Ampules, 2-20 ml Vials, 2-250 ml Bottles.	07/10/81
Research Triangle Institute	Tritium Kit for Radioimmunoassay of Delta-9 THC	Kit Containing: 20-1 ml Ampules, 2-20 ml Vials, 2-250 ml Bottles.	06/27/80
Roche Diagnostic Systems, Inc.			
Roche Diagnostic Systems, Inc	125I T3 (for T3 Uptake Radioassay)	Vial: 15 ml	07/22/81
Roche Diagnostic Systems, Inc	Abuscreen 125I Amphetamine Reagent	Vial: 30 ml, 500 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Benzoylecgonine Reagent	Vial: 30 ml, 500 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Methaqualone Reagent	Vial: 30 ml, 500 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Morphine Reagent	Vial: 30 ml, 500 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Oxazepam Reagent	Vial: 30 ml, 500 ml	03/06/87
Roche Diagnostic Systems, Inc	Abuscreen 125I Phencyclidine Reagent	Vial: 30 ml, 500 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Secobarbital Reagent	Vial: 30 ml, 500 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen 125I Tetrahydrocannabinol Reagent	Vial: 500 ml, 30 ml	08/14/81
Roche Diagnostic Systems, Inc	Abuscreen 125I-LSD Reagent	Vial: 500 ml, 30 ml	01/28/84
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine	Kit: 100 tests	01/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Conjugate Reagent	Vial: 30 ml	01/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Negative Control	Vial: 4 ml	01/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Positive Calibrator	Vial: 4 ml	01/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Amphetamine Positive Control	Vial: 4 ml	01/18/88
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Conjugate Reagent	Vial: 30 ml	10/02/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Enzyme Immunoassay Test Kit for Barbiturate Metabolites.	Kit: 100 Tests	10/02/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Negative Control	Vial: 4 ml	04/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Positive Calibrator 50-1200 (in increments of 50) ng/ml.	Vial: 4 ml	10/02/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Barbiturate Positive Control	Vial: 4 ml	04/15/87

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoid Positive Calibrator 50–1200 (in increments of 50) ng of THC derivative/ml.	Vial: 4 ml	08/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoid THC Conjugate Reagent	Vial: 30 ml	08/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoids Enzyme Immunoassay Test Kit for Cannabinoids.	Kit: 100 Tests	08/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoids Negative Control	Vial: 4 ml	04/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Cannabinoids Positive Control	Vial: 4 ml	04/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Benzoylecgonine Conjugate Reagent.	Vial: 30 ml	05/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Benzoylecgonine Positive Calibrator 50–1200 (in increments of 50) ng/ml.	Vial: 4 ml	05/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Enzyme Immunoassay Test Kit for Benzoylecgonine.	Kit: 100 tests	05/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Negative Control	Vial: 4 ml	04/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Cocaine Metabolite Positive Control	Vial: 4 ml	04/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Conjugate Reagent	Vial: 30 ml	05/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Enzyme Immunoassay Test Kit for Morphine and Morphine Metabolites.	Kit: 100 tests	05/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Negative Control	Vial: 4 ml	04/15/87
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Positive Calibrator 50–1200 (in increments of 50) ng/ml.	Vial: 4 ml	05/28/86
Roche Diagnostic Systems, Inc	Abuscreen EIA Morphine Positive Control	Vial: 4 ml	04/15/87
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Amphetamine	Kit: 40 tests	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Amphetamine Antibody Diluent	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Amphetamine Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Amphetamine Latex	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Amphetamine Negative Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Barbiturate	Kit: 40 tests	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Barbiturate Antibody Diluent	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Barbiturate Latex	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Barbiturates Negative Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Barbiturates Positive Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cannabinoids	Kit: 40 tests	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cannabinoids Antibody Diluent	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cannabinoids Negative Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cannabinoids Positive Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cannabinoids THC Latex	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cocaine Metabolite	Kit: 40 tests	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cocaine Metabolite Antibody Diluent	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cocaine Metabolite Benzoylecgonine Latex	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cocaine Metabolite Negative Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Cocaine Metabolite Positive Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Morphine	Kits: 40 tests	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Morphine Antibody Diluent	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Morphine Latex	Vial: 7 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Morphine Negative Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen On-Trak Morphine Positive Control	Vial: 4 ml	03/14/88
Roche Diagnostic Systems, Inc	Abuscreen Positive Ref. Control (Benzodiazepines) 25, 50, 75, 100 ng/ml or 150–1000 (in increments of 50) ng/ml.	Vial: 5 ml, 100 ml	03/06/87
Roche Diagnostic Systems, Inc	Abuscreen Positive Ref. Control (LSD) 0.1, 0.2, 0.25, 0.3, 0.4, 0.5, 0.6, 0.7, 0.75, 0.8, 0.9, 1.0, 1.25, 1.5, 1.75, 2.0, 2.5, 5.0 or 10.0 ng/ml.	Vial: 5 ml, 100 ml	01/28/86
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Amphetamine) 100, 500, 750, 1000, 1500, or 2000 ng/ml.	Vial: 6.6 ml, 100 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Barbiturate) 50, 100, 200, 300, 400, 500, 750, 1000, or 2000 ng/ml.	Vial: 6.6 ml, 100 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Benzoylecgonine) 100, 150, 200, 300, 400, 500, 600, 750, 1000, or 2000 ng/ml.	Vial: 6.6 ml, 100 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Methaqualone) 100, 300, 500, 750, 1000, or 2000 ng/ml.	Vial: 6.6 ml, 100 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Morphine) 40, 50, 100, 150, 200, 300, 500, 600, or 1000 ng/ml.	Vial: 6.6 ml, 120 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control (Phencyclidine) 10, 12.5, 25, 50, 75, 100, 200, or 500 ng/ml.	Vial: 6.6 ml, 120 ml	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Control Cannabinoid 20, 25, 50, 100, 150, 200, 300, 400, or 500 ng/ml.	Vial: 6.6 ml, 100 ml	02/20/84
Roche Diagnostic Systems, Inc	Abuscreen Positive Reference Controls for Amphetamine (Single Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Positive Urine Reference Std. (Oxazepam or Desmethyldiazepam) 25, 50, 75, 100 ng/ml or 150–1000 (in increments of 100) ng/ml.	Vial: 5 ml, 100 ml	08/28/86
Roche Diagnostic Systems, Inc	Abuscreen Positive Urine Reference Std. (LSD) 0.1, 0.2, 0.25, 0.3, 0.4, 0.5, 0.6, 0.7, 0.75, 0.8, 0.9, 1.0, 1.25, 1.5, 1.75, 2.0, 2.5, 5, or 10 ng/ml.	Vial: 5 ml, 60 ml, & 100 ml	01/28/86
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Amphetamine	Kit: 100 tests, 2500 tests	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Amphetamine High Specificity	Kit: 100 tests, 2500 tests	09/13/85
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Barbiturates	Kit: 100 tests, 2500 tests	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Benzodiazepines	Kit: 100 tests, 2500 tests	03/06/87
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Cannabinoids	Kit: 100 tests 2500 Tests	08/14/81

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Cocaine Metabolite	Kit: 100 Tests, 2500 Tests	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for LSD (Lysergic Acid Diethylamide)	Kit: 100 tests, 2500 tests	01/28/86
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Methaqualone	Kit: 100 tests, 2500 tests	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Morphine	Kit: 100 tests, 2500 tests	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Radioimmunoassay for Phencyclidine (PCP)	Kit: 100 tests, 2500 tests	02/15/83
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Amphetamine (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Barbiturate (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Barbiturate (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Benzodiazepines (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cannabinoids (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cannabinoids (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cocaine Metabolite (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Cocaine Metabolite (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for LSD (Lysergic Acid Diethylamide) (Multi-Level).	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for LSD (Lysergic Acid Diethylamide) (Single-Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Methaqualone (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Morphine (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Morphine (Single-Level)	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Phencyclidine (PCP) (Multi-Level)	Kit: 3 Vials	10/12/87
Roche Diagnostic Systems, Inc	Abuscreen Reference Controls for Phencyclidine (PCP) (Single-Level).	Kit: 2 Vials	10/12/87
Roche Diagnostic Systems, Inc	Agglutex Amphetamine Latex Reagent	Vial: 2 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Amphetamine Positive Human Urine Control	Vial: 5 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Amphetamine Test Kit	Kit: 20 tests, 100 tests	02/15/83
Roche Diagnostic Systems, Inc	Agglutex Barbiturate Latex Reagent	Vial: 2 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Barbiturate Positive Human Urine Control	Vial: 5 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Barbiturate Test Kit	Kit: 20 tests, 100 tests	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Methaqualone Latex Reagent	Vial: 2 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Methaqualone Positive Human Urine Control	Vial: 5 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Methaqualone Test Kit	Kit: 20 tests, 100 tests	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Morphine Latex Reagent	Vial: 2 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Morphine Positive Human Urine Control	Vial: 5 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Morphine Test Kit	Kit: 20 tests, 100 tests	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Phencyclidine (PCP) Test Kit	Kit: 20 tests, 100 tests	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Phencyclidine Latex Reagent	Vial: 2 ml	06/27/83
Roche Diagnostic Systems, Inc	Agglutex Phencyclidine Positive Human Urine Control	Vial: 5 ml	06/27/83
Roche Diagnostic Systems, Inc	Amerifluor Florescent Immunoassay—Phenobarbital	Kit: 100 tests	04/30/82
Roche Diagnostic Systems, Inc	Anti-T3 Reagent 125I T3 (for T3 Radioimmunoassay)	Vial: 15 ml	07/22/81
Roche Diagnostic Systems, Inc	Anti-T4 Reagent 125I T4 (for T4 Radioimmunoassay)	Vial: 15 ml	07/22/81
Roche Diagnostic Systems, Inc	COBAS FP Phenobarbital Calibrators	Kit: 6 Vials	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP Phenobarbital Calibrators B through F	Vials: 5 ml	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP Phenobarbital Tracer Reagent	Vial: 5 ml	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP Reagents for Phenobarbital	Kit: 100 tests	11/13/84
Roche Diagnostic Systems, Inc	COBAS FP TDM Controls	Kit: 6 Vials	11/13/84
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 1, 2, 3, 4, 5, 6, 7, or 8	Vial: 10, 20, 50, or 100 ml	01/25/83
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 9	Vial: 10 ml, 20 ml, 50 ml, or 100 ml	07/24/84
Roche Diagnostic Systems, Inc	Immunizing Preparation No. 9A	Vial: 10 ml, 20 ml, 50 ml, or 100 ml	07/24/84
Roche Diagnostic Systems, Inc	Immunizing Preparation No.10	Vial: 10 ml, 20 ml, 50 ml, or 100 ml	04/02/86
Roche Diagnostic Systems, Inc	Immunizing Preparation No.10A	Vial: 10 ml, 20 ml, 50 ml, or 100 ml	04/02/86
Roche Diagnostic Systems, Inc	Immunizing Preparations No. 1A, 2A, 3A, 4A, 5A, 6A, 7A, & 8A	Vial: 10 ml, 20 ml, 50 ml, or 100 ml	07/12/83
Roche Diagnostic Systems, Inc	NSB Reagent	Vial: 2 ml	07/22/81
Roche Diagnostic Systems, Inc	TDM Controls, Levels I through III	Vials: 5 ml	11/13/84
Rowley Biochemical Institute, Inc.			
Rowley Biochemical Institute, Inc	Aldehyde Fuchsin Solution	Bottle: Pint, Quart, Gallon	02/02/84
Rowley Biochemical Institute, Inc	Aldehyde Thionin Solution	Bottle: Pint, Quart, Gallon	02/02/84
Rowley Biochemical Institute, Inc	Mayer's Hematoxylin Solution	Bottle: Pint, Quart, Gallon	02/02/84
Schering Corp.			
Schering Corp	Hepaquik	Vial: 9 Dram and Plate	07/16/72
Serono Diagnostics, Inc.			
Serono Diagnostics, Inc	rT3 Barbital Buffer	Glass Vial: 120 ml	10/26/84
Serono Diagnostics, Inc	rT3–125I	Glass Vial: 13 ml	10/26/84
Serono Diagnostics, Inc	rT3-Antiserum	Glass Vial: 13 ml	10/26/84
Sherwood Medical Company			
Sherwood Medical Company	Lancer Fibrinogen Determination, Reagent Kit Catalog No. 8889–007608.	Kit	04/17/75
Sigma Chemical Co.			
Sigma Chemical Co	1-Tetrahydrocannabinol, Product No. T–4764	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	1-Tetrahydrocannabinol, Product No. T–4764	Vial: 1 ml	05/11/81
Sigma Chemical Co	5,5-Diallylbarbituric Acid, Product No. D–6013	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	6-Tetrahydrocannabinol, Product No. T–4889	Vial: 1 ml	05/11/81
Sigma Chemical Co	ALT Reagent A, Stock No. 57–10	Vial: 30 ml	06/27/79
Sigma Chemical Co	ALT Reagent A, Stock No. 57–2	Vial: 10 ml	06/27/79

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Sigma Chemical Co	AST Reagent A, Stock No. 56-10	Vial: 30 ml	06/27/79
Sigma Chemical Co	AST Reagent A, Stock No. 56-2	Vial: 10 ml	06/27/79
Sigma Chemical Co	Acid Hematoxylin Solution, No. 285-2	Bottle: 25 ml, 100 ml	08/06/73
Sigma Chemical Co	Adenosine Phosphate Substrate, Product No. 675-1	Bottle: 4 ounce	07/25/83
Sigma Chemical Co	Allylcyclopentylbarbituric Acid (A-7787)	Sealed Ampule: 1 ml	04/10/85
Sigma Chemical Co	Allylisobutylbarbituric Acid (A-1036)	Sealed Ampule: 1 ml	04/10/85
Sigma Chemical Co	Alphaprodine Hydrochloride (A-1537)	Ampule: 1 ml	08/27/84
Sigma Chemical Co	Alphenal (A-1163)	Ampule: 1 ml	04/10/85
Sigma Chemical Co	Ammonia Reagent, Stock No. 170-10	Vial: 10 ml	02/17/77
Sigma Chemical Co	Ammonia Reagent Kit: Stock No. 170-10	Kit: 10 Vials	02/17/77
Sigma Chemical Co	Ammonia Reagent Stock No. 170-10	Vial: 30 ml	12/13/77
Sigma Chemical Co	Ammonia in Plasma Kit	Kit: 100 tests, 30 tests	12/13/77
Sigma Chemical Co	Amobarbital, Product No. A-5142	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Antibody Sensitized Sheep Erythrocytes (EA7S)	Vials: 2 ml and 5X 2 ml	04/02/86
Sigma Chemical Co	Aprobarbital, Product No. A-7023	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Barbital Buffer, Product No. B-6632	Polyethylene Vial: 30 ml	05/11/77
Sigma Chemical Co	Barbital Buffer with Albumin Stock No. 880-3	Vial: 20 ml	07/11/80
Sigma Chemical Co	Barbital, Product No. B-8632	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Benzphetamine Hydrochloride, Product No. B-8765	Sealed Ampule: 1 ml	06/08/84
Sigma Chemical Co	Bufotenine Monooxalate, Product No. B-8757	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Butabarbital, Product No. B-8882	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Butalbital, Product No. B-5514	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Butethal (B-7516)	Ampule: 1 ml	09/05/85
Sigma Chemical Co	Cannabidiol, Product No. C-6395	Sealed Ampule: 1 ml	08/29/79
Sigma Chemical Co	Cannabidiol, Product No. C-6395	Vial: 1 ml	05/11/81
Sigma Chemical Co	Cannabinol, Product No. C-6520	Sealed Ampule: 1 ml	08/29/79
Sigma Chemical Co	Cannabinol, Product No. C-6520	Vial: 1 ml	05/11/81
Sigma Chemical Co	Chloral Hydrate, Product No. C-6516	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Chlorazepam Dipotassium Salt, (C-9531)	Ampule: 1 ml	05/24/85
Sigma Chemical Co	Chlordiazepoxide (C-4782)	Ampule: 1 ml	09/05/85
Sigma Chemical Co	Clonazepam, Product No. C-4404	Sealed Ampule: 1 ml	06/08/84
Sigma Chemical Co	Cocaine Hydrochloride Product No. C-1528	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Codeine, Product No. C-1653	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	D-Amphetamine Sulfate, Product No. A-3278	Vial: 1 ml	05/11/81
Sigma Chemical Co	DL-Amphetamine HCL, Product No. A-5017	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Dextropropoxyphene Hydrochloride (D-8901)	Ampule: 1 ml	09/27/84
Sigma Chemical Co	Diazepam, Product No. D-9900	Sealed Ampule: 1 ml	06/08/84
Sigma Chemical Co	Diethylpropion Hydrochloride, Product No. D-7274	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Diphenoxylate (D-0780)	Ampule: 1 ml	09/05/85
Sigma Chemical Co	Drug Standard Mix 1, D-3155	Ampule: 2 ml	04/18/86
Sigma Chemical Co	Drug Standard Mix 2, D-3030	Ampule: 2 ml	04/18/86
Sigma Chemical Co	Ethinamate (E-8508)	Ampule: 1 ml	04/10/85
Sigma Chemical Co	Fenfluramine Hydrochloride, Product No. F-1884	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Flunitrazepam No. F-8763	Vial: 1 ml	06/30/87
Sigma Chemical Co	Flurazepam Dihydrochloride, Product No. F-9134	Sealed Ampule: 1 ml	06/08/84
Sigma Chemical Co	Gelatin Veronal Buffer (GVB2+) No. G-6514	Vial: 50 ml, 250 ml	09/15/86
Sigma Chemical Co	Glutethimide, Product No. G-3134	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Glycerophosphate Substrate, Product No. 675-2	Bottle: 4 ounce	07/25/83
Sigma Chemical Co	Glycerophosphate Substrate, Product No. 704-1	Bottle: 4 ounce	07/25/83
Sigma Chemical Co	Hexobarbital, Product No. H-2007	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Hydromorphone Hydrochloride No. H-7141	Vial: 1 ml	06/30/87
Sigma Chemical Co	Ibogaine HCL, Product No. I-4630	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	LDH Electrophoresis Buffer, Stock No. 705-1	Amber Jar: 30 ml	01/04/77
Sigma Chemical Co	LDH-P Reagent No. 125-10	Vial: 30 ml	05/29/73
Sigma Chemical Co	LDH-P Reagent No. 125-100	Vial: 100 ml	05/29/73
Sigma Chemical Co	Lorazepam (L-0140)	Ampule: 1 ml	05/24/85
Sigma Chemical Co	Lysergic Acid , Product No. L-5881	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Mayer's Hematoxylin Solution, No. MHS-1	Bottle: 25 ml, 100 ml	08/06/73
Sigma Chemical Co	Mebutamate (M-3772)	Ampule: 1 ml	09/05/85
Sigma Chemical Co	Medazepam (M-7646)	Ampule: 1 ml	05/24/85
Sigma Chemical Co	Meperidine Hydrochloride (M-1020)	Ampule: 1 ml	08/27/84
Sigma Chemical Co	Mephobarbital, Product No. M-3514	Vial: 1 ml	05/11/81
Sigma Chemical Co	Meprobamate (M-0271)	Ampule: 1 ml	05/24/85
Sigma Chemical Co	Mescaline HC1, Product No. M-5153	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Methadone Hydrochloride, Product No. M-3268	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Methamphetamine HC1, Product No. M-5260	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Methaqualone Hydrochloride, Product No. M-3393	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Methylphenidate Hydrochloride (M-1145)	Ampule: 1 ml	10/31/84
Sigma Chemical Co	Methyprylon, Product No. M-1769	Sealed Ampule: 1 ml	06/08/84
Sigma Chemical Co	Morphine-3-B-D Glucuronide, Product No. M-4266	Ampule: 1 ml	10/21/82
Sigma Chemical Co	N,N-Diethyltryptamine, Product No. D-0392	Vial: 1 ml	05/11/81
Sigma Chemical Co	N,N-Dimethyltryptamine, Product No. D-6263	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Nalorphine Hydrochloride	Ampule: 1 ml	08/27/84
Sigma Chemical Co	Oxazepam, No. O-1755	Vial: 1 ml	06/30/87
Sigma Chemical Co	Oxycodone Hydrochloride, Product No. O-2628	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Paraldehyde, Product No. D-3778	Ampule: 1 ml	10/21/82
Sigma Chemical Co	Pemoline, Product No. P-3518	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Pentazocine Hydrochloride, Product No. P-7530	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Pentobarbital, Product No. P-3393	Sealed Ampule: 1 ml	06/30/77

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Sigma Chemical Co	Phencyclidine, No. P-7043	Vial: 1 ml	06/30/87
Sigma Chemical Co	Phendimetrazine, Product No. P-3524	Vial: 1 ml	05/11/81
Sigma Chemical Co	Phenobarbital Prod. No.P-3643	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Phentermine Hydrochloride, Product No. P-7655	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Phenylacetone, Product No. P-2024	Vial: 1 ml	05/11/81
Sigma Chemical Co	Prazepam, No. P-7168	Vial: 1 ml	06/30/87
Sigma Chemical Co	SGOT 10 Assay Vial No. 55-10	Vial: 30 ml	05/29/73
Sigma Chemical Co	SGOT Reagent No. 155-10	Vial: 30 ml	05/29/73
Sigma Chemical Co	SGOT Reagent No. 155-100	Vial: 100 ml	05/29/73
Sigma Chemical Co	SGOT Single Assay Vial No. 55-1	Vial: 3 ml	05/29/73
Sigma Chemical Co	SGOT Single Assay Vial No. 55-5	Vial: 15 ml	05/29/73
Sigma Chemical Co	SGPT 10 Assay Vial No. 55-10P	Vial: 30 ml	05/29/73
Sigma Chemical Co	SGPT Assay Vial No. 55-5P	Vial: 15 ml	05/29/73
Sigma Chemical Co	SGPT Reagent No. 155-100P	Vial: 100 ml	05/29/73
Sigma Chemical Co	SGPT Reagent No. 155-10P	Vial: 30 ml	05/29/73
Sigma Chemical Co	SGPT Single Assay Vial No. 55-1P	Vial: 3 ml	05/29/73
Sigma Chemical Co	Secobarbital, Product No. S-4006	Sealed Ampule: 1 ml	06/30/77
Sigma Chemical Co	Temazepam, No. T-4903	Vial: 1 ml	06/30/87
Sigma Chemical Co	Thebaine, Product No. T-5270	Sealed Ampule: 1 ml	09/19/83
Sigma Chemical Co	Thiamylal Sodium, Product No. T-6896	Sealed Ampule: 1 ml	06/08/84
Sigma Chemical Co	Thiopental (T-1022)	Ampule: 1 ml	08/27/84
Sigma Chemical Co	Trizma-Barbital Buffer, Stock No. 710-1	Amber Jar: 30 ml	01/04/77
Sigma Chemical Co	Tropacocaine, Product No. T-4516	Vial: 1 ml	05/11/81
Smart Chemical Co.			
Smart Chemical Co	Regal 180XL	Plastic Drum: 55 gallon	06/12/86
Supelco, Inc.			
Supelco, Inc	Alk Mix No. 04-9210	Vial: 1 ml	08/28/73
Supelco, Inc	Amobarbital, No.04-9170	Ampule: 1 ml	12/22/72
Supelco, Inc	Amph. Mix Catalog No. 4-9205	Glass Ampule: 2 ml	06/09/86
Supelco, Inc	Amphetamine No.04-9165	Ampule: 1 ml	12/22/72
Supelco, Inc	Anticonvulsant Mixture No.1; No. 04-9202	Glass Serum Bottle: 50 ml	06/16/77
Supelco, Inc	Antiepileptic Calibration Standard Kit, No. 4-9259	Kit: 3 Ampules	05/21/80
Supelco, Inc	Antiepileptic Calibration Standards, Nos. 4-9256, 4-9257, 4-9258	Glass Ampule: 5 ml	05/21/80
Supelco, Inc	Aprobarbital No.04-9171	Ampule: 1 ml	12/22/72
Supelco, Inc	Barb. Mix 1, Catalog No. 4-9200	Glass Ampule: 2 ml	06/09/86
Supelco, Inc	Barb. Mix 2, Catalog No. 4-9201	Glass Ampule: 2 ml	06/09/86
Supelco, Inc	Barbital, Catalog No. 4-9279	Glass Ampule: 10 ml	06/09/86
Supelco, Inc	Barbiturates Test Mix Catalog No. 4-9295	Ampule: 2 ml	02/25/87
Supelco, Inc	Cannabidiol, No. 04-9221	Ampule: 1 ml	11/27/74
Supelco, Inc	Cannabinol, No. 04-9235	Ampule: 1 ml	11/27/74
Supelco, Inc	Cocaine, No. 04-9188	1000 mcg/Glass Ampule	06/05/75
Supelco, Inc	Codeine No. 04-9161	Ampule: 1 ml	12/22/72
Supelco, Inc	Cyclobarbital No. 04-9175	Ampule: 1 ml	12/22/72
Supelco, Inc	Delta-1 THC, No. 04-9237	Ampule: 1 ml	11/27/74
Supelco, Inc	Delta-6 THC, No. 04-9238	Ampule: 1 ml	11/27/74
Supelco, Inc	Dextroamphetamine, No. 4-9185	Glass Ampule: 1 ml	05/21/80
Supelco, Inc	Glutethimide No. 04-9173	Ampule: 1 ml	12/22/72
Supelco, Inc	Heroin No. 04-9162	Ampule: 1 ml	12/22/72
Supelco, Inc	Hexobarbital No. 04-9177	Ampule: 1 ml	12/22/72
Supelco, Inc	Mephobarbital No. 04-9178	Ampule: 1 ml	12/22/72
Supelco, Inc	Meprobamate, No. 4-9184	Glass Ampule: 1 ml	05/21/80
Supelco, Inc	Methadone No. 04-9163	Ampule: 1 ml	12/22/72
Supelco, Inc	Methamphetamine No. 04-9168	Ampule: 1 ml	12/22/72
Supelco, Inc	Methaqualone, No. 04-9183	1000 mcg/Glass Ampule	06/05/75
Supelco, Inc	Morphine No. 04-9160	Glass Ampule: 1000 mcg	03/08/78
Supelco, Inc	Pentobarbital No. 04-9179	Glass Ampule: 1000 mcg	03/08/78
Supelco, Inc	Phenobarbital No. 04-9181	Glass Ampule: 1000 mcg	03/08/78
Supelco, Inc	Psilocybin, No. 04-9191	1000 mcg/Glass Ampule	06/05/75
Supelco, Inc	Secobarbital No. 04-9180	Glass Ampule: 1000 mcg	03/08/78
Syva Co.			
Syva Co	AccuLevel Phenobarbital Test Control Stock Solution	Flask: 50 ml	10/31/85
Syva Co	AccuLevel Phenobarbital Test Kit (Catalog No. 10C019) Contains: (1)AccuLevel Phenobarbital Control; (2)AccuLevel Reagent I.	(1)Glass Vial: 6 ml; (2)Glass Vial: 9 ml, 12 Vials per test kit.	01/24/86
Syva Co	Advance T-3 Uptake Assay	Kit: 100 tests	05/11/82
Syva Co	Advance Thyroxin Assay	Kit: 100 tests	05/11/82
Syva Co	Antiepileptic Drug Control	Vial: 10 ml, Lyophilized	08/27/74
Syva Co	Emit 700 Amphetamine Assay Catalog No. 3C919	Bottle: 180 ml	10/12/84
Syva Co	Emit 700 Barbiturate Assay Catalog No. 3D919	Bottle: 180 ml	10/12/84
Syva Co	Emit 700 Calibrator A Catalog No. 3A919	Bottle: 3 ml	10/05/84
Syva Co	Emit 700 Calibrator B Catalog No. 3A969	Bottle: 3 ml	10/05/84
Syva Co	Emit 700 Cannabinoid (100) Assay Catalog No. 3M919	Bottle: 180 ml	10/12/84
Syva Co	Emit 700 Cannabinoid (100) Calibrator Catalog No. 3M969	Bottle: 3 ml	10/09/84
Syva Co	Emit 700 Cannabinoid (20) Assay, Catalog No. 3M959	Plastic Bottle: 180 ml	09/15/86
Syva Co	Emit 700 Cannabinoid Control Set Catalog No. 3M989	2 Bottles: 3 ml	10/09/84
Syva Co	Emit 700 Cocaine Metabolite Assay Catalog No. 3H919	Bottle: 180 ml	10/12/84
Syva Co	Emit 700 Control Set A Catalog No. 3A939	2 Bottles: 3 ml	10/09/84

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Syva Co	Emit 700 Control Set B Catalog No. 3A989	2 Bottles: 3 ml	10/09/84
Syva Co	Emit 700 Methaqualone Assay Catalog No. 3Q919	Bottle: 180 ml	10/19/84
Syva Co	Emit 700 Opiate Assay Catalog No. 3B919	Bottle: 180 ml	10/12/84
Syva Co	Emit 700 Phencyclidine Assay Catalog No. 3J919	Bottle: 180 ml	10/12/84
Syva Co	Emit AED-No. 1 Calibrator	Vial: 3 ml, Lyophilized	08/27/74
Syva Co	Emit AED-No. 2 Calibrator	Vial: 3 ml, Lyophilized	08/27/74
Syva Co	Emit AED-No. 3 Calibrator	Vial: 3 ml, Lyophilized	08/27/74
Syva Co	Emit AED-No. 4 Calibrator	Vial: 3 ml, Lyophilized	08/27/74
Syva Co	Emit AED-No. 5 Calibrator	Vial: 3 ml, Lyophilized	08/27/74
Syva Co	Emit Convenience Pack Phenobarbital Assay: Catalog No. 5D009	Plastic Cassette: 100 tests	11/23/87
Syva Co	Emit Phenobarbital Enzyme Reagent B	Vial: 6 ml, Lyophilized	08/27/74
Syva Co	Emit Qst Phenobarbital Bulk Powder Reagent	Steel Drum: 7 gallon	06/05/86
Syva Co	Emit Qst Primidone Assay Catalog No. 60819	Glass Vial: 6 ml, 50 Vials/Kit	11/12/85
Syva Co	Emit Serum Barbiturate-Enzyme Reagent B	Bottle: 3 ml	05/22/79
Syva Co	Emit T-Uptake Assay (Thyroid Hormone Binding Ratio) Catalog No. 6J519.	Polyethylene Bottle: 4 oz	02/29/88
Syva Co	Emit Tox Serum Benzodiazepine Assay Kit Containing: Emit Enzyme Reagent B.	Bottle: 3 ml	02/01/79
Syva Co	Emit d.a.u. Amphetamine Assay Catalog Nos. 3C019, 3C119	Kit: 100 tests, 1000 tests	09/27/84
Syva Co	Emit d.a.u. Benzodiazepine Assay Catalog Nos. 3F019, 3F119	Kit: 100 tests, 1000 tests	09/27/84
Syva Co	Emit d.a.u. Cannabinoid 100 ng Assay, Catalog No. 3M119	Kit: 1000 tests	09/12/86
Syva Co	Emit d.a.u. Cannabinoid 20 ng Assay Catalog No. 3M619	Kit: 100 tests	02/10/86
Syva Co	Emit d.a.u. Cannabinoid 20 ng Enzyme Reagent B	Vial: 10 ml Lyophilized Powder	02/10/86
Syva Co	Emit d.a.u. Cannabinoid 50 ng Assay Calibrators, Low and Medium: Catalog No. 3M509.	Vial: 5 ml	06/01/88
Syva Co	Emit d.a.u. Cannabinoid 50 ng Assay: Cat. No. 3M519	Kit: 100 tests	06/01/88
Syva Co	Emit d.a.u. Cannabinoid Assay Catalog No. 3M019	Kit: 100 tests	09/24/84
Syva Co	Emit d.a.u. Cannabinoid Urine Calibrator Set	Kit: 3 Vials, 3 ml Each	01/03/80
Syva Co	Emit d.a.u. Cocaine Metabolite Assay Catalog Nos. 3H019, 3H119	Kit: 100 tests, 1000 tests	09/27/84
Syva Co	Emit d.a.u. Low Calibrator A	Bottle: 5 ml	07/20/84
Syva Co	Emit d.a.u. Medium Calibrator B	Bottle: 5 ml	08/03/84
Syva Co	Emit d.a.u. Methadone Assay Catalog Nos. 3E019, 3E119	Kit: 100 tests, 1000 tests	10/05/84
Syva Co	Emit d.a.u. Opiate Assay Catalog Nos. 3B019, 3B119	Kit: 100 tests, 1000 tests	09/27/84
Syva Co	Emit d.a.u. Phencyclidine Assay Kit Containing: (1) Emit Phencyclidine Enzyme Reagent B.	Bottle: 6 ml	02/01/79
Syva Co	Emit d.a.u. Barbiturate Assay Catalog Nos. 3D019, 3D119	Kit: 100 tests, 1000 tests	09/27/84
Syva Co	Emit d.a.u. Low Calibrator B	Bottle: 5 ml	08/03/84
Syva Co	Emit d.a.u. Medium Calibrator A	Bottle: 5 ml	07/20/84
Syva Co	Emit-Tox Serum Barbiturate Assay	Kit: 50 tests	05/22/79
Syva Co	Emit-Qst Phenobarbital Assay, Catalog No. 6D819	Kit: 50 Vials	01/18/84
Syva Co	Emit-Tox Serum Calibrators, Low and Medium	Bottle: 3 ml	02/01/79
Syva Co	Emit-d.a.u. Methaqualone Assay	Kit: 100 tests	04/27/82
Syva Co	Emit-st Amphetamine Assay	Vial: 3 ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Barbiturate Assay	Vial: 3 ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Benzodiazepine Assay	Vial: 3 ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Cannabinoid Assay Catalog No. 3M319	Vial: 6 ml, 80 vials/kit	09/27/84
Syva Co	Emit-st Cannabinoid Calibrator	Vial: 3 ml, 2 vials/kit	07/10/81
Syva Co	Emit-st Cannabinoid Controls	Vial: 3 ml, 2 vials/kit	07/10/81
Syva Co	Emit-st Opiate Assay	Kit: 3 ml, 80 vials/kit	10/03/80
Syva Co	Emit-st Phencyclidine Assay	Vial: 3 ml, 80 vials/kit	01/07/81
Syva Co	Emit-st Serum Barbiturate Assay	Vial: 3 ml, 80 vials/kit	02/16/81
Syva Co	Emit-st Serum Benzodiazepine Assay	Vial: 3 ml, 80 vials/kit	02/16/81
Syva Co	Emit-st Serum Calibrator	Vial: 3 ml	02/16/81
Syva Co	Emit-st Serum Controls	Vial: 3 ml, 2 vials/kit	02/16/81
Syva Co	Emit-st Serum Phencyclidine Assay	Vial: 3 ml, 80 vials/kit	02/16/81
Syva Co	Emit-st Urine Calibrator A	Vial: 1 ml, 3 vials/kit	10/03/80
Syva Co	Emit-st Urine Cocaine Metabolite Assay	Vial: 3 ml, 80 vials/kit	03/16/82
Syva Co	Emit-st Urine Controls A	Vial: 1 ml, 6 vials/kit	10/03/80
Syva Co	Emit-st Urine Methadone Assay	Vial: 3 ml, 80 vials/kit	03/22/82
Syva Co	Emit-st Urine Methaqualone Assay	Kit: 80 vials	04/27/82
Syva Co	Emit-st Urine Methaqualone Calibrator	Vial: 3 ml	04/27/82
Syva Co	Emit-st Urine Methaqualone Controls	Vial: 3 ml	04/27/82
Technicon			
Technicon	Ammonium Sulfate Reagent No. T01-1139	Glass Bottles: 1 and 4 liters	01/31/80
Technicon	Set Point RA-1000 Systems T4 Standards Product No. T03-1481-01.	Glass Bottles: 5 ml (Standard 1 Fill Volume=5 ml) (Standards 2-6 Fill Volume=1.5 ml).	08/02/85
Technicon	T4 Agglutinator Reagent No. T11-1484	Glass Bottle: 10 ml	08/02/85
Technicon	TQC T.D.M. Calibrator 1, No. T13-1150	Glass Vial: 15 ml	01/31/80
Technicon	TQC T.D.M. Control A, No. T13-1115	Glass Vial: 15 ml	01/31/80
Technicon Instruments Corporation			
Technicon Instruments Corporation	Agar Gel Plates, No. 8794	Plate: 25 ml	08/01/72
Technicon Instruments Corporation	Agar Gel Plates, No. 7114	Plate: 15 ml	01/15/87
Technicon Instruments Corporation	Buffer No. 3017	Vial: 250 ml	08/31/71
Technicon Instruments Corporation	Buffer No. 8793	Vial: 250 ml	08/01/72
Technicon Instruments Corporation	Diluting Fluid No. 3400	Vial: 10 ml	08/31/71

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Technicon Instruments Corporation	Electrode Buffer, DR07172	Bulk	12/26/74
Technicon Instruments Corporation	LD Electrode Buffer, DR07173	Bulk	02/12/79
Technicon Instruments Corporation	Ligand Control I–No. 4814, II–No. 4824, and III–No. 4834.	Vials: 5 ml	02/24/81
Technicon Instruments Corporation	Partial Thromboplastin (Dried), No. 3491	Vials: 1 ml and 5 ml	08/31/71
Technicon Instruments Corporation	Therapeutic Drug Monitoring Survey ("Z")	Vial: 10 ml	12/16/87
Technicon Instruments Corporation	Therapeutic Drug Monitoring Survey (Z Series)	Vial: 5 ml	09/24/86
Technicon Instruments Corporation	Therapeutic Monitor Level I No. 4881	Vial: 3 ml	01/20/83
Technicon Instruments Corporation	Therapeutic Monitor Level II No. 4882	Vial: 3 ml	01/20/83
Technicon Instruments Corporation	Therapeutic Monitor Level III No. 4883	Vial: 3 ml	01/20/83
Technicon Instruments Corporation	Toxicology Survey ("T")	Vial: 50 ml	12/16/87
Technicon Instruments Corporation	Toxicology Survey (T Series)	Vials: 20 ml, 50 ml	09/24/86
Technicon Instruments Corporation	Toxicology Urine Control No. 0841	Vial: 10 ml	06/11/82
Technicon Instruments Corporation	Toxicology Urine Control No. 0842	Vial: 3 ml	06/11/82
Technicon Instruments Corporation	Urine Control No. 0277	Vial: 25 ml	04/14/81
Technicon Instruments Corporation	Urine Toxicology Survey ("UT")	Vial: 50 ml	12/16/87
Technicon Instruments Corporation	Urine Toxicology Survey (UT Series)	Vial: 50 ml	09/24/86
Tempil Division, Big Three Industries, Inc.			
Tempil Division, Big Three Industries, Inc.	Tempilaq Striped Mylar	Plastic Sheet: 6 by 12 in., 50 sheets per envelope.	09/22/76
The Theta Corp.			
The Theta Corp	Allobarbital No. FP305	Vial: 2 ml	04/10/73
The Theta Corp	Amobarbital No. FP313	Vial: 2 ml	04/10/73
The Theta Corp	Amphetamine No. FP604	Vial: 2 ml	04/10/73
The Theta Corp	Anileridine No. FP203	Vial: 2 ml	04/10/73
The Theta Corp	Aprobarbital No. FP306	Vial: 2 ml	04/10/73
The Theta Corp	Barbital No. FP314	Vial: 2 ml	04/10/73
The Theta Corp	Benzoylecgonine FP–1001	Vial: 2 ml	01/24/87
The Theta Corp	Butabarbital No. FP315	Vial: 2 ml	04/10/73
The Theta Corp	Butalbital No. FP307	Vial: 2 ml	04/10/73
The Theta Corp	Chloral Betaine No. FP502	Vial: 2 ml	04/10/73
The Theta Corp	Chloral Hydrate No. FP501	Vial: 2 ml	04/10/73
The Theta Corp	Cocaine No. FP601	Vial: 2 ml	04/10/73
The Theta Corp	Codeine No. FP102	Vial: 2 ml	04/10/73
The Theta Corp	Cyclobarbital No. FP308	Vial: 2 ml	04/10/73
The Theta Corp	Dihydrocodeine No. FP108	Vial: 2 ml	04/10/73
The Theta Corp	Diphenoxylate No. FP205	Vial: 2 ml	04/10/73
The Theta Corp	Ethchlorvynol No. FP508	Vial: 2 ml	04/10/73
The Theta Corp	Ethylmorphine No. FP106	Vial: 2 ml	04/10/73
The Theta Corp	FP207	Vial: 2 ml	09/04/80
The Theta Corp	FP210	Vial: 2 ml	05/15/84
The Theta Corp	FP214	Vial: 2 ml	04/10/84
The Theta Corp	FP327	Vial: 2 ml	04/10/84
The Theta Corp	FP405	Vial: 2 ml	03/08/79
The Theta Corp	FP411	Vial: 2 ml	05/15/84
The Theta Corp	FP412	Vial: 2 ml	05/15/84
The Theta Corp	FP416	Vial: 2 ml	05/15/84
The Theta Corp	FP512	Vial: 2 ml	03/08/79
The Theta Corp	FP513	Vial: 2 ml	03/08/79
The Theta Corp	FP514	Vial: 2 ml	05/15/84
The Theta Corp	FP515	Vial: 2 ml	03/08/79
The Theta Corp	FP556	Vial: 2 ml	04/10/84
The Theta Corp	FP601A	Vial: 2 ml	05/15/84
The Theta Corp	FP607	Vial: 2 ml	05/15/84
The Theta Corp	FP609	Vial: 2 ml	05/15/84
The Theta Corp	Fentanyl No. FP211	Vial: 2 ml	04/10/73
The Theta Corp	Glutethimide No. FP404	Vial: 2 ml	04/10/73
The Theta Corp	Heptabarbital No. FP309	Vial: 2 ml	04/10/73
The Theta Corp	Hexabarbital No. FP303	Vial: 2 ml	04/10/73
The Theta Corp	Hydrocodone No. FP107	Vial: 2 ml	04/10/73
The Theta Corp	Hydromorphone No. FP103	Vial: 2 ml	04/10/73
The Theta Corp	Levorphanol No. FP208	Vial: 2 ml	04/10/73
The Theta Corp	Marker Mixture No. FPM–104	Vial: 2 ml	04/10/73
The Theta Corp	Marker Mixture No. FPM–201	Vial: 2 ml	04/10/73
The Theta Corp	Meperidine No. FP201	Vial: 2 ml	04/10/73
The Theta Corp	Mephobarbital No. FP301	Vial: 2 ml	04/10/73
The Theta Corp	Meprobamate No. FP402	Vial: 2 ml	04/10/73
The Theta Corp	Methadone No. FP206	Vial: 2 ml	04/10/73
The Theta Corp	Methamphetamine No. FP603	Vial: 2 ml	04/10/73
The Theta Corp	Metharbital No. FP302	Vial: 2 ml	04/10/73
The Theta Corp	Methohexital No. FP304	Vial: 2 ml	04/10/73
The Theta Corp	Methylphenidate No. FP605	Vial: 2 ml	04/10/73
The Theta Corp	Monthly Urine Test No. FPM–103	Vial: 2 ml	04/10/73
The Theta Corp	Morphine No. FP101	Vial: 2 ml	04/10/73
The Theta Corp	Oxycodone No. FP109	Vial: 2 ml	04/10/73
The Theta Corp	Oxymorphone No. FP104	Vial: 2 ml	04/10/73
The Theta Corp	Paraldehyde No. FP506	Vial: 2 ml	04/10/73

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
The Theta Corp	Pentobarbital No. FP318	Vial: 2 ml	04/10/73
The Theta Corp	Phenazocine No. FP213	Vial: 2 ml	04/10/73
The Theta Corp	Phenmetrazine No. FP606	Vial: 2 ml	04/10/73
The Theta Corp	Phenobarbital No. FP320	Vial: 2 ml	04/10/73
The Theta Corp	Piminodine No. FP202	Vial: 2 ml	04/10/73
The Theta Corp	Probarbital No. FP319	Vial: 2 ml	04/10/73
The Theta Corp	Secobarbital No. FP310	Vial: 2 ml	04/10/73
The Theta Corp	Talbutal No. FP311	Vial: 2 ml	04/10/73
The Theta Corp	Test Mixture SM No. 1	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture SM No. 2	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture SM No. 3	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture SM No. 4	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture SP No. 1	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture SP No. 2	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture SP No. 3	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture SP No. 4	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture TM No. 1	Vial: 2 ml	06/19/74
The Theta Corp	Test Mixture TM No. 2	Vial: 2 ml	06/19/74
The Theta Corp	Thiamylal No. FP322	Vial: 2 ml	04/10/73
The Theta Corp	Thiopental No. FP321	Vial: 2 ml	04/10/73
The Theta Corp	Vinbarbital No. FP312	Vial: 2 ml	04/10/73
The Theta Corp	Weekly Urine Test (FDA) No. FPM-101	Vial: 2 ml	04/10/73
The Theta Corp	Weekly Urine Test (States) No. FPM-102	Vial: 2 ml	04/10/73
Travenol Labs (Clinical Assays Division)			
Travenol Labs (Clinical Assays Division).	(125I) Human TSH Radioimmunoassay Kit	Kit: 125 determinations	11/16/77
Travenol Labs (Clinical Assays Division).	(125I) Human TSH Tracer	Glass Vial: 6 ml	11/16/77
Travenol Labs (Clinical Assays Division).	Anticonvulsant Drug Controls	Kit: 500 determinations, 50 determinations.	11/16/77
Travenol Labs (Clinical Assays Division).	Assay buffer CA-742	Polypropylene Bottle: 150 ml	03/14/77
Travenol Labs (Clinical Assays Division).	CA-380 Phenobarbital Serum Standard 1:101 dilution of 1.0 ug/ ml	Septem sealed glass vial: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	CA-381 Phenobarbital Serum Standard 1:101 dilution of 3.0 ug/ ml	Septem sealed glass vial: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	CA-382 Phenobarbital Serum Standard 1:101 dilution of 10 ug/ ml	Septem sealed glass vial: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	CA-383 Phenobarbital Serum Standard 1:101 dilution of 30 ug/ ml	Septem sealed glass vial: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	CA-384 Phenobarbital 1:101 dilution of 100 ug/ ml	Septem sealed glass vial: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	CA-419 Anticonvulsant Drug Control, Level I	Septem sealed glass vial: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	CA-420 Anticonvulsant Drug Control, Level II	Septem sealed glass vial: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	Human TSH standards, 2.0 ulU/ ml, 5.0 ulU/ ml, 10 ulU/ ml, 20 ulU/ ml, 50 ulU/ ml.	Glass vials: 2 ml	11/16/77
Travenol Labs (Clinical Assays Division).	Rabbit Anti-Human TSH Serum	Glass vial: 20 ml	11/16/77
Utak Laboratories			
Utak Laboratories	Toxicology Control-High Range Anticonvulsants No. 71910	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Control-High Range Barbiturates No. 71916	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Control-High Range Hypnotic Plus Acetaminophen, No. 71918.	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Control-High Range Hypnotic Plus Salicylate, No. 71920	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Control-Mid Range Anticonvulsants No. 71911	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Control-Mid Range Barbiturates No. 71917	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Control-Mid Range Hypnotic Plus Acetaminophen, No. 71919.	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Control-Mid Range Hypnotic Plus Salicylate, No. 71921	Bottle: 10 ml	04/14/80
Utak Laboratories	Toxicology Serum Control Dried #88112	Bottle: 10 ml	07/29/82
Utak Laboratories	Toxicology Serum Control Dried #88113	Bottle: 10 ml	07/29/82
Utak Laboratories	Toxicology Serum Control Dried #88120	Bottle: 10 ml	07/29/82
Utak Laboratories	Toxicology Serum Control—Dried Catalog Nos. 44610, 44612, 44632, 44635, 44636, 44637, 44642, 44645, 44646, 44647, 44658.	In Bottles	05/24/76
Utak Laboratories	Toxicology Urine Control Dried #88100	Bottle: 20 ml	07/29/82
Utak Laboratories	Toxicology Urine Control Dried #88121	Bottle: 10 ml	07/29/82
Utak Laboratories	Toxicology Urine Control—Dried Catalog Nos. 44650, 44651, 44652, 44653.	Bottle: 1 oz.	05/24/76
Wescor, Inc.			
Wescor, Inc	Osmocoll	Bottle: 9 ml	12/05/86
Wien Laboratories, Inc.			
Wien Laboratories, Inc	ANS Buffer pH 8.6 Catalog No. T-5144	Plastic Bottle: 100 ml	05/14/75

EXEMPT CHEMICAL PREPARATIONS—Continued

Manufacturer or supplier	Product name/description	Form of product	Date of application
Wien Laboratories, Inc	Buffer Reagent pH 8.6 Catalog No. T-5065	Bottle: 4 oz.	12/22/72
Wien Laboratories, Inc	Coated Charcoal Suspension No. T-5077	Bottle: 4 oz.	12/22/72
Wien Laboratories, Inc	T3 Buffer Reagent Catalog No. T-5156	Plastic Vial: 20 ml	09/13/78
Windsor Laboratories, Inc.			
Windsor Laboratories, Inc	Calibrators FPR Phenobarbital	Kit: 6 Vials	10/30/86
Windsor Laboratories, Inc	Phenobarbital Fluorescence Polarization Immunoassay Kit	Kit: 100 tests	11/20/86

[FR Doc. 88-20080 Filed 9-15-88; 8:45 am]
BILLING CODE 4410-09-M

federal register

Friday
September 16, 1988

Part III

Department of Labor

Employment and Training Administration

Trade Adjustment Assistance; Interim Operating Instructions, For Implementing the 1988 Amendments to Trade Adjustment for Workers Program; Notice of General Administration Letter No. 7–88

DEPARTMENT OF LABOR

Employment and Training Administration

Trade Adjustment Assistance; Interim Operating Instructions for Implementing the 1988 Amendments to Trade Adjustment Assistance for Workers Program

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of General Administration Letter No. 7–88.

SUMMARY: The Department of Labor publishes this notice and General Administration Letter (GAL) No. 7–88, to inform the States and cooperating State agencies of the 1988 Amendments to the Trade Act of 1974 which affect the program of trade adjustment assistance for workers, and which affect the administration of the program by the States pursuant to their agreements with the Secretary of Labor. The 1988 Amendments must be given effect as of the respective effective dates set out in the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418) and contained in the GAL published with this notice.

The 1988 Amendments supersede the statute in effect prior to these amendments and affect the regulations at 20 CFR Part 617 and 29 CFR Part 90 currently in effect, to the extent that such prior law and regulations are inconsistent with the 1988 Amendments. Pending the issuance of final regulations implementing the provisions of the 1988 Amendments, the GAL published with this notice expresses the Department of Labor's position on the terms of the amendments and their respective meanings, and constitutes operating instructions to the States.

FOR FURTHER INFORMATION CONTACT: Glenn M. Zech, Deputy Director, Office of Trade Adjustment Assistance; Telephone: (202) 376–2646; this is not a toll free telephone number.

SUPPLEMENTARY INFORMATION: On August 23, 1988, the President signed into law the "Omnibus Trade and Competitiveness Act of 1988". Part 3—Trade Adjustment Assistance, of Subtitle D of Title I of that Act concerns trade adjustment assistance for workers and firms, and the GAL published with this notice concerns only the provisions affecting workers. Most of the provisions of Part 3 affecting the program of trade adjustment assistance for workers are in the form of amendments to Chapter 2 of Title II of the Trade Act of 1974. Most of these provisions are effective on the date of enactment, that is, on August 23, 1988. Several provisions are effective 30 or 90 days after date of enactment, but this delayed effectiveness is to allow time for planning and preparation so that the provisions can be effectively implemented on their effective dates; therefore, preparation for effective implementation of these provisions must begin immediately.

There are also other provisions affecting workers which do not amend existing statutory law, including the provisions on oil and gas workers separated after September 30, 1985, and the provisions on eligibility for trade readjustment allowances (TRA) of workers totally separated from adversely affected employment during the period which began on August 13, 1981, and ended on April 7, 1986.

It is the Department's intention to publish proposed regulations implementing the provisions of Part 3 relating to worker adjustment assistance for comment in accordance with the implementation schedule contained in the **Federal Register** Notice, Vol. 53, No. 174 on September 8, 1988. The Department's interpretation of the 1988 TAA Amendments as contained in the GAL will be incorporated into the proposed regulations rather than into interim final regulations as specified in the above referenced notice, thus providing an opportunity for public comment prior to the issuance of final regulations.

In the meantime, because many of the provisions are effective on August 23, 1988, and preparation must begin immediately to implement those provisions and the provisions which take effect on September 22, 1988 or November 21, 1988 it is essential to inform the States and the cooperating State agencies of the terms of the provisions and of the Department's instructions concerning the proper implementation of these provisions.

Another essential reason for the issuance of the GAL and this notice is to put the States and the cooperating State agencies on notice that the provisions of Part 3 on worker adjustment assistance supersede the prior provisions of Chapter 2 of Title II of the Trade Act of 1974, to the extent that they are inconsistent with or amend or replace the provisions of the Trade Act, and that the provisions of Part 3 also affect the provisions of the current regulations implementing Chapter 2 of Title II of the Trade Act of 1974 (including the regulations published on August 24, 1988, at 53 FR 32344), to the extent that the provisions of such regulations are inconsistent with the provisions of Part 3.

For the reasons set out above, GAL No. 7–88 is published below, together with Training and Employment Information Notice No. 6–88.

Dated: September 13, 1988.

Roberts T. Jones,

Assistant Secretary of Labor.

BILLING CODE 4510-30-M

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION TAA
	CORRESPONDENCE SYMBOL TET
	DATE September 12, 1988

DIRECTIVE : GENERAL ADMINISTRATION LETTER NO. 7-88

TO : ALL STATE EMPLOYMENT SECURITY AGENCIES

FROM : DONALD J. KULICK
Administrator
for Regional Management

SUBJECT : Operating Instructions for Implementing the Amendments to the Trade Adjustment Assistance Program in the Omnibus Trade and Competitiveness Act of 1988

1. Purpose. To inform the States of the operating instructions for implementing the 1988 Amendments affecting the Trade Adjustment Assistance for Workers (TAA) Program, which are contained in Part 3 of Subtitle D of Title I of the "Omnibus Trade and Competitiveness Act of 1988" (OTCA). These operating instructions shall remain in effect until amended regulations are published, or superseded or supplemented by further operating instructions.

Proposed amendments to the regulations at 20 CFR Part 617 will be published as soon as possible, with an opportunity for the States and the public to comment.

2. References. The "Omnibus Trade and Competitiveness Act of 1988" (Pub. L. 100-418), approved on August 23, 1988. The program of trade adjustment assistance for workers established by Chapter 2 of Title II of the Trade Act of 1974 is referred to as the "TAA Program". Chapter 2 of Title II of the Trade Act of 1974 may be referred to as the Trade Act of 1974 or as simply the Trade Act. The Omnibus Trade and Competitiveness Act of 1988 is referred to as the "OTCA". Part 3 of Subtitle D of Title I of the OTCA is referred to as "Part 3". The provisions of Part 3 affecting the TAA Program are referred to as the "1988 Amendments". Trade readjustment allowances are referred to as "TRA". All references to 20 CFR Part 617 refer to the regulations in the Code of Federal Regulations, as amended by the regulations published on August 24, 1988, at 53 Fed. Reg. 32344. These references are used throughout this document.

3. Background. This document furnishes information concerning the provisions of Part 3 of Subtitle D of Title I of the "Omnibus Trade and Competitiveness Act of 1988" which affect the trade adjustment assistance program for workers (TAA Program) established under Chapter 2 of Title II of the

RESCISSIONS	EXPIRATION DATE October 31, 1989

DISTRIBUTION

Trade Act of 1974. With regard to each of those provisions of the 1988 Amendments, this document also sets forth operating instructions of the Department of Labor to guide the States in implementing those provisions, and which include the Department's interpretation of the 1988 Amendments which affect the TAA Program.

The provisions of Part 3 supersede the prior provisions of the Trade Act, and the regulations implementing the TAA Program, to the extent that the provisions of Part 3 are inconsistent with the Trade Act and the implementing regulations. Therefore, the provisions of Part 3 must be given effect as of their respective effective dates as set forth in Part 3 and in this document. In no case may any determinations of entitlement to TAA Program benefits that are affected by the 1988 Amendments be based upon the prior law or the regulations implementing the prior law. Note, however, that job search and relocation allowances are not affected by the 1988 Amendments.

The operating instructions in this document are issued to the States and the cooperating State agencies as guidance provided by the Department of Labor in its role as the principal in the TAA Program. As agents of the United States, the States and the cooperating State agencies may not vary from the operating instructions in this document (or any subsequent or supplemental operating instructions) without the prior approval of the Department of Labor. Pending the issuance of regulations implementing the provisions of Part 3, therefore, the operating instructions in this document (and any subsequent or supplemental operating instructions) shall constitute the controlling guidance for the States and the cooperating State agencies in implementing and administering the provisions of Part 3 pursuant to the agreements between the States and the Secretary of Labor under Section 239 of the Trade Act of 1974. The provisions of 20 CFR 617.52 (c) shall apply regarding the carrying out of the operating instructions in this document and any subsequent or supplemental operating instructions, including GAL 6-88.

The 1988 Amendments to the Trade Act of 1974

On August 23, 1988, the President signed into law the "Omnibus Trade and Competitiveness Act of 1988". Part 3 of Subtitle D of Title I of the Act concerns trade adjustment assistance for workers and firms. This document relates only to those provisions of Part 3 affecting the TAA Program for workers. Most of the provisions of Part 3 affecting the TAA Program for workers are in the form of amendments to Chapter 2 of Title II of the Trade Act of 1974, and while some of the provisions of Part 3 are not in the form of amendments to the Trade Act of 1974, they nonetheless must be given effect according to their intent as affecting the TAA Program.

4. The 1988 Amendments--Operating Instructions. The 1988 Amendments are set out in this section in the order of the section number of the Trade Act of 1974 affected by each of the amendments, together with an explanation of each amendment, the effective date of each amendment, the regulations principally affected by each amendment, and additional instructions on the administration of each amendment.

A. SECTION 222
Group Eligibility Requirements

A.1. Oil and Gas Workers--Prospective.

AMENDED LAW: Section 1421(a)(1)(A) of the OTCA amends Section 222 of the Trade Act to add certain oil and gas workers to the groups of workers potentially eligible for program benefits under the TAA Program. This is accomplished by adding new subsection (b) to Section 222, which provides that any firm or subdivision of a firm that "engages in exploration or drilling for oil or natural gas" shall be considered to be a firm producing oil or natural gas, and shall be considered to be producing articles "directly competitive with imports of oil and with imports of natural gas." The definition of the term "contributed importantly" is not changed in this amendment.

This amendment became effective on August 23, 1988. It is a permanent change in the Trade Act having prospective effect, and it affects the regulations at 29 CFR Part 90.

ADMINISTRATION: As this amendment pertains to the certification process, rather than program benefits, the principal impact will be on the Department of Labor rather than the States. The incidental impact on the States will be in carrying out the information, assistance, and notification requirements of Section 225 of the Trade Act, as amended in 1981 and as further amended by Section 1422 of the OTCA, and the provisions of amended Section 239(f) of the Trade Act.

Interpretation of the amendment to Section 222 will be addressed in the amendments to the regulations at 29 CFR Part 90 and in other operating instructions issued by the Department of Labor.

A.2. Oil and Gas Workers--Retroactive.

AMENDED LAW: Section 1421(a)(1)(B) of the OTCA provides, without amending the Trade Act, that the amendment with respect to oil and gas workers made by Section 1421(a)(1)(A) shall apply to oil and gas workers separated after September 30, 1985, if such workers are covered by a certification issued under Section 223 that would not have been issued but for the amendment in Section 1421(a)(1)(A), and if such certification is issued with respect to a petition which is filed with the Department of Labor and received in the Office of Trade Adjustment Assistance, Employment and Training Administration, 601 "D" Street, NW, Room 6434, Washington, DC 20213, by COB on November 18, 1988.

The retroactive feature of Section 1421(a(1)(B) relates to payment of basic trade readjustment allowances for the retroactive period, and it is expressly provided that payments shall be made "Notwithstanding Section 223(b) of the Trade Act of 1974, or any other provision of law." Section 223(b) refers to the impact date, which is set aside by this provision.

The reference to "any other provision of law" clearly includes the 60 days preclusion in Section 231(a), because otherwise the workers could not qualify for retroactive payments. Other provisions of the

Trade Act will continue to apply, such as the certification period of Section 231(a)(1), as modified by Section 1421(a)(1)(B); the qualifying wage and employment requirements of Section 231(a)(2); the unemployment insurance eligibility and exhaustion requirements of Section 231(a)(3); the weekly benefit amount and disqualifying income provisions of Section 232; the computation of the maximum payable as provided in Section 233(a)(1); and the eligibility period for payment of basic TRA as provided in Section 233(a)(2), as in effect at the time each worker's first qualifying separation occurred. On the other hand, the extended benefit (EB) work test in Section 231(a)(4) and the job search program requirement in Section 231(a)(5) may not be applied retroactively, and therefore may be applied to an individual only with respect to weeks which begin after the individual files an initial application for TAA Program benefits. Furthermore, if an individual's eligibility period for basic TRA extends beyond the date of enactment of the 1988 Amendments, the individual will become subject to the new requirements discussed below, including the requirement of enrollment in and participation in training in amended Section 231 which takes effect on November 21, 1988.

This provision became effective on August 23, 1988, and petitions thereunder must be received by the Office of Trade Adjustment Assistance by COB November 18, 1988. It is retroactive in effect, applying to workers separated after September 30, 1985, and will have prospective effect for any worker whose eligibility period for basic TRA extends past August 23, 1988 (the date of enactment of the OTCA).

This amendment affects the regulations at 29 CFR Part 90 and 20 CFR Part 617.

ADMINISTRATION: GENERAL ADMINISTRATION LETTER NO. 6-88, entitled: "Trade Adjustment Assistance--Workers of Firms in the Oil and Gas Industry Engaged in Exploration and Drilling, Separated From Employment After September 30, 1985, May File Petitions Under New Eligibility Rules", issued on August 23, 1988, provides instructions to States on implementing this provision. This subject GAL 6-88 supplements the operating instructions in this document. GAL 6-88 was published in the Federal Register on September 14, 1988.

The States will be directly involved in administering the amendment as it affects TAA Program benefits, and in carrying out the information, assistance and notification requirements of Section 225, as amended in 1981 and as further amended by Section 1422 of the OTCA, and the advice and assistance provisions of amended Section 239(f) of the Trade Act.

A.3. Application to All Industries.

AMENDED LAW: Section 1421(b) of the OTCA amends Section 222 of the Trade Act to extend eligibility for TAA to workers with independent firms that provide "essential goods or essential services" to firms adversely affected by imports. Under Section 1430(d) of the OTCA this amendment does not take effect until one year after the import fee takes effect.

ADMINISTRATION: Administration of this amendment is not addressed in this document, and will be addressed in separate guidance or in

the amendments to the regulations at 29 CFR Part 90.

B. SECTION 225
Benefit Information to Workers

B. Benefit Information.

AMENDED LAW: Section 1422 of the OTCA amends Section 225 of the Trade Act to add a new subsection (b). Under new subsection (b), written notice by mail is required to be given to each worker there is reason to believe is covered by a certification, and notice is required to be published in newspapers of general circulation in the areas in which workers covered by a certification reside. Such notices are required to inform workers of the TAA Program benefits available to them.

This amendment becomes effective as a requirement on September 22, 1988, and is applicable in the case of all certifications issued on and after that date. A State may apply this amendment to certifications issued prior to the effective date of the amendment. This notification and publication requirement is in addition to the assistance and information requirements under Section 225, as set forth in the present regulations at 20 CFR Part 617, and therefore affects the regulations to this extent.

While this amendment to Section 225 is effective on September 22, 1988, and will be implemented by the States, notice also that the amendment to subsection (f) of Section 239 is effective on August 23, 1988, and requires the States to furnish much more detailed information to workers.

ADMINISTRATION: Upon receipt of an official notice from the Regional Office of a certification of eligibility for TAA issued by the Department for a worker group in the State, the State agency will satisfy these notification requirements by:

Individual Notice: Obtaining from the firm, or other reliable source, the names and addresses of all workers who were partially or totally separated from adversely affected employment before the certification, and workers who are thereafter partially or totally separated within the certification period. The State agency shall mail a written notice to each such worker of the benefits available under the TAA Program. A preprinted leaflet containing the information described below in d. and e. may be enclosed with the notice to the worker. The notice must include the following kinds of information:

a. Article(s) produced and worker group covered by the certification.
b. Name and the address or location of workers' firm.
c. Impact, certification, and expiration dates in the certification document.
d. Benefits and reemployment services available to eligible workers.
e. Explanation of how workers apply for TAA benefits and services.
f. Whom to call to get additional information on the

certification.
g. When and where the worker should come to the local office to apply for benefits and services.

Newspaper Notice: Publishing a notice of the certification in a newspaper of general circulation in the area where workers covered under the certification reside. The published notice must include the following kinds of information:

a. Article(s) produced and worker group covered by the certification.
b. Name and the address or location of workers' firm.
c. Impact, certification, and expiration dates in the certification document.
d. Benefits and reemployment services available to eligible workers.
e. Explanation of how and where workers apply for TAA benefits and services.

States are also encouraged to issue press releases to the print and broadcast media on certifications issued by the Department which include the above kinds of information.

C. SECTION 231
Qualifying Requirements for Workers

C.1. Participation in Training Program Required.

AMENDED LAW: Section 1423(a)(1) of the OTCA amends paragraph (5) of Section 231(a) of the Trade Act to require, as a new eligibility requirement for receipt of basic TRA, that a worker be enrolled in a training program approved under Section 236(a), or have completed a training program approved under Section 236(a), after a separation qualifying under Section 231(a)(1), or have received a written certification of a finding that it is not "feasible or appropriate" to approve training under Section 236(a) for that worker.

This amendment is effective on November 21, 1988, under Section 1430(f) of the OTCA, and will apply to workers in TRA eligibility periods at that time and thereafter. The 90-day delay in effective date gives the States and workers time to prepare to meet this new requirement. Thereafter, under subsection (b)(2) (as amended by Section 1423(a)(2) of the OTCA), the training requirement of new Section 231(a)(5) shall not apply with respect to any week of unemployment that begins more than 60 days after the filing date of the petition which resulted in the certification, and before the first week following the week in which the certification is issued.

This amendment substitutes for the job search program requirement contained in Section 231(a)(5), but the job search program requirement remains in effect as the Section 231(a)(5) requirement until the day before the new training requirement takes effect on November 21, 1988.

This amendment affects the regulations at 20 CFR Part 617.

ADMINISTRATION: Workers are required to be enrolled in a training program, have completed a training program approved or approvable under Section 236(a), or have received a written certification waiving the training requirement in order to receive TRA payments. The training requirement may be waived under amended Section 231(c)(1) by certification in writing on an individual basis if the State agency determines that training is not feasible or appropriate for the worker.

This requirement is applicable to individuals who are otherwise eligible for basic TRA on or after November 21, 1988. State agencies shall take actions necessary to insure that all individuals who are in TRA eligibility periods that will extend past November 21, 1988 are notified in writing of the new qualifying requirement immediately so they will have a reasonable opportunity to satisfy the requirement.

Workers in approved training on November 21, 1988, will not be affected by this amendment, whether the training was approved before or after August 23, 1988. However the workers will have to meet the participation requirement of Section 231(b) on and after November 21, 1988.

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

Enrolled in Training. A worker shall be considered to be enrolled in training when the worker's application for training is approved by the State agency and the training institution has furnished written notice to the State agency that the worker has been accepted in the approved training program beginning within 30 calendar days. (A waiver under amended Section 231(c) is not required for an individual who is enrolled in training as defined herein.)

Completed Training. A worker shall be considered to have completed a training program if the training program was approved, or was approvable and is approved under Section 236(a) of the Trade Act, the training occurred subsequent to the individual's total or partial separation (as defined in the Trade Act and 20 CFR Part 617), and the training provider has certified that all the conditions for satisfactory completion of the training program have been satisfied.

Job Search Program. Amended Section 231(a)(5) deletes the requirement that workers participate in a job search program, where reasonably available, as a condition for receiving TRA, effective on November 20, 1988. However, because of the demonstrated value of job search workshops and job finding clubs in helping dislocated workers return to suitable employment, States are encouraged to continue to refer trade impacted workers, who do not participate in an approved training program, or who have completed a training program, to such activities.

C.2. Participation in Training Program.

AMENDED LAW: Section 1423(a)(2) of the OTCA amends subsection (b) of Section 231 of the Trade Act, relating to participation in training as required by Section 231(a)(5) (discussed in the preceding item). Under new subsection (b)(1), if it is determined that a worker has, without justifiable cause, failed to begin participation in a training program, the enrollment in which meets the requirement of new Section 231(a)(5), or that the worker has ceased to participate in such training program before completing it, or if it is determined that a written certification given to the worker under new subsection (c) (as amended by Section 1423(a)(3) of the OTCA and discussed below) is revoked, then, in any one of these cases, no TRA may be paid to the worker beginning with the week in which such failure, cessation, or revocation occurred and continuing until the worker "begins or resumes participation in a training program approved under section 236(a)."

Under new subsection (b)(2), the provisions of subsection (b)(1) shall not apply with respect to any week of unemployment that begins more than 60 days after the filing date of the petition which resulted in the certification, and before the first week following the week in which the certification is issued.

This amendment is effective on November 21, 1988, as is the amendment to Section 231(a)(5) discussed in the preceding item and the amendment to Section 231(c) discussed in the immediately following item. This amendment also will apply to workers in TRA eligibility periods on its effective date, and to workers in approved training on such effective date. The 90-day delay in effective date gives the States and workers time to prepare to meet this new requirement. Because subsection (b), as in effect prior to this amendment, was not given effect in the regulations, in this respect the amendment has no effect on the regulations. However, as this amendment relates to the new training requirement in Section 231(a)(5), it does affect the regulations as stated in the preceding item, although the regulations on the job search program requirement will remain effective until the day before this amendment and the new training requirement of Section 231(a)(5) take effect on November 21, 1988.

ADMINISTRATION: Notice that under subsection (b)(2) the provisions of subsection (b)(1) shall not be applied to an individual worker with respect to any week of unemployment that begins more than 60 days after the filing date of the petition which resulted in the certification covering the worker, and before the first week following the week in which such certification is issued. Because of this very short period between issuance of a certification and giving effect to subsection (b)(1) and Section 231(a)(5), it is highly unlikely that the States will be able to make timely determinations of coverage and approval of training, or that workers will be able to enroll in training in such a short time. In view of this, the States may be required to issue subsection (c) certifications pending the making of arrangements for the provision of training, and enrolling the workers in the training. Refer to the discussion of certifications in the following item.

In making determinations under subsection (b), the following definitions under subsection (b), shall be used:

Failed to begin participation. A worker shall be determined to have failed to begin participation in a training program when the worker fails to attend all scheduled training classes and other training activities in the first week of the training program, without justifiable cause.

Ceased participation. A worker shall be determined to have ceased participation in a training program when the worker fails to attend all scheduled training classes and other training activities scheduled by the training institution in any week of the training program, without justifiable cause.

Justifiable Cause. Justifiable cause means such reasons as would justify an individual's conduct when measured by conduct expected of a reasonable individual in like circumstances, including but not limited to reasons beyond the individual's control and reasons related to the individual's capability to participate in or complete an approved training program.

C.3. Certifications Waiving Workers' Participation in Training.

AMENDED LAW: Section 1423(a)(3) of the OTCA amends subsection (c) of Section 231 of the Trade Act, relating to participation in training as required by Sections 231(a)(5) and 231(b) (as discussed in the preceding two items). Under new subsection (c), upon a finding being made that "it is not feasible or appropriate" to approve a training program for a worker under Section 236(a), the worker must be furnished "a written statement certifying such finding." Under subsection (c)(1)(B), when a State issues such a written statement to a worker, it is required to "submit to the Secretary a written statement certifying such finding and the reasons for such finding." Subsection (c)(2) provides for revoking a certification in a written statement submitted to the worker and the Secretary. Subsection (c)(3) requires annual reports to Congress on numbers of certifications issued and revocations of certifications.

This amendment is effective on November 21, 1988, as are the amendments discussed in the two preceding items, and affects the regulations at 20 CFR Part 617. This amendment also will apply to workers in TRA eligibility periods on its effective date and thereafter. The 90-day delay in effective date gives the States and workers time to implement subsection (c) in connection with the new requirements of Section 231(a)(5) and 231(b).

ADMINISTRATION: On November 21, 1988, all individuals in TRA eligibility status must either be enrolled in a training program or have completed a training program approved under Section 236(a) in order to continue to receive TRA payments. The new requirement may be waived under amended Section 231(c)(1) by certification in writing on an individual basis, if the State agency determines that training is not feasible or appropriate.

The Department's policy is to issue waivers of the training requirement on a limited basis when training is not feasible or appropriate under the following conditions:

When a State agency makes a determination that the training requirement will be waived for an individual then the State agency must issue a written certification to the individual of such a finding.

a. A formal written certification must be provided to each affected worker. At a minimum, the certification shall contain the following information:

   (1) Name and social security number of the worker.
   (2) Petition number under which the worker was certified.
   (3) Effective date of the certification, and the impact and termination dates, where appropriate.
   (4) Statement that training is not feasible or appropriate and the reason for the finding. Any other conditions the State agency deems appropriate in informing the worker.
   (5) Signature block for appropriate State official.
   (6) Signature block for worker's acknowledgement of receipt.

b. State agencies must develop a procedure for reviewing regularly a certification of waiver of training issued to a worker to ascertain that the conditions upon which the waiver was granted continue to exist or have been changed in which case the certification may be revoked.

   State agencies may incorporate a revocation section in the certification of waiver form or a separate written statement. Similiar information as listed in the certification should be provided to the worker when revoking the certification.

c. State agencies must develop procedures for compiling the number of certifications issued and revoked, by reason. (The Department is required to report annually to the Congress on the number of certifications issued and revoked. The Department will develop reporting requirements and issue instructions to State agencies.)

d. State agencies are not required to forward copies of individual waivers to the Department. The Department will review a random sample of waivers issued by the State agencies during regular ETA reviews of TAA program administration.

With regard to certifications under subsection (c)(1), the key words are whether it is "feasible or appropriate" to approve training for a worker. The word "feasible" refers to whether the object is capable of being done or carried out.

As used in Section 231 for purposes of training approval under the criteria of Section 236(a), "feasible" means simply whether there is any training available at that time which meets all the criteria of

Section 236(a)(1), whether the worker is so situated as to be able to take full advantage of the training opportunity and complete the training, and whether funding is available to pay the full costs of the training, including any transportation and subsistence expenses which are compensable. Funding includes not only TAA program funds but also funds under JTPA, JTPA Title III (worker adjustment program) and other Federal, State and private sources.

The word "appropriate" carries the more expansive meaning of being especially suitable or compatible, fitting, or proper. Therefore, "appropriate" refers to suitability of the training for the worker (including whether there is a reasonable prospect which is reasonably foreseeable that the worker will be reemployed by the firm from which separated) and compatibility of the training for the purposes of the TAA Program. In these respects, suitability of training for the worker is encompassed within the several criteria in Section 236 (a)(1), and compatibility with the program is settled by the various provisions of Section 236 which describe the various types of training approvable under Section 236 and the limitations thereon.

Accordingly, whether training is "feasible or appropriate" at any given time is determined by finding whether, at that time, training suitable for the worker is available, the training is training which is approvable under Section 236 including the criteria in Section 236(a)(1), the worker is so situated as to be able to take full advantage of the training and complete the training, full funding for the training is available, and the training will commence within 30 days of approval.

This amendment substitutes for a similar provision relating to the job search program requirement and the provisions of subsection (c) remain in effect until the amendment discussed in this item and the two preceding items take effect on November 21, 1988. This amendment affects the regulations at 20 CFR Part 617, although the regulations on the job search program requirement which implement Section 231(a)(5) and (c) will remain in effect until the day before the amendments to Sections 231(a)(5), (b), and (c) take effect on November 21, 1988.

D. SECTION 232
Weekly Amounts of TRA

D. Weekly Amounts of TRA.

AMENDED LAW: Section 1423(b) of the OTCA amends subsections (b) and (c) of Section 232 of the Trade Act, but no change is made in the computation of the weekly amount of TRA payable. The weekly amount will continue to be based upon the first exhaustion of UI as it was set in the 1981 Amendments and is reflected in the regulations at 20 CFR Part 617.

Subsection (b) of Section 232 is amended by striking out, "including on-the-job training,"(OJT). This is a technical change, to conform to Section 233(e) which prohibits payment of TRA to workers in OJT. This technical change is effective on August 23, 1988.

Subsection (c) of Section 232 is amended by strking out references to Sections 231(c) and 236(c), and substituting a reference to Section 231(b). This is a conforming change related to other amendments to the Trade Act in the OTCA. This amendment is effective on November 21, 1988, as are the amendments to Section 231 to which it relates and which are discussed above. As in the case of the amendments to Section 231, this amendment also will affect the regulations at 20 CFR Part 617.

ADMINISTRATION: State agencies should examine TRA payment procedures to ensure that such procedures conform to the requirement prohibiting TRA payments when the worker is participating in OJT.

Section 232(c) of the Trade Act is amended by deleting references to Sections 231(c) and 236(c), and substituting references to the amended training requirements imposed under amended Section 231(b) of the Trade Act for TRA eligibility. The amendment to subsection (c) of Section 232 is effective on November 21, 1988, as are the amended training requirements under Section 231 to which it relates and, as indicated, are discussed above.

E. SECTION 233
Limitations on Trade Readjustment Allowances

Section 1423(c) of the OTCA includes three amendments to Section 233 of the Trade Act, and adds a new Section 246 on the subject of "Supplemental Wage Allowance Demonstration Projects." Section 246 does not affect the regulations at 20 CFR Part 617 or 29 CFR Part 90, and will be addressed in other guidance issued by the Department.

E.1. Eligibility Period for Additional TRA.

AMENDED LAW: Section 1423(c)(1) of the OTCA amends subsection (a)(3)(B) of Section 233 by striking out "is approved" and inserting the word "begins" in place thereof. This is essentially a technical change, but it corrects a problem in the prior law which, read and construed literally, required training to be approved after exhaustion of basic TRA. This amendment became effective on August 23, 1988, and affects the regulations at 20 CFR Part 617.

ADMINISTRATION: The change in Section 233(a)(3)(B) corrects a technical error which required the worker's application for training to be approved before the worker exhausted eligibility for basic TRA. This presented an interpretation problem that is now resolved by this amendment. Therefore, with this amendment the 26-week eligibility period for additional TRA begins with the first week of training, if the training begins after exhaustion of basic TRA. No change in practice is required, however, as the same result had been achieved through interpretation.

E.2. Conforming Amendment.

AMENDED LAW: Section 1423(c)(2) of the OTCA amends the last sentence of subsection (a)(3) of Section 233 by striking a reference to Section 236(c) (relating to the satisfactory progress provision now

contained in amended Section 231(b) which is discussed above), and by striking "engaged in such training" and inserting "participating in such training" in place thereof. The latter change is not essentially substantive, but conforms usage to the words used in amended Section 231(b) which is discussed above. This amendment is effective on November 21, 1988, as are the amendments to Section 231 to which it relates and which are discussed above. This amendment, in and of itself, has little effect on the regulations at 20 CFR Part 617.

ADMINISTRATION: The requirements for participation in training are covered in the discussions above of the amendments to Section 231.

E.3. Payment of TRA During Breaks in Training.

AMENDED LAW: Section 1423(c)(3) of the OTCA adds a new subsection (f) to Section 233. New subsection (f) provides for the payment of basic and additional TRA "during any week which is part of a break in training" provided three conditions are met: (a) The break in training does not exceed 14 days; (b) the worker was participating in the training before the beginning of the break; and (c) the break is provided for in the published schedule of the training program.

This is a significant change in the law. Previously, under Section 233(a)(3), the worker had to actually be "engaged in" training in a week to be entitled to a payment of additional TRA for the week. Under new subsection (f), a worker will continue to receive basic and additional TRA during breaks in training (up to the maximum of 26 payments), but only if the scheduled break is not longer than 14 days, and the other two conditions stated above are met. In addition, the wording of subsection (f) makes it clearly applicable to basic TRA as well as additional TRA.

This amendment became effective on August 23, 1988, and applies to all breaks in training which begin on or after such date regardless of when the training was approved under Section 236, or whether the training was approved or is approvable under Section 236 as amended by the 1988 Amendments. This amendment will affect the regulations at 20 CFR Part 617 in regard to both basic and additional TRA.

ADMINISTRATION: The State agency, in administering Section 233(f), must obtain from an official of the training institution information on scheduled breaks in training and the beginning and ending dates of breaks.

a. A worker participating in training shall be paid TRA for any week beginning during a scheduled break in training that does not exceed 14 days provided the stated conditions are met.

b. A worker participating in training shall not be paid TRA for any week that begins and ends during a scheduled break that is 15 days or more in duration.

However, when the break occurs during the period the worker is receiving the 26 weeks of additional TRA such weeks shall be counted

against the 26 weeks of eligibility for additional TRA, as such weeks have been counted before the amendment.

In establishing the number of days in a break in training, begin with the first day a worker would ordinarily be in class were it not for the training break, and end with the last day in which the worker would ordinarily be in class were it not for the training break. Any weekend days or holidays on which training is not regularly scheduled before the break began and weekend days or holidays at the end of the break on which training is not ordinarily scheduled are not counted.

For example, under the published schedule there is a two-week break in the training program, the last scheduled day of training is a Friday, and training is not regularly scheduled on weekend days. Begin counting break days on the following Monday and consecutively including weekend days through the last weekday of the break. If the last weekday of the break is Friday, the number of break days in this example would be 12. Since it does not exceed 14 days the worker is entitled to payment of basic or additional TRA for both weeks the worker is on a training break (if otherwise eligible).

In another example, under the published schedule for the training program, a Christmas break is scheduled to begin after classes on Tuesday, December 20, 1988, and continue until classes resume on Wednesday, January 4, 1989. The break begins on Wednesday, December 21, and ends on Tuesday, January 3, a period of 14 days. In this example, therefore, the break in training does not exceed 14 days, and the worker is entitled to payment of basic or additional TRA (if otherwise eligible) for the weeks ending on December 24, December 31, and January 7.

Change the facts of the above example slightly, so that the break ends after Tuesday, January 3, and the break will exceed 14 days. In this situation, the treatment of the worker is exactly as it was under the prior law as to additional TRA. The worker is entitled to basic or additional TRA (if otherwise eligible) for the week ending on December 24, if the worker participated in training on Monday and Tuesday of that week. The next week for which the worker is entitled to TRA is the first week after the week of December 24 during which classes resume and the worker actually participates in the training. For any weeks which occur between those two weeks the worker is not entitled to basic or additional TRA, but those weeks will nonetheless count against the 26 weeks for which additional TRA is payable if the worker was being paid additional TRA. The situation is different if the worker is still drawing against basic TRA entitlement; in this case the weeks that are not payable do not count against the worker's maximum entitlement, but the worker's eligibility period for basic TRA will continue to run.

F. SECTION 233
Limitation on Period in Which Trade Readjustment Allowances May be Paid

F.1. Revised Eligibility Period for Basic TRA.

AMENDED LAW: Section 1425(a) of the OTCA amends Section 233(a)(2) of the Trade Act to return essentially to the movable 2-year eligibility period as in effect prior to the 1981 Amendments. Under amended Section 233(a)(2), the eligibility period for basic TRA is the 104-week period that begins with the first week following the week of the worker's most recent, total separation which is within the certification period described in Section 231(a)(1) for the certification under which the worker is covered, and with respect to which the worker meets the qualifying requirements of Section 231(a)(2).

For an individual worker to establish an eligibility period for basic TRA, therefore, five conditions must be found to exist:

a. A certification of eligibility to apply for adjustment assistance must have been issued under Section 223 of the Trade Act.
b. The worker must be covered by such certification.
c. The worker must have been separated from adversely affected employment, and such separation must be a "total separation" as defined in Section 247(11) of the Trade Act and in the regulations at 20 CFR 617.3(11).
d. Such total separation must be within the certification period of such certification as specified in Section 231(a)(1) of the Trade Act.
e. The worker must meet the wage and employment qualifying requirements of Section 231(a)(2) (as in effect at the time of such separation) of the Trade Act with respect to such separation.

If all of the five conditions stated in the preceding paragraph are found to exist in the case of any individual worker, the worker has had a "qualifying separation" for the purposes of eligibility for basic TRA, and such worker's eligibility period during which the worker may claim basic TRA is the 104 consecutive calendar weeks beginning with the week which immediately follows the week in which such qualifying separation occurred. The 104-week eligibility period will run its course in 104 consecutive weeks, regardless of the worker's experience in that 104-week period with employment, unemployment, eligibility for UI or waiting week, or any other circumstances except a subsequent qualifying separation as defined herein.

This amendment became effective on August 23, 1988, and applies to all total separations which occur on and after that date, except in the case of workers who have previously exhausted all of their rights to basic TRA. This amendment affects the regulations at 20 CFR Part 617, with respect to separations occurring on and after August 23, 1988.

Section 1430(g) of the OTCA also affects the amendment to Section 233(a)(2). Section 1430(g) provides that--

> The amendment made by section 1425(a) shall not apply to (sic) with respect to any total separation of a worker from adversely affected employment (within the meaning of section 247 of such

Act) that occurs before the date of enactment of this Act if the application of such amendment with respect to such total separation would reduce the period for which such worker would (but for such amendment) be allowed to receive trade readjustment allowances under part 1 of subchapter B of chapter 2 of title II of the Trade Act of 1974.

Although the wording of Section 1430(g) appears somewhat oblique, because the amendment to Section 233(a)(2) does not apply to separations which occurred before August 23, 1988, the evident purpose of Section 1430(g) is to prevent the application of the amendment to a worker if it would have the result of shortening the worker's eligibility period which is based upon a separation that occurred prior to August 23, 1988, and Section 233(a)(2) prior to this amendment. This could happen because the eligibility period under the prior law was 104 weeks after the first exhaustion of regular benefits, and this could be from two and one-half to three years after separation, whereas under amended Section 233(a)(2) the eligibility period is 104 weeks after separation, or only two years after separation.

For example, a worker has a qualifying separation prior to August 23, 1988, and the worker's first exhaustion of regular UI benefits does not occur until after August 23, 1988. Under Section 233(a)(2) prior to the OTCA amendment, the worker's eligibility period will be 104 weeks after exhaustion of regular UI benefits, whenever that occurs. Although amended Section 233(a)(2) does not by its terms apply to a separation occurring before August 23, 1988, Section 1430(g) makes it clear that amended Section 233(a)(2) may not be applied to this situation, even though the determination of the worker's entitlement to TRA and the eligibility period is not issued until after August 23, 1988. Therefore, workers who have a qualifying separation prior to August 23, 1988 will have an eligibility period that is generally no shorter than two and one-half years after separation, and may be as long as three years after separation. A worker separated less than six months prior to August 23, 1988, therefore, generally will have a longer eligibility period than a worker separated up to about six months after August 23, 1988.

To give full effect to Section 1430(g), therefore, requires that a worker's longer eligibility period based upon a "first qualifying separation" that occurred prior to August 23, 1988, not be shortened because of the application of amended Section 233(a)(2) to a more recent qualifying separation that occurred on or after August 23, 1988. This means that, while the calculation under amended Section 233(a)(2) should be made with respect to all total separations of workers on and after August 23, 1988, the eligibility period may not be applied to a worker who had a "first qualifying separation" prior to August 23, 1988, if to do so would result in the worker's eligibility period ending on an earlier date than the eligibility period based upon the "first qualifying separation."

ADMINISTRATION: Since the amended Section 233(a)(2) links the TRA eligibility period to the most recent total separation, the eligibility period established with respect to the first qualifying

separation changes if the worker has another "qualifying separation" under the same certification. Therefore, when a worker has a second "qualifying separation" under the same certification the worker's eligibility period for basic TRA moves from the prior established eligibility period, to 104 weeks after the week in which the second "qualifying separation" occurred. The process will be repeated for any subsequent "qualifying separation" occurring within the certification period.

EXCEPTION: Amended Section 233(a)(2) may not be applied in the case of a worker's more recent separation that occurs on or after August 23, 1988, if it would result in the worker having a shorter eligibility period than the eligibility period based on the prior law and a "first qualifying separation" that occurred prior to August 23, 1988.

The provision for beginning the 104-week TRA eligibility period based on the most recent separation shall be applied only to qualifying separations occurring on or after August 23, 1988, but may not be applied in the case of a worker who has no balance of basic TRA entitlement remaining in the worker's TRA account.

Although a worker's TRA eligibility period will, as stated above, be established or reestablished with respect to each "qualifying separation" under the same certification that occurs on and after August 23, 1988, nothing else changes in regard to the worker's basic TRA entitlement. Thus, the worker's weekly amount of basic TRA, as computed under Section 232, and the worker's maximum amount of basic TRA, as computed under Section 233(a)(1), are established or remain fixed at the amounts computed with respect to the first "qualifying separation," whether this occurred before or after August 23, 1988. Therefore, whenever a worker files a new TRA claim it will be necessary to determine whether the worker had any prior separation under the same certification and within the certification period. If the worker had a prior separation it must be determined whether such separation was a "qualifying separation" (under the law in effect at the time of such separation), and whether it was the first qualifying separation for the purposes of Sections 232, 233(a)(1), and also for the purpose of Section 233(a)(2).

F.2. Retroactive Waiver of Time Limitations.

AMENDED LAW: Section 1425(b) of the OTCA, without specifically amending any provision of the Trade Act, waives the time limit on the TRA eligibility period in Section 233(a)(2), and the 210-day time limit in Section 233(b) on filing a bona fide application for training in order to qualify for additional TRA, but only for workers who experienced a qualifying, total separation from adversely affected employment in the period which began on August 13, 1981 (the date of enactment of the 1981 Amendments), and ended on April 7, 1986 (the date of enactment of the 1986 Amendments).

Other specified conditions must be met for a worker to become eligible under this retroactive provision for basic and additional TRA. This provision became effective on August 23, 1988 and effects the regulations at 20 CFR Part 617.

Nine conditions must be found to exist for a worker to establish potential eligibility under Section 1425(b) for basic and additional TRA:

a. A certification of eligibility to apply for adjustment assistance must have been issued under Section 223 of the Trade Act;
b. The worker must be covered by such certification;
c. The worker must have been separated from adversely affected employment, and such separation must be a "total separation" as defined in Section 247(11) of the Trade Act and in the regulations at 20 CFR 617.3(11);
d. Such total separation must be within the certification period of such certification as specified in the certification and in Section 231(a)(1) of the Trade Act;
e. The worker must meet the wage and employment qualifying requirements of Section 231(a)(2)(as in effect at the time of such separation) of the Trade Act with respect to such separation;

and, further, for the purposes or Section 1425(b)--.

f. Such total separation must have occurred on or after August 13, 1981, and on or before April 7, 1986;
g. The worker must be "enrolled in a training program" approved under Section 236(a) of the Trade Act;
h. The worker must have been "unemployed continuously since the date" of such total separation, not taking into account "seasonal employment, odd jobs, or part-time, temporary employment"; and
i. With respect to any week, the worker has not been determined to have, without justifiable cause, either failed to begin participation in the training program in which enrolled as stated in condition (g), or has ceased to participate in such training program before completing the training program.

The meaning of conditions (a) through (f) is self-evident from the terms as stated in each of these conditions. The terms of conditions (g) and (i) are expressed in Section 1425(b) in the same terms as the OTCA amendments to Sections 231(a)(5)(A) and 231(b)(1) of the Trade Act, and, therefore, the same terms in both provisions (enrolled in, failed to begin participation, ceased to participate, and "justifiable cause") shall have the same meanings for purposes of Section 1425(b) as are stated above in items C.1. and C.2. of this document.

Condition (h) is a special condition applicable solely as a condition of eligibility for TRA under Section 1425(b). The worker must have been "unemployed continuously" since the date of the total separation which is referred to in conditions (c) through (f). In a prior version of Section 1425(b) this condition was stated as being continuously unemployed since the "original" separation. Therefore, since the enactment version in effect refers to any total separation meeting conditions (c) through (f), only the last such separation may be taken into account for the purposes of Section 1425(b).

Further, in determining whether unemployment has been continuous (up to the time of enrollment and participation in training for the purposes of Section 1425(b)), all employment of the worker in work that is seasonal or in odd jobs, or part-time, temporary work, is to be disregarded. However, any job not meeting one of these exclusions will break the chain, and the worker may not be determined to have been continuously unemployed.

Section 1425(b) became effective on August 23, 1988, and affects the regulations at 20 CFR Part 617. Therefore, while the waiver of the time limits in Section 233(a)(2) and (b) are retroactive in a sense, it is only for the purpose of effectuating the intent of Section 1425(b) that workers separated in the period which began on August 13, 1981 and ended on April 7, 1986, shall not be denied basic and additional TRA prospectively, beginning on August 23, 1988, because of such time limitations. Therefore, Section 1425(b) is to operate prospectively for the purposes of payment of basic and additional TRA, and all of the terms and conditions of the Trade Act as amended by the OTCA (except the time elements specifically waived), and the further conditions stated in conditions (f) through (i) above, shall be applied in determining whether a particular worker is entitled to such payments.

ADMINISTRATION: No payment of basic or additional TRA may be made under Section 1425(b) for any week which begins before August 23, 1988, but for the week which begins after August 23, 1988, a worker who is found to meet conditions (a) through (f) and condition (h), and who is also found to be "enrolled in" (condition (g)) or participating in a required training program, shall be paid TRA (if otherwise eligible) beginning with the first week which begins after August 23, 1988.

The reference to otherwise eligible in the preceding sentence assumes the worker is found to meet all of the nine conditions stated above, and also that the cumulative payments made under Section 1425(b), together with any payments previously made to the worker, do not exceed the worker's maximum entitlement to TRA as determined under Section 233(a)(1) and (a)(3). For example, a worker who qualifies as eligible under Section 1425(b) has received all of the basic TRA to which the worker was entitled, but no additional TRA; the worker would be entitled to up to 26 weeks of additional TRA, but no further basic TRA. Similarly, the worker had received 20 weeks of basic TRA and was determined under Section 233(a)(1) to be entitled to 26 weeks; the worker is entitled to the remaining six weeks of basic TRA, and up to 26 weeks of additional TRA. Under Section 1425(b), however, no payment of basic or additional TRA may be made for any week the worker is not actually enrolled in or participating in training, as is required by Section 1425(b). Payments may be made for breaks in training, as is now permitted in limited cases to other workers in training under new subsection (f) of Section 233.

All of the provisions of amended Sections 233(a)(3) and 236 will apply to Section 1425(b) workers. Even though the last "qualifying separation" will be used as the starting point for applying the

"continuously unemployed" condition, the first "qualifying separation" must be used to determine weekly and maximum amounts payable in accordance with Sections 232 and 233(a)(1). However, for 1425(b) workers, there is no limited eligibility period for basic TRA, although the 26-week eligibility period for additional TRA is applicable as stated in Section 233(a)(2) as amended by the OTCA.

States agencies must make new determinations for all workers who apply for benefits under Section 1425(b), and provide payments when all eligibility conditions are met. Also, States must make good faith efforts to inform workers of their rights under this provision through notices in newspapers of general circulation in areas of the State where workers covered by past certifications reside, and, where the certification periods under such certifications include any portion of the period which began on August 13, 1981, and ended on April 7, 1986. The efforts by the States should also include, where appropriate, news releases, notification to unions, and posting of notices in UI, Job Service and other appropriate offices. State agencies are also encouraged to use available and accessible administrative records to help identify those workers previously denied TAA benefits and services who might now be eligible for TRA payments or training.

State agencies will consider local labor market characteristics in applying the terms seasonal, odd jobs, or part-time, temporary work.

G. SECTION 236
Training for Adversely Affected Workers

Section 1424 of the OTCA makes a number of changes in Section 236 of the Trade Act, and related changes in Section 239. The changes in subsections (a) and (c) of Section 1424, to Section 236, are discussed in this section. All of the changes to Section 236 affect the regulations at 20 CFR Part 617. Subsection (b) of Section 1424, which relates to a possible, future increase in the $80 million ceiling is not addressed in this document.

G.1. Criteria for Approval of Training.

AMENDED LAW: In paragraphs (1) through (4) of Section 1424(a) of the OTCA, the criteria for approval of training in Section 236(a)(1) of the Trade Act are amended by changing "is available" to "is reasonably available" in subparagraph (D), and by adding new criterion (F) that "such training is suitable for the worker and available at reasonable cost."

New paragraph (9) of Section 236(a), as added by Section 1424(a)(13) of the OTCA, directs the Secretary of Labor to prescribe regulations which set forth the criteria for each of the subparagraphs of Section 236(a)(1) that will be used as the basis for making determinations under paragraph (1)."

These amendments became effective on August 23, 1988.

ADMINISTRATION: For purposes of implementing Section 236(a)(9), the

following criteria are set forth for subparagraphs (A) through (F) of Section 236(a)(1) for making determinations under paragraph (1):

(A) There is no suitable employment (which may include technical and professional employment) available for an adversely affected worker.

This means that for the worker for whom approval of training is being considered under Section 236(a)(1), there is at that time no suitable employment available for that worker, either in the commuting area, as defined in 20 CFR 617.3(k), or outside the commuting area in an area in which the worker desires to relocate with the assistance of a relocation allowance under Section 238, and there is no reasonable prospect of such suitable employment becoming available for the worker within the next 30 days. For the purposes of subparagraph (A), the term "suitable employment" is defined in Section 236(f)(redesignated (e) by Section 1424(c)(3), effective on November 21, 1988).

(B) The worker would benefit from appropriate training.

This means that there is a direct correlation between the needs of the worker for skills training or remedial education and what would be provided by the training program under consideration for the worker, and that the worker has the mental and physical capabilities to undertake, make satisfactory progress and complete the training. Further, this implies the individual will be job ready on completion of training.

(C) There is a reasonable expectation of employment following completion of such training.

This means that, for that worker, given the job market conditions expected to exist at the time of the completion of the training program, there is, fairly and objectively considered, a reasonable expectation that the worker will find a job, using the skills acquired while in training, after completion of the training. Any determination under subparagraph (C) must take into account Section 236(a)(2) (redesignated (3) by Section 1424(a)(11)), which provides that "a reasonable expectation of employment" does not require that employment opportunities for the worker be available, or offered, immediately upon the completion of the approved training. This emphasizes, rather than negates, the point that there must be a fair and objective projection of job market conditions expected to exist at the time of completion of the training.

(D) Training approved by the Secretary is reasonably available to the worker from either governmental agencies or private sources (which may include area vocational education schools, as defined in section 195(2) of the Vocational Education Act of 1963, and employers).

This means that training is reasonably accessible to the worker within the worker's commuting area at any governmental or private institution or facility, particularly including on-the-job training

with an employer, and it means training that is suitable for the worker and meets the other criteria of subsection (a)(1). It also means that emphasis must be given to finding accessible training for the worker, although not precluding training outside the commuting area if none is available at the time within the worker's commuting area. If outside the commuting area then the training must be available at a reasonable cost as prescribed in (F) below.

In determining whether or not training is reasonably available, first consideration shall be given to training opportunities available within the workers normal commuting area. Training at facilities outside the worker's normal commuting area should be approved only if such training is not available in the area or the training to be provided outside the normal commuting area is provided at a more reasonable cost.

(E) The worker is qualified to undertake and complete such training.

This emphasizes the worker's personal qualifications; that is, the worker's own physical and mental capabilities and background and experience. In relation to these personal characteristics, the worker must be evaluated as qualified to undertake the specific training program being considered and to complete the training successfully.

(F) Such training is suitable for the worker and available at a reasonable cost.

Such training means the training being considered for the worker. Suitable for the worker means that subparagraph (E) is met and that the training is appropriate for the worker given the worker's capabilities, background and experience.

Available at a reasonable cost means that training is not approved at one institution when, all costs being considered, the same training can be obtained at another institution at a lower total cost. It also means that training is not approved when the costs of the training are unreasonably high in comparison with the average costs of training other workers in similiar occupations at other institutions or facilities. This new criterion also requires taking into consideration the funding of training costs from sources other than TAA funds, and the least cost to TAA funding of providing suitable training opportunities to workers. New provisions (added by OTCA) as well as Section 236(a)(3) (redesignated (4) by Section 1424(a)(11)) mandate a more controlled and sophisticated management of TAA funds and funding from other sources in the provision of training opportunities to the maximum number of adversely affected workers. Greater emphasis will need to be given to these elements in determining the reasonable costs of training, particularly in view of the new requirements that TRA claimants be enrolled in and participate in training.

The meanings ascribed above to the six criteria of Section 236(a)(1) shall be given effect in determinations approving or disapproving

training for workers on and after August 23, 1988.

Determining Reasonable Costs of Training. For the purpose of subparagraph (F) the following actions shall be taken by the State agency:

a. Reasonable cost of training shall take into consideration tuition and related expenses (books, tools, and fees), travel or transportation expenses, and subsistence expenses.

b. In determining whether costs of training are reasonable, consideration should first be given to the lowest cost training which is available within the commuting area. When like training for suitable employment is offered at more than one training facility, the lowest cost training shall be approved.

c. Training outside the worker's normal commuting area should be approved only in situations where appropriate training is not otherwise available. Training that involves transportation or subsistence costs which add substantially to the total costs provide a basis for disapproving the training, if other appropriate training is available.

d. States shall establish, annually, a maximum amount allowable for the total costs of training per worker taking into consideration the type of occupational training, the usual and customary costs of such training in the State and the duration of the training.

G.2. Training as an Entitlement.

AMENDED LAW: Paragraphs (5) and (6) of Section 1424(a) of the OTCA make changes in the first and second sentences of Section 236(a)(1) that convert training from an entitlement to the extent appropriated funds are available, to an entitlement without regard to the availability of funding to pay the costs of the training. Thus, in the first sentence, the phrase "shall (to the extent appropriated funds are available) approve", which was added by the 1986 Amendments, is amended by deleting the parenthetical clause so that the phrase reads, simply, "shall approve". This clearly makes training an entitlement and in any case where the six criteria are reasonably met, the worker is entitled to have the training approved and it may not be unreasonably denied.

The second sentence provides that the worker shall be entitled to "have payment of the costs of such training paid on his behalf," and this is changed by inserting the parenthetical "(subject to the limitations imposed by this section)" after the words costs of such training. The reference to "limitations" includes all of the limitations and restrictions on types of training and the training criteria, as well as the new $80 million limit on annual training costs payable from TAA funds.

These amendments became effective on August 23, 1988.

ADMINISTRATION: The amended Act provides up to $80 million ($120 million one year after an import fee takes effect) to cover training costs under the Act. Up to this limit workers are entitled under the amended second sentence of Section 236(a)(1) to have the costs of approved training paid on their behalf.

All certified eligible workers must be informed in writing of their entitlement to training immediately and of the qualifying requirement of being enrolled in or having completed training as a condition for receiving any TRA for weeks beginning after November 19, 1988. States must establish procedures for documenting such action, and records documented that the worker has been so informed and has attested to the fact.

G.3. Funding Training.

AMENDED LAW: The OTCA makes four primary changes in Section 236(a) relating to funding the costs of training approved under Section 236(a)(1), other than on-the-job training.

Section 1424(a)(12) of the OTCA adds a new paragraph (2) to Section 236(a), which limits annual training costs under Section 236(a)(1) to $80 million. Paragraph (2) further provides that if the Secretary foresees in any fiscal year that the $80 million limit will be exceeded, the Secretary will decide how the remaining funds shall be apportioned among the States for the balance of such fiscal year. Related to this is a one-time appropriation in Section 1426(c) of the OTCA of such amounts as may be necessary for payments under Sections 236, 237, and 238 after August 23, 1988, and before October 1, 1988; the sum appropriated is charged to the Fiscal Year 1989 appropriation for these purposes.

Section 1424(a)(13) adds new paragraph (6) to Section 236(a). New paragraph (6) provides that the costs of training approved under Section 236(a)(1) are "not required" to be paid from TAA funds "to the extent that such costs are paid" under any State program or any other Federal program or from any other source than Section 236. The "not required" language means that this is neither a requirement nor a prohibition on the use of TAA funds.

Also, in this connection, subparagraph (B) of new paragraph (6) provides that the worker may be required to enter into an agreement under which the training costs will not be required to be paid from TAA funds to the extent of "the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in subparagraph (A) or (B) of paragraph (1)(sic)." First of all, the reference to paragraph (1) is presumed to mean paragraph (4)(redesignated (5) by Section 1424 (a)(11)), because in the context this is the only meaningful reference for these purposes. Thus, paragraph (6)(B) is construed as referring to costs payable by the employer for OJT training and costs payable under Title III of the Job Training Partnership Act.

In another change related to funding, Section 1424(a)(13) of the OTCA also adds a new paragraph (7) to Section 236(a), which

prohibits the approval of a training program under Section 236(a) if: (a) All "or a portion" of the training costs are paid under any "nongovernmental plan or program"; (b) the worker has a right to obtain training or funds for training under the nongovernmental plan or program; and (c) the worker would be required to reimburse the nongovernmental plan and program from TAA funds provided under Section 236(a), or from wages paid under such training program, "for any portion" of the costs of the training program. This is a flat prohibition, not only on funding but on the approval under Section 236(a) of a training program, if the worker might be required to reimburse the nongovernmental plan or program for "any portion", however small, of the costs of such training.

A further related change is made in Section 1424(a)(10) of the OTCA to paragraph (4)(redesignated (5) by Section 1424(a)(11)) of Section 236(a). In describing the types of training programs that are approvable under Section 236(a)(1), a new subparagraph (E) is added to paragraph (5) to provide that such approvable training shall include--

> (E) any training program (other than a program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid--
> (i) under any Federal or State program other than this chapter, or
> (ii) from any source other than this section.

All of the amendments discussed in this item became effective on August 23, 1988.

ADMINISTRATION: As pointed out in the preceding item, since August 23, 1988, training is an entitlement which may not unreasonably be denied, without regard to whether there are any TAA funds to pay the costs of the training. New paragraph (2) of Section 236(a) places a ceiling on annual training costs payable from TAA funds, and authorizes the Secretary to apportion funds among the States in any year when the Secretary estimates that the ceiling might be exceeded. The second sentence of Section 236(a)(1) provides, however, that workers shall be entitled to have the costs of approved training paid by the Secretary, subject to the limitations imposed by other provisions of Section 236. While these provisions, read together, might appear to authorize approval of training for which the worker agrees to pay part or all of the costs, no change is contemplated in 20 CFR 617.22(h), which precludes approval of training for which the individual would be required to pay a fee or tuition.

Retention of the requirement that precludes approval of training under Section 236(a)(1) if the worker would be required to pay any of the costs of the training emphasizes the necessity for close cooperation between public authorities and providers in fully funding training costs. New paragraphs (5)(E), (6), and (7) of Section 236 open the door to approval of training under Section 236(a)(1) even though the costs of the training are partially or fully paid under any other Federal program, any State program, or for any other source than Section 236 which includes private

sources. The one prohibition in paragraph (7) is that the training under a nongovernmental plan or program may not be approved under Section 236(a)(1) if the worker might be required under the plan or program to pay any part of the costs of the training, under any circumstances, or if the worker might be required under the plan or program to turn over to the plan or program any TAA funds paid to the worker or any sum equal to a portion or all of such TAA funds. Although paragraph (7) makes this prohibition specific for nongovernmental plans or programs, the same prohibition applies by implication to all Federal and State programs as well, for the purposes of Section 236. As provided in 20 CFR 617.22(h), a worker may not be required to pay any of the costs of training approvable under Section 236(a)(1). To give full effect to these provisions of Section 236 and the regulations, it must follow that a worker also may not be asked to make a voluntary contribution to offset the costs of the training.

Notwithstanding the opening of funding doors in new paragraphs (5)(E), (6), and (7), paragraph (3) of Section 236(a) was redesignated as paragraph (4) but was not otherwise amended by the OTCA. Section 236(a)(4) continues to preclude some mixing of funds, and must now be construed in conjunction with new paragraphs (5)(E), (6), and (7). Subparagraph (A) of Section 236(a)(4) continues to prohibit payment of training costs under any other Federal law if they are paid from TAA funds. While this preclusion is specific in this single instance, it is implicit in Section 236, and particularly new paragraphs (5)(E), (6), and (7), that any duplication of payment of any training costs, if such duplication would in any way involve the use of TAA funds, is clearly prohibited by Section 236.

Subparagraph (B) of Section 236(a)(4) prohibits the use of TAA funds to pay any training costs that: (i) have already been paid under any other Federal law; or (ii) are reimbursable under any other Federal law and a portion of such costs have already been paid under such other Federal law. In part, subparagraph (B) simply prescribes another prohibition on duplication that is the reverse of the prohibition in subparagraph (A). As stated in the preceding paragraph, however, Section 236 precludes all duplication which may in any way involve the use of TAA funds.

The second part of subparagraph (B) has in the past presented some difficulty in application, but with the addition of new paragraphs (5)(E), (6), and (7), and the new emphasis upon close cooperation, advance planning and preparation with respect to mixed-funding training programs, the former difficulty should diminish remarkably. The second part of subpargraph (B) must be given effect, however, and may not be overcome or disregarded because of second thought or afterthought based upon new paragraph (5)(E), (6), or (7). Further, the Department is given the authority under new paragraph (6)(B) to require a release from the worker of the "entitlement of training costs" when the costs of approved training are being paid from a source other than TAA.

Implementation of these changes as outlined above will provide the States greater flexibility in sourcing funds for TAA approved

training. Specifically, cooperating State agencies are to take the following actions to implement amended Section 236:

a. Inform other training providers and cooperating State agencies of the provisions of amended Section 236, and establish procedures and plans for utilizing TAA funds, funds under other Federal and State programs, and funds from other sources, either in a mix or one source alone, in providing training to workers which is approvable under Section 236 (a)(1).

b. Establish procedures for executing agreements with workers as required by subparagraph (B) of Section 236(a)(6).

c. Establish procedures to assure that all of the requirements of Section 236 are met in the provision of any training to be approved under Section 236(a)(1).

d. Establish procedures and prepare plans to assure that the maximum training opportunities are available and timely for adversely affected workers, and that they are placed in training at the earliest possible time.

e. Obtain written assurance from each worker that no request for reimbursement from TAA funds will be made when training costs are paid for from non-TAA sources.

G.4. Types of Training Approvable.

AMENDED LAW: Section 1424(a)(10) of the OTCA amends paragraph (4) (redesignated (5) by Section 1424(a)(11)) of Section 236(a), to add remedial education and mixed funding training as specified in new paragraph (5)(E). The addition of remedial education as a separate and distinct approvable training program is a significant change. Previously, remedial education was approvable only as part of a broader training program that also included skills training. With this change remedial education is approvable as a distinct training program, without the need to include skills training. Nevertheless, in order to meet all of the criteria of Section 236(a)(1), remedial education may be approved as a separate and complete training program only where no skills training is necessary to make the worker job ready upon completion of the training.

This amendment became effective on August 23, 1988.

ADMINISTRATION: Remedial education may be approved as a training program for a worker when the six (6) criteria of Section 236(a)(1) are met.

Remedial education may continue to be offered when included as an integral part of an overall training program for a worker. However, this amendment recognizes that for some workers, the use of remedial education to improve certain basic skills may be the only assistance an individual worker requires to return to suitable work.

State agencies should develop procedures for approving training in the form of remedial education when it is an appropriate adjustment service to help the worker return to suitable employment or as a part of an approved training program.

G.5. On-the-Job Training.

AMENDED LAW: Section 1424(c) of the OTCA makes one significant change concerning on-the-job training, and two technical and conforming changes in Section 236. These changes are in addition to the technical and conforming change in Section 232(b) (discussed above) made by Section 1423(b)(1) of the OTCA.

Section 1424(c)(1) of the OTCA amends subsection (d) of Section 236, which was added by the 1986 Amendments. As added in 1986, Section 236(d) provided that, notwithstanding subsection (a)(1), the costs of on-the-job training "may" be paid only if ten specified conditions were met. Without disturbing the ten conditions, the introductory part of Section 236(d) is amended by Section 1424(c)(1) to provide that:

> (d) The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) in equal monthly installments, but the Secretary shall pay such costs, notwithstanding any other provision of this section, only if--

This puts the costs of OJT training on the same entitlement track as other training costs under the second sentence of Section 236(a)(1), and therefore subject to the provisions on the $80 million limitation in new Section 236(a)(2). The only difference specified in Section 236(d) is that the costs shall be paid in "equal monthly installments." This amendment became effective on August 23, 1988, and applies to determinations made on and after that date and to payments of costs beginning with payments made in September 1988.

Sections 1424(c)(2) and (3) make technical and conforming changes in Section 236, by repealing subsection (c) and by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively. Thus, subsection (d) becomes subsection (c). Old subsection (c) is replaced by Section 231(b), as amended by Section 1423(a)(2) of the OTCA.

These technical and conforming changes are effective on November 21, 1988.

ADMINISTRATION: State agencies are to take the following actions with respect to providing OJT payments in equally monthly installments if the conditions stated in Section 236(d) are found to be met.

> The amount of the monthly installment shall be equivalent to the contracted cost of the training divided by the duration of the training program in months. State agencies are to modify OJT contracting procedures and forms to incorporate this requirement in new OJT contracts approved after August 23, 1988. Contracts

existing on August 23, 1988 are to be modified, if necessary, to convert to monthly payments beginning in September.

G.6. Miscellany.

AMENDED LAW: Two other significant changes in Section 236 are made by Section 1424 of the OTCA.

Section 1424(a)(7) of the OTCA amends the second sentence of Section 236(a)(1) to insert the phrase "directly or through a voucher system" after the words "by the Secretary." This amendment became effective on August 23, 1988.

Section 1424(a)(13) of the OTCA also added a new paragraph (8) to Section 236(a). New paragraph (8) simply authorizes approval of training for a worker at any time after the certification is issued which covers the worker, "without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled." This merely makes explicit what was apparent all along, and is the practice that has been followed. It is an important reminder, however, because under Section 231(b)(2) (as amended by Section 1423(a)(2) of the OTCA) the training requirements of Section 231(a)(5) and (b) are effective for individual workers the first week after the certification is issued. See the discussion above of Section 231(b)(2). New paragraph (8) also became effective on August 23, 1988.

ADMINISTRATION: No action is being taken at this time relating to the use of a voucher system. An assessment will be made of the feasibility of using a voucher system and its applicability to administration of the TAA program. In the meantime no change in operations or procedures shall be effected at the State level.

New paragraph (8) authorizes the approval of training for an adversely affected worker at any time after the group is certified. The intent of this amendment is to get workers into training as early as possible, including the period during which the worker is still receiving unemployment compensation. Except for the necessity for earlier advice to workers, and arrangements for training, this implicates no change in current operations, as 20 CFR 617.10(a) has always authorized early applications for TAA, while providing that determinations of entitlement to TAA may not be made until a certification is issued and it is determined on an individual basis that the workers are covered by the certification.

State agencies, when informing workers of their benefits under the Trade Act, should encourage workers to enroll in training at the earliest possible date. In this way, workers will be able to receive unemployment compensation and TRA for more weeks while in approved training.

H. SECTION 239
Agreements With States

H. TAA Agreements with States.

AMENDED LAW: Several changes are made in Section 239 for the purpose of assuring that the amendments in the OTCA are carried out through the agreements with the States. These changes will require that new agreements be executed between the States and the Secretary of Labor, and affect the regulations at 20 CFR Part 617.

Section 1423(a)(4) of the OTCA amends Section 239(a)(3) of the Trade Act to require that the States "will make any certifications required under section 231(c)(2)." This amendment became effective on August 23, 1988.

Section 1424(d)(1)(B) of the OTCA amends subsection (e) of Section 239 to read as follows:

> (e) Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 of this Act and under Title III of the Job Training Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreements shall be considered to be a cooperating State agency for purposes of this chapter.

As amended, subsection (e) requires the coordinated delivery of services and benefits under Sections 235 and 236 of the Trade Act and Title III of the Job Training Partnership Act "upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement."

This amendment became effective on August 23, 1988, and is another reason why new agreements will be required with the States.

Section 1424(d)(2) of the OTCA amends subsection (f) of Section 239 to read as follows:

> (f) Each cooperating State agency shall, in carrying out subsection (a)(2)--
>
> (1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,
>
> (2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter.
>
> (3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B, and
>
> (4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to

the worker under section 236 and review such opportunities with the worker.

As amended, subsection (f) requires the States to furnish a great deal more information and advice to workers, and, more importantly, at a much earlier time than was required under former subsection (f). The information and advice required by amended subsection (f) must be coordinated with the notice, information and assistance provisions of amended Section 225. This amended subsection (f) of Section 239 became effective on August 23, 1988.

In another amendment of a technical nature, related to the agreements with the States, Section 1424(d)(1)(A) of the OTCA amends Section 235 of the Trade Act by striking out "cooperating State agencies" and inserting "the States" in lieu thereof. This amendment became effective on August 23, 1988, and affects the regulations at 20 CFR Part 617.

ADMINISTRATION: New State agreements have been developed, signed by the Secretary and sent to the Governor of each State for execution. Governors have been requested to return signed agreements to the Department of Labor by September 20, 1988. Those agreements were designed explicitly to bind the States to follow the operating instructions in this document and in other guidance issued by the Department of Labor.

Immediately upon the signing of the Agreement in each State, the cooperating State agencies shall commence giving effect to the 1988 Amendments. Among the things to be done immediately is to furnish to all current UI claimants and TRA applicants the advice, information, and assistance required by Sections 239(f) and 225 of the amended Trade Act.

I. Other

Sections 1426 through 1429 of the OTCA contain other amendments to the Trade Act of 1974 and other provisions that do not directly impact on the administration of the TAA Program by the States under their agreements with the Secretary of Labor. These provisions, therefore, are not discussed in this document.

Section 1430 of the OTCA prescribes the effective dates of the various provisions of the OTCA. The effective date of each provision discussed in this document is set forth in such discussion.

5. Action Required. States are required to implement the provisions of the 1988 Amendments as set forth in this document and in any other guidance issued by the Department, as of the effective date of each such amendment as set forth in this document. States are advised to inform all appropriate staff of the contents of this document.

6. Inquiries. States are to direct all inquiries to the appropriate ETA Regional Office.

7. Attachments. (To be forwarded under separate cover) *

a. Part 3--Trade Adjustment Assistance, of Subtitle D of Title I of the "Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418).

b. Chapter 2--Adjustment Assistance for Workers, in the Trade Act of 1974, Pub. L. 93-618, as amended, incorporating Part 3 of Subtitle D of Title I of the Omnibus Trade and Competitiveness Act of 1988.

*Not published in the Federal Register.

U.S. Department of Labor Employment and Training Administration Washington, D.C. 20210	CLASSIFICATION TAA
	CORRESPONDENCE SYMBOL TET
	DATE September 12, 1988

DIRECTIVE : TRAINING AND EMPLOYMENT INFORMATION NOTICE NO. 6-88

TO : ALL STATE JTPA LIAISONS AND STATE WAGNER-PEYSER ADMINISTERING AGENCIES

FROM :

ROBERTS T. JONES
Assistant Secretary of Labor

SUBJECT : Operating Instructions for Implementing the Amendments to the Trade Adjustment Assistance Program in the Omnibus Trade and Competitiveness Act of 1988

1. Purpose. To inform the State JTPA Liaisons and State Wagner-Peyser Administering Agencies of the operating instructions for implementing the 1988 Amendments affecting the Trade Adjustment for Workers (TAA) Program, which are contained in Part 3 of Subtitle D of Title I of the "Omnibus Trade and Competitiveness Act of 1988 (OTCA).

2. References. The "Omnibus Trade and Competitiveness Act of 1988" (Pub. L. 100-418, approved on August 23, 1988. General Administration Letter No. 7-88.

3. Background. General Administration Letter (GAL) No. 7-88, and the preamble accompanying the publication of the GAL in the Federal Register, furnish information concerning the provisions of Part 3 of Subtitle D of Title I of the "Omnibus Trade and Competitiveness Act of 1988" which affect the trade adjustment assistance program for workers (TAA Program) established under Chapter 2 of Title II of the Trade Act of 1974. With regard to each of those provisions of the 1988 amendments, the GAL and preamble set forth operating instructions of the Department of Labor to guide the States in implementating those provisions, and which include the Department's interpretation of the 1988 Amendments which affect the TAA Program.

As the operating instructions are also important in furnishing guidance to the State JTPA and Wagner-Peyser Administering Agencies, the GAL is forwarded as an attachment to this Information Notice and shall constitute operating instructions for such administering agencies.

4. Attachment. General Administration Letter No. 7-88.

RESCISSIONS	EXPIRATION DATE October 31, 1989

DISTRIBUTION

[FR Doc. 88-21214 Filed 9-15-88; 8:45 am]
BILLING CODE 4510-30-C

federal register

Friday
September 16, 1988

Part IV

Department of Education

34 CFR Parts 668 and 682

Student Assistance General Provisions and Guaranteed Student Loan and PLUS; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Parts 668 and 682

Student Assistance General Provisions and Guaranteed Student Loan and PLUS Programs

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Student Assistance General Provisions regulations (34 CFR Part 668) and the regulations for the Guaranteed Student Loan (GSL) and PLUS programs (34 CFR Part 682) and to clarify that certain regulations in Part 682 apply to the Supplemental Loans for Students (SLS) Program. The proposed regulations are needed to prevent an excessive number of loan defaults. They would implement the Secretary's default reduction initiative.

Note.—Pub. L. 100–297, enacted April 28, 1988, has renamed the Guaranteed Student Loan (GSL) Program, the Stafford Loan Program. This change will be reflected in a later document.

DATES: Comments must be received on or before November 15, 1988.

ADDRESSES: Comments should be addressed to Pamela A. Moran, Chief, Policy Section, Guaranteed Student Loan Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue SW. (Room 4310, ROB–3), Washington, DC 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this Preamble.

FOR FURTHER INFORMATION CONTACT: Pat Newcombe or Pamela A. Moran, Telephone Number (202) 732–4242.

SUPPLEMENTARY INFORMATION:

Background

On November 4, 1987, the Secretary announced a new policy initiative designed to reduce defaults in the GSL and SLS Programs by strengthening administrative sanctions available to the Secretary against postsecondary institutions with excessive default rates, requiring that institutions provide enhanced counseling and consumer information to students, and requiring that institutions employ a *pro rata* refund calculation for students who withdraw from an institution. The proposed regulations would modify the existing Student Assistance General Provisions and GSL and PLUS Program regulations to implement this policy initiative.

The costs for GSL defaults have been projected to total $1.6 billion in Fiscal Year (FY) 1988, representing a 200 percent increase over the last five years and an estimated 44 percent of the Department's FY 1988 expenditures for the GSL Program. An analysis recently conducted for the Department has substantiated the magnitude of the GSL default problem as it relates to participating postsecondary institutions. The analysis shows that, for some 500 institutions, over 50 percent of GSL borrowers who entered repayment during FY 1985 defaulted during FY 1985 or FY 1986. Other institutions show very low default rates of former students for this period, suggesting that there is much that high-default institutions can do to improve the default performance of their students.

Regulatory Changes

These proposed regulations would employ the concept of a "fiscal year default rate" in determining which institutions would be subject to actions to limit, suspend, or terminate their eligibility to participate in the student financial assistance programs authorized by Title IV of the Higher Education Act of 1965, as amended (HEA). This rate would be calculated as the percentage of an institution's current and former students who enter the repayment period in a given Federal fiscal year (October 1 through September 30) on GSL or SLS loans received for attendance at that institution that default before the end of the following Federal fiscal year.

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

Section 668.15 Additional factors for evaluating administrative capability

The Secretary proposes to amend current § 668.15 to establish a fiscal year default rate in excess of 20 percent in the GSL and SLS programs at an institution (1) as an additional indicator of the institution's inability to administer properly the Title IV student assistance programs, and (2) as a basis for the Secretary to commence a proceeding to limit, suspend, or terminate the institution's eligibility to participate in the Title IV student assistance programs.

Section 487(c)(1)(B) of the HEA authorizes the Secretary to prescribe reasonable standards of appropriate institutional capability for the administration of the GSL and SLS Programs. Existing regulations treat an institution's cumulative default rate as a factor for evaluating an institution's administrative capability, but place the burden on the Secretary to show that the institution has failed to take reasonable steps to reduce defaults in order to justify termination of the institution's Title IV eligibility. These proposed regulations would shift the burden to the institution to show that its excessive default rate is due to factors beyond its control, and would use fiscal year default rates, rather than cumulative rates, in analyzing an institution's administrative capability.

This proposed change and the associated changes that the Secretary proposes to make to § 668.90 of these regulations would create a process that would work as follows:

1. If an institution has a fiscal year default rate of greater than 20 percent, the Department would consider whether to commence a limitation, suspension, or termination proceeding. In doing so, the Department would take into consideration any evidence the institution presented to the Department (including any evidence submitted pursuant to section 668.15(b)(2), if requested by the Department or otherwise submitted by the school). The Department would determine whether limitation, suspension, termination, or other action was necessary.

2. If the Department proposed to limit, suspend, or terminate the participation of an institution in the GSL program, the institution would be entitled to a hearing before an administrative law judge (ALJ) under § 668.90 of these regulations. The ALJ would be required to adopt the Department's proposed sanction against the institution unless the institution submitted the information described in § 668.15(b)(2) and demonstrated that the excessively high default rate was due to factors beyond its control (such as a precipitous and unforeseeable increase in unemployment in the field in which a school prepares its students to work).

The Secretary believes that this approach strikes an appropriate balance between preserving the integrity of the GSL program and ensuring that institutions are not excluded from the GSL program because of circumstances beyond their control.

The Secretary emphasizes, however, that the Department does not consider the composition of the student body admitted by an institution to be an acceptable explanation for a high default rate. An institution should not admit a student who lacks the ability to benefit from the training offered. The Secretary believes that institutions that abide by this principle and provide a high quality education will provide their students with skills that enable them to repay their loans. Indeed, there are

many schools that enroll a large proportion of disadvantaged students while maintaining a low default rate.

The Secretary particularly invites comment on circumstances that should be included or ruled out as examples of factors beyond a school's control that would permit a school to avoid the imposition of sanctions for a high default rate.

The Secretary wishes to maximize the participation of guarantee agencies in this process. Accordingly, proposed § 668.15(b)(3) would provide that the Secretary may require the institution to submit to the Secretary and one or more guarantee agencies materials relating to the causes of default by its students and to its efforts to reduce defaults. This submission could be required prior to the Secretary's initiation of a termination action against the institution, or at any other time. The Secretary intends to use this mechansim on a regular basis as a means for determining, in consultation with guarantee agencies as appropriate, which actions should be taken regarding particular institutions.

Section 668.22 Distribution formula for institutional refunds and for repayment of disbursements made to the student for non-institutional costs.

The Secretary proposes to amend this section to conform to the refund provisions in proposed § 682.606.

Section 668.44 Institutional information.

The Secretary proposes to amend current § 668.44 to require institutions participating in the Title IV, HEA programs to provide certain consumer information to prospective students before enrollment.

Under the proposal, an institution that provides an undergraduate non-baccalaureate program for a particular vocational, trade, or career field would be required to provide prospective students with—

(1) Information on applicable State licensure or certification requirements;

(2) The pass rates of the graduates of the program on any State-required examination related to licensure or certification;

(3) The program completion rate of its students; and

(4) The job placement rate of its graduates.

In addition, an institution that makes a claim to a prospective student regarding the starting salaries of its graduates, or the starting salaries or local availability of jobs in a field in which it provides training, must disclose to the prospective student detailed information substantiating that claim.

The Secretary believes that an important factor in preventing defaults on Title IV, HEA loans is the availability of adequate information that the prospective student may use to evaluate the quality of an institution and its programs. This information is of particular importance in undergraduate non-baccalaureate trade programs for a number of reasons:

(1) Most of the programs are designed and marketed as a means for rapidly imparting employment-related skills to a student without requiring the student to undergo a traditional liberal arts curriculum with a more attenuated connection with employment in a particular field. The success of students in completing the program, receiving licensure or certification by the State for practice in the particular occupation involved, and obtaining employment in that occupation, is substantially more important to the decision to enroll in the program, than for a longer or more traditional program.

(2) Many students in these programs are young and unsophisticated, and therefore less able than traditional undergraduate and graduate students to adequately inform themselves as to the quality of the program they are considering.

(3) Many of these programs are marketed more aggressively than longer, more traditional programs, increasing the risk that students will not receive adequate information to enable them to make a rational decision regarding enrollment.

The Secretary believes that the information a school provides to a student contemplating enrollment in such a program must include accurate and meaningful information on the school's performance in retaining and graduating its students, and in preparing them for employment. To ensure that this information is provided in a form that can be readily understood by unsophisticated students, the proposed regulations would prescribe an easy-to-read format for schools to use to present this information.

The proposed regulations would revise current § 668.23 to require a school to retain on file information substantiating the accuracy of all disclosures made to prospective students under § 668.44.

Section 668.72 Nature of educational program.

The Secretary proposes to revise this section to conform to the changes in proposed § 668.44. The proposed changes in this section provide that false, erroneous, or misleading information provided under proposed § 668.44 would constitute misrepresentation.

Section 668.90 Initial and final decisions—appeals.

As noted above, existing regulations treat a school's cumulative default rate as a factor for evaluating a school's administrative capability, but place the burden on the Secretary to show that the school has failed to take reasonable steps to reduce defaults in order to justify termination of the school's Title IV eligibility. The proposed regulations would shift that burden to the school and would use fiscal year default rates rather than cumulative rates in analyzing a school's administrative capability.

To avoid limitation, suspension, or termination, whichever is proposed by the Department, an institution with a fiscal year default rate of over 20 percent would be required to demonstrate that its excessive default rate is due to factors beyond its control.

In cases where termination of a school's eligibility is appropriate, the Secretary believes that the termination should extend to all the Title IV programs in which the school participates, in order to protect the Federal financial interest. The proposed regulation would also indicate, however, that the Secretary might impose a lesser sanction, such as limitation or suspension, in an appropriate case.

The Secretary is including a list of measures that a school may elect to adopt if it wishes to reduce its default rate and avoid the risk of a limitation, suspension, or termination proceeding. These measures are listed in Appendix D to Part 668.

PART 682—GUARANTEED STUDENT LOAN AND PLUS PROGRAMS

Section 682.104 Applicability of regulations to the Supplemental Loans for Students Program.

This proposed new section would codify ED's current position that existing regulations governing PLUS loans made to students also governs SLS loans.

Section 682.410 Fiscal, administrative, and enforcement requirements.

The Secretary is proposing to amend current § 682.410(c) governing guarantee agency reviews of participating schools to require a review of any school whose fiscal year default rate exceeds 15 percent, unless the school is the subject of a termination action by reason of its default rate. The Secretary believes that these reviews would complement Federal default reduction efforts by

identifying schools with high default rates that, although not at risk for termination, may nevertheless be experiencing problems with the administration of the GSL or SLS programs.

Section 682.411 Due diligence by lenders in the collection of guarantee agency loans.

This proposed regulation would require a lender to provide a school with a copy of each preclaims assistance request, in order to make the school aware that a former student may be about to default.

Section 682.604 Processing the borrower's loan proceeds and counseling borrowers.

The Secretary is proposing to amend current § 682.604 to require a school to conduct an initial in-person counseling session at or before the first disbursement of the borrower's loan proceeds. These sessions would be conducted either individually or with groups of students, and would supplement information provided to borrowers through lenders' disclosure statements. Correspondence schools would be exempted from the in-person requirement of this proposal.

The Secretary is also proposing to amend these regulations to reflect the statutory requirement in section 485(b) of the HEA that a school conduct exit counseling with a borrower, either individually or as part of a group, prior to the borrower's completion of the course of study, or at the time of the borrower's withdrawal from school. If the borrower leaves the institution without the institution's knowledge, the institution would have to provide the borrower with the required information in writing at the borrower's last known address.

In the exit counseling, the institution would review with the borrower the terms and conditions of the loan, help the borrower to understand his or her rights and responsibilities regarding repayment, review the procedures for filing for deferment, cancellation, or postponement of repayment, and review the consequences of a failure to repay the loan. These consequences are detailed in proposed Appendix D to Part 668, item 15(a)(3)(ii). Under section 485(b) of the HEA, the institution must also provide the borrower with general information on the average indebtedness of students who have obtained GSL or SLS Program loans for attendance at that institution and the average anticipated monthly repayment based on that average indebtedness, and review repayment options and debt management strategies available to the borrower.

The Secretary believes that these counseling efforts will significantly increase the borrower's understanding of the terms and conditions of the loan, and effectively impress upon the borrower the importance of meeting his or her repayment obligations, thereby helping to reduce defaults.

Section 682.605 Determining the date of a student's withdrawal.

The Secretary proposes to amend § 682.605 to clarify that the date of a student's withdrawal calculated under this section would only relate to the institution's reports to lenders and to the date on which the institution's duty to pay a refund arises, not to the amount of the refund owed.

Section 682.606 School refund policy.

The Secretary proposes to amend current § 682.606 regarding an institution's refund policy to require an institution to employ a *pro rata* refund policy for a student receiving or benefiting from a GSL, SLS or PLUS program loan who withdraws prior to completion of the academic period for which the loan is made. Under this policy, an institution would retain the percentage of loan funds equal to the portion of the student's program actually completed by the student prior to the student's withdrawal, plus a reasonable administrative fee not to exceed the lesser of 5 percent of the total fee paid or $100, to help defray overhead expenses. The proposed regulations also address the treatment in the refund calculation of equipment provided by the school as part of a student's program materials.

The Secretary believes that a refund policy under which an institution does not refund a reasonable portion of the student's loan upon withdrawal contributes significantly to the incidence of student loan defaults. Current § 682.606 requires an institution to develop a fair and equitable refund policy that conforms to applicable State law and any standards established by the institution's nationally recognized accrediting agency or in the absence of such standards, the specific refund policy standards outlined in current Appendix A of this part. In many instances, under policies that comply with these standards, students who leave school shortly after enrolling are refuned very little, if any, of the loan amount originally intended to cover most or all of the academic term for which they enrolled. These policies often cause resentment by students, who may believe they should not be responsible for repaying loans for which they have not received substantial educational services. Further, a refund policy that allows an institution to keep windfalls from students who do not graduate encourages the institution to enroll students lacking the ability to benefit from the training offered, and provides a financial disincentive for an institution to take steps to improve the educational outcomes for its students. All of these unfortunate results increase defaults.

Section 682.607 Payment of a refund to a lender.

The Secretary proposes to revise current § 682.607 to require that an institution pay the lender a refund no later than 30 days after the earlier of (1) the date the student withdraws, (2) the end of the semester in which the student left school, or (3) the end of the loan period.

Section 682.610 Records, reports, and inspection requirements for participating schools.

The proposed regulations would add a new paragraph to this section requiring an institution promptly to provide a lender or guarantee agency, upon request, with any information it has regarding the last known address, employer, or employer's address of current or former borrowers.

Executive Order 12291

The proposed regulations have been reviewed in accordance with Executive Order 12291. They are classified as non-major because they do not meet the criteria for major regulations established in the order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities.

Certain reporting, recordkeeping, and compliance requirements are imposed on guarantee agencies, lenders, and schools by the regulations. As with current regulations, these proposed regulations would permit termination of institutions incapable of proper program administration, in order to protect the Federal interest.

Paperwork Reduction Act of 1980

Sections 668.15, 668.23, 668.44, 668.90, 682.604, 682.606, and 682.610 contain information collection requirements. As required by the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of

Management and Budget (OMB) for its review. (44 U.S.C. 3504(h))

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3002, New Executive Office Building, Washington, DC 20503; Attention: James D. Houser.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations. The Secretary especially invites comments on how job placement would be defined under § 668.44, and how the site visits that would be required to be performed by guarantee agencies under § 668.41 might be distributed to maximize the reduction of the default rate.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in ROB-3, Room 4310, 7th and D Streets SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects

34 CFR Part 668

Administrative practice and procedure, Colleges and universities, Consumer protection, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Student aid.

34 CFR Part 682

Administrative practice and procedure, Colleges and univesities, Education, Loan Programs—education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Number 84.032, Guaranteed Student Program and PLUS Program)

Dated: September 12, 1988.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Part 668 and Part 682 of Title 34 of the Code of Federal Regulations as follows:

PART 668—STUDENT ASSISTANCE GENERAL PROVISIONS

1. The authority citation for Part 668 continues to read as follows:

Authority: 20 U.S.C. 1085, 1088, 1091, 1092, 1094, and 1141, unless otherwise noted.

2. Section 688.15 is revised to read as follows:

§ 668.15 Additional factors for evaluating administrative capability.

(a) The Secretary considers it an indication of an institution's impaired capability of properly administering Title IV, HEA programs if—

(1) The fiscal year default rate, as defined in paragraph (f) of this section, on loans made under the GSL and SLS programs to students for attendance at that institution exceeds 20 percent;

(2) The default rate on loans made under the Perkins Loan program to students for attendance at that institution exceeds 20 percent of the principal of all those loans that have reached the repayment period; or

(3)(i) For an institution that has a common academic year for a majority of its students, more than 33 percent of the regular students who are enrolled on the first day of classes of an academic year withdraw from enrollment at that institution during that academic year; or

(ii) For an institution which does not have a common academic year for a majority of its students, more than 33 percent of the regular students enrolled on the first day of classes of any eight-month period withdraw during that period.

(b) If the GSL and SLS fiscal year default rate for an institution exceeds 20 percent for any fiscal year after fiscal year 1988, the Secretary may take one or more of the following actions:

(1) Initiate a proceeding under Subpart G of this part to limit, suspend, or terminate the eligibility of the institution to participate in the Title IV, HEA programs.

(2) Require the institution to submit to the Secretary and one or more guarantee agencies the following information to help the Secretary make a preliminary determination, in consultation with the guarantee agency or agencies, as to the appropriate action to be taken by the Secretary regarding the institution:

(i) A comprehensive written analysis of the causes of default by its students, for defaults in the first two years of repayment that occurred during the three most recent calendar year ending not less than six months prior to the Secretary's request, and the factual basis for each conclusion reached in the analysis.

(ii) In the case of an institution offering an undergraduate non-baccalaureate degree program designed to prepare students for a particular vocational, trade, or career field, and statistical analysis showing the following for each program:

(A) The pass rates of graduates of the program in the three preceding calendar years ending not less than six months prior to the Secretary's request on any licensure or certification examination required by the State in which the institution is located for employment in the particular vocational, trade, or career field.

(B) The job placement rates for students who graduated from the program during the three most recent calendar years ending not less than six months prior to the Secretary's request, as calculated in accordance with § 668.44(c)(3) of this part.

(C) The completion rates for students in the program for the three most recent calendar years ending not less than 18 months prior to the Secretary's request, as calculated in accordance with § 668.44(c)(4) of this part, for all of the institution's regular students in the aggregate, and as segregated according to the following categories:

(*i*) Title IV student aid recipients.

(*ii*) High school graduates or holders of GED certificates at the time of enrollment.

(*iii*) Students admitted on the basis of "ability to benefit" as defined in § 668.7(b) of this part.

(iii) A written description of all additional steps taken by the institution beyond those otherwise required by statute, regulation, or agreement with the Secretary, designed to reduce defaults by its students in the future.

(iv) Any other information requested by the Secretary.

(c)(1) If the default rate for an institution under the Perkins Loan program exceeds the rate set forth in paragraph (a)(2) of this section, or if the withdrawal rate at an institution exceeds the rate set forth in paragraph (a)(3) of this section for an academic year, the Secretary may require the institution to submit for its latest complete fiscal year—

(i) A profit and loss statement and a balance sheet that are based on the

same accounting procedures used by the institution for financial reporting;

(ii) A financial audit report of the institution. The audit must have been conducted by a licensed certified public accountant in accordance with generally accepted auditing standards; or

(iii) Other information required by the Secretary to determine the cause of the high withdrawal or default rate and the best measures for alleviating that condition.

(2) The date of preparation of the documents referred to in paragraph (c)(1) (i) through (iii) of this section must be within 12 months of the date of the Secretary's request

(d) The Secretary may require that the profit and loss statement and balance sheet referred to in paragraph (c)(1)(i) of this section be audited and certified by a licensed certified public accountant in accordance with generally accepted auditing standards.

(e) If the institution's GSL and SLS fiscal year default rate, Perkins Loan program default rate, or withdrawal rate exceeds the rates set forth in paragraphs (a)(1), (a)(2), or (a)(3) of this section respectively, in addition to, or in lieu of, taking the actions described in paragraph (b) of this section, or requiring the institution to submit the documents described in paragraph (c) of this section, the Secretary may require the institution, after notice and opportunity for a hearing, to take specified reasonable and appropriate measures to alleviate that condition as a requirement for its continued participation in the Title IV, HEA programs.

(f) For purposes of this section and § 668.90 of this part—(1) "Fiscal year default rate" means the percentage of an institution's current and former students who enter repayment in a fiscal year on GSL or SLS program loans received for attendance at the institution that default before the end of the following fiscal year. In the case of a student who has attended and borrowed at more than one school, the student (and his or her subsequent repayment or default) is attributed to each school for attendance at which the student received a loan that entered repayment in the fiscal year;

(2) "Fiscal year" means the period from and including October 1 of a calendar year through and including September 30 of the following calendar year.

(Authority: 20 U.S.C. 1082, 1094)

3. Section 668.22 is amended by revising paragraphs (a)(1)(i), (a)(2), and (a)(3), by removing paragraph (c), and redesignating (d) as paragraph (c), and removing the word "class" from redesignated paragraph (c) to read as follows:

§ 668.22 Distribution formula for institutional refunds and for repayment of disbursements made to the student for non-institutional costs.

(a) * * *

(1) * * *

(i) The student officially withdraws, drops out, or is expelled from the institution on or after his or her first day of class of—

(A) A payment period; or

(B) The period of enrollment for which a student to whom or on whose behalf a GSL, SLS, or PLUS program loan was made for the period of enrollment; and

(2) For purposes of this section, an institutional refund means—

(i) The amount paid for institutional charges for a payment period by financial aid and/or cash payments minus the amount retained by the institution for the portion of the payment period that the student was actually enrolled at the institution. The amount retained by the institution for the student's actual period of enrollment is calculated according to the institution's refund policy; or

(ii) In the case of a student to whom or on whose behalf a GSL, SLS, or PLUS Program loan was made for the period of enrollment in which the student officially withdrew, dropped out, or was expelled from the institution, the amount retained by the institution for the student's actual period of enrollment under 34 CFR Part 682.

(3) The portion of the refund that the institution shall return to Title IV, HEA program(s) is—

(i) The lesser of—

(A) The amount of assistance received under the Title IV, HEA programs other than under the CWS Program for the payment period; or

(B)The amount obtained by multiplying the institutional refund by the following fraction:

Total amount of Title IV, HEA program assistance (exclusive of CWS Program earnings) awarded for the payment period

---

Total amount of assistance (exclusive of all work earnings) awarded for the payment period;

or

(ii) In the case of a refund calculated under paragraph (a)(2)(ii) of this section, the lesser of—

(A) The amount of assistance received under the Title IV, HEA programs other than the CWS program for the period of enrollment for which the student has been charged; or

(B) The amount obtained by multiplying the instituional refund by the following fraction:

Total amount of Title IV, HEA program assistance (exclusive of CWS Program earnings) paid to the student for the period of enrollment for which the student has been charged

---

Total amount of assistance (exclusive of all work earnings) paid to the student for the period of enrollment for which the student has been charged.

* * * * *

4. In Section 668.23 paragraph (f)(1)(vi) is amended by removing the word "and"; paragraph (f)(1)(vii) is amended by removing the period and adding in its place "; and", and a new paragraph (f)(1)(viii) is added to read as follows:

§ 668.23 Audits, records, and examination.

* * * * *

(f) * * *

(1) * * *

(viii) Information substantiating all disclosures made to a prospective student under § 668.44(c) of this part.

* * * * *

5. Section 668.44 is amended by revising paragraph (c), and by adding new paragraphs (d) and (e), to read as follows:

§ 668.44 Institutional information.

* * * * *

(c) Prior to a prospective student's enrollment or execution of an enrollment contract, whichever occurs earlier, in an undergraduate non-baccalaureate degree program designed to prepare students for a particular vocational, trade, or career field, the institution shall disclose to the prospective student—

(1) The licensure or certification requirements, if any, established by the State in which the institution is located for the particular vocational, trade, or career field;

(2) The pass rate of graduates of the program for the most recent calendar year that ended not less than six months prior to the date of disclosure, on any licensure or certification examination required by the State for employment in the particular vocational, trade, or career field;

(3) The job placement rate for students who graduated from the program during the most recent calendar year that ended not less than six months prior to the date of disclosure. In calculating this rate, the institution shall consider as not having obtained employment any graduate for whom the institution does not possess evidence showing that the graduate has obtained

employment in the occupation for which the program is offered, except that the institution may exclude from this calculation any graduate who fails to indicate witin 60 days, in response to a questionnaire seeking that information sent by the institution to the last known address of the graduate, whether he or she has obtained employment in the occupation; and

(4) The completion rate for students in the program for the most recent calendar year that ended not less than eighteen months prior to the date of disclosure. This rate is calculated by determining the percentage of students enrolled in the program who were originally scheduled, at the time of enrollment, to complete the program in that calendar year that successfully completed the program within 150% of the amount of time normally required to complete the program. For purposes of this calculation, a student is "originally scheduled, at the time of enrollment, to complete the program" on the date when the student will have been enrolled in the program for the amount of time normally required by a full-time student to complete the program. The "amount of time normally required to complete the program" is the period of time specified for completion of the program in the institution's enrollment contract, catalog, or other materials, or the period of time between the date of enrollment and the anticipated graduation date appearing on the student's loan application (if any), whichever is less. The "amount of time normally required to complete the program" must be calculated on a *pro rata* base for students enrolled on a less than full-time basis.

(d)(1) With respect to a program other than an undergraduate non-baccalaureate program designed to prepare students for a particular vocational, trade, or career field, prior to a prospective student's enrollment or execution of an enrollment contract, whichever is earlier, in a program for which the institution publicly makes a claim as to the job placement experience of its students as a means of attracting students to enroll in the program, the institution shall disclose to the prospective student—

(i)(A) The information described in paragraphs (c)(1)–(c)(3) of this section in the case of a program designed to prepare students for a particular vocational, trade, or career field; or

(B) Other valid employment statistics for students who have enrolled in the program, for any other program;

(ii) The information described in paragraph (c)(4) of this section; and

(iii) Any other information necessary to substantiate the truth of the claim as to job placement.

(2) If an institution makes a claim to a prospective student regarding the starting salaries of its graduates, or the starting salaries or local availability of jobs in a field, it must disclose to the prospective student detailed statistics and other information necessary to substantiate the truthfulness of that claim.

(e) The institution shall make the disclosure required under paragraphs (c)(2) through (4) of this section using the applicable disclosure form set forth in Appendix A to this part, a copy of which must be signed by the student and maintained by the institution in the student's file.

(Authority: 20 U.S.C. 1082, 1092)

6. In section 668.72, paragraph (j) is amended to remove the word "or", paragraph (k) is amended to remove the period and add, in its place, "; or", and a new paragraph (l) is added to read as follows:

§ 668.72 Nature of educational program.

* * * * *

(l) Any matters required to be disclosed to prospective students under § 668.44 of this part.

(Authority: 20 U.S.C. 1094)

7. Section 668.90 is amended by adding a new paragraph (a)(3)(iii), and revising the citation of legal authority to read as follows:

§ 668.90 Initial and final decisions—Appeals.

(a) * * *

(3) * * *

(iii) In a limitation, suspension or termination proceeding commenced on the grounds described in § 668.15(b)(1) of this part, if the administrative law judge finds that the institution's GSL and SLS fiscal year default rate, as defined in § 668.15(f) of this part, exceeds 20 percent, the administrative law judge shall find that the sanction sought by the designated Department official is warranted, except that the administrative law judge shall find that no sanction is warranted if the institution—

(A) Submits the information described in § 668.15(b)(2) of this part; and

(B) Demonstrates that its fiscal year default rate exceeds 20 percent due to factors beyond its control.

* * * * *

(Authority: 20 U.S.C. 1082, 1094)

8. Part 668 is amended by adding an Appendix A to read as follows:

Appendix A—Track Record Disclosure Forms

This appendix provides forms for institutions to use to disclose to prospective students the information required by 34 CFR 668.44(c)(2) through (4). The use of these forms is required by 34 CFR 668.44(e).

An institution shall use Form I in connection with a program offered for a vocational, trade, or career occupation for which there exists a State licensure or certification examination required by the State for employment in the occupation. For all other programs for which disclosures under 34 CFR 668.44(c)(2) through (4) are required, the institution shall use Form II.

How Our Students Are Doing

To help you make a good decision about whether to sign up for (name of program), (name of institution) wants you to know that, according to the latest information—

—%, or — out of every 100 students in this program go on to graduate;

—%, or — out of every 100 graduates of this program taking the (name of test) administered by the State of (name of State in which school is located) pass that examination; and

— %, or — out of every 100 graduates of this program get jobs in (name of occupation or field for which training is offered).

I have read and understood the graduation rate, licensing or certification examination pass rate, and job placement rate information provided above.

Date _____

(prospective student's signature)

Form I

How Our Students Are Doing

To help you make a good decision about whether to sign up for (name of program), (name of institution) wants you to know that, according to the latest information—

— %, or — out of every 100 students enrolled in this program go on to graduate; and

— %, or — out of every 100 graduates of this program get jobs in (name of occupation or field for which training is offered).

I have read and understood the graduation and job placement rate information provided above.

Date _____

(prospective student's signature)

Form II

9. Part 668 is amended by adding a new Appendix D to read as follows:

Appendix D —Default Reduction Measures

This appendix describes measures that an institution with a high default rate under the

GSL and SLS programs should find helpful in reducing defaults.

To reduce defaults, the institution should consider adopting one or more of the following measures:

1. Withhold academic transcripts of former students who have defaulted on their Title IV loans.

2. Revise admission policies and screening practices to ensure that students enrolled in the institution, especially those admitted under "ability to benefit" criteria or those in need of substantial remedial work, have a reasonable expectation of succeeding in their programs of study.

3. Improve the availability and effectiveness of academic counseling and other support services to decrease withdrawal rates, particularly with respect to academically high-risk students.

4. Expand its job placement program for its students by, for example, increasing contacts with local employers, counseling students in job search skills, and exploring with local employers the feasibility of establishing internship and cooperative education programs.

5. In cooperation with the lender and in compliance with law, including the Fair Debt Collection Practices Act, if applicable, contact a borrower during the grace period in order to—

(i) Remind the borrower of the importance of the repayment obligation and of the consequences of default listed in item 15(a)(3)(ii), below, by means of telephone contacts and letters sent "Address Correction Requested"; and

(ii) Update the institution's records regarding the borrower's address, telephone number, employer, and employer's address.

6. At the time of a borrower's admission to the institution, obtain information from the borrower regarding references and family members beyond those provided on the loan application, to enable the institution to provide the lender with a variety of ways to locate a borrower who later relocates without notifying the lender.

7. In consultation with the cognizant accrediting body, improve its withdrawal rate, job placement rate, and licensing examination pass rate by improving its curricula, facilities, materials, equipment, qualifications and size of faculty, and other aspects of its educational program.

8. Increase the frequency of reviews of in-school status of borrowers to ensure the institution's prompt recognition of instances in which borrowers withdraw without notice to the institution.

9. Improve procedures for notifying lenders and guarantee agencies of changes in student enrollment status to provide for regular reports to agencies as frequently as warranted, and to provide for prompt reports of such changes to lenders as they occur.

10. In cooperation with the lender and in compliance with law, including the Fair Debt Collection Practices Act, if applicable, contact each borrower with respect to whom the lender has requested preclaims assistance from the guarantee agency to urge the borrower to repay the loan and to emphasize the consequences of default listed in item 15(a)(3)(ii), below, by means of telephone contacts and letters sent "Address Correction Requested."

11. Conduct an annual comprehensive self-evaluation of its administration of the Title IV programs to identify institutional practices that should be modified to reduce defaults, and then implement those modifications.

12. Implement a compensation structure for commissioned enrollment representatives and salesmen under which a representative or salesman earns no more than a nominal commission for enrolling students who never attend school, and progressively greater commissions for students who remain in school for substantial periods.

13. Require an enrollment representative or salesman to explain carefully to a prospective student that, except in the case of a loan made or originated by the institution, the student's dissatisfaction with, or nonreceipt of, the educational services being offered by the institution does not excuse the borrower from repayment of any GSL or SLS loan made to the borrower for enrollment at the institution.

14. Delay the certification of a borrower's loan application, so that the borrower's loan proceeds are not received by the institution, or delay the delivery of any loan proceeds to the borrower and the crediting of any loan proceeds to the borrower's account, until the borrower has attended the institution for 30–45 days during the period for which the loan was made, and require the borrower to pick up at the institution any loan proceeds remaining after deduction of institutional charges.

15. Conduct the following counseling activities in addition to those described in 34 CFR Part 682, Subpart F:

(a) As part of the initial loan counseling provided to a GSL or SLS borrower—

(1) Provide information to the borrower regarding, and through the use of a written test and intensive additional counseling for those who fail the test, ensure the borrower's comprehension of, the terms and conditions of GSL and SLS program loans, including—

(i) The stated interest rate on the borrower's loans;

(ii) The applicable grace period provided to the borrower and the approximate date the first installment payment will be due;

(iii) A description of the charges imposed for failure of the borrower to pay all or part of an installment payment when due;

(iv) A description of any charges that may be imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the lender or guarantee agency to collect the loan, including attorney's fees; and

(v) The total of interest charges that the school estimates the borrower will pay on the loan;

(2) Explain the borrower's rights and responsibilities in the GSL and SLS loan programs including—

(i) The borrower's responsibility to inform his or her lender immediately of any change of name, address, telephone number, or Social Security number;

(ii) The borrower's right to deferment, cancellation or postponement of repayment, and the procedures for obtaining those benefits;

(iii) The borrower's responsibility to contact his or her lender in a timely manner, before the due date of any payment he or she cannot make; and

(iv) The availability of forbearance under the circumstances and procedures described in 34 CFR Part 682;

(3) Provide to the borrower—

(i)(A) General information on the average indebtedness of student borrowers who have obtained GSL or SLS program loans for attendance at that institution and the average amount of a required monthly payment based on that indebtedness; or

(B) The estimated balance owed by the borrower on GSL or SLS loans, and the average amount of a required monthly payment based on that balance; and

(ii) Detailed information regarding the consequences of the failure to repay the loan, including a damaged credit rating for at least 7 years, loss of generous repayment schedule and deferment options, possible seizure of Federal and State income tax refunds due, liability for collection costs, possible referral of the account to a collection agency, garnishment of wages if the borrower is a Federal employee, and loss of eligibility for further Federal Title IV student assistance.

(4) Review the repayment options (*e.g.*, loan consolidation, refinancing) available to the borrower;

(5) Explain the sale of loans by lenders and the use of lenders of outside contractors to service loans; and

(6) Provide general information on budgeting of living expenses and other aspects of personal financial management.

(b) As part of the exit counseling provided to a GSL or SLS borrower—

(1) The counseling activities described in paragraph (a) for the initial loan counseling;

(i) Provide a sample loan repayment schedule based on the borrower's total loan indebtedness for attendance at that institution;

(ii) Provide the name and address of the borrower's lender(s) according to the institution's records; and

(iii) Provide guidance on the preparation of correspondence to the borrower's lender(s) and completion of deferment forms; and

(16) Use available audio-visual materials, such as videos and films, to enhance the effectiveness of its initial and exit counseling.

PART 682—GUARANTEED STUDENT LOAN AND PLUS PROGRAMS

10. The authority citation for Part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

11. A new § 682.104 is added to read as follows:

§ 682.104 Applicability of regulations to the Supplemental Loans for Students Program.

The Supplemental Loans for Students (SLS) program is a continuation of the portion of the predecessor PLUS Program that provided for loans to

student borrowers. Accordingly, the provisions of the regulations in this part, Part 600, and Part 668, applicable to loans made to students under the PLUS Program apply to loans made under the SLS Program, except where inconsistent with the Act.

(Authority: (20 U.S.C. 1078–1, 1082))

12. Section 682.410 is amended by removing the word "and" at the end of paragraph (c)(1)(i)(B), by removing the period at the end of (c)(1)(ii)(B) and adding in its place "and", by adding a new paragraph (c)(1)(iii), and by revising the citation of legal authority to read as follows:

§ 682.410 Fiscal, administrative, and enforcement requirements.

* * * * *

(c) * * *

(iii) Each participating school, located in a State for which the guarantee agency is the principal guarantee agency, that has a fiscal year default rate, as defined in 34 CFR 668.15 for either of the two immediately preceding fiscal years, as defined in § 668.15 that exceeds 15 percent, unless the school is the subject of an action taken by the Secretary under Part 668 by reason of its fiscal year default rate.

* * * * *

(Authority: 20 U.S.C. 1078, 1078–1, 1082, 1094, 1097)

13. Section 682.411 is amended by reviewing paragraph (h) to read as follows:

§ 682.411 Due diligence by lenders in the collection of guarantee agency loans.

* * * * *

(h) If the agency that guaranteed the loan offers preclaims assistance, the lender shall request that assistance within 10 days of the date that assistance is first available from the agency, and shall simultaneously notify the school for attendance at which the loan was made of the request by providing the school with a copy of that request, or by other means.

* * * * *

14. Section 682.604 is amended by revising the section heading, by adding new paragraphs (f), (g), and (h), and revising the authority citation to read as follows:

§ 682.604 Processing the borrower's loan proceeds and counseling borrowers.

* * * * *

(f) *Initial counseling.* (1) Except in the case of a correspondence school, a school shall conduct in-person loan counseling with each GSL and SLS borrower. In each case, the school shall conduct this counseling prior to the release of the first disbursement of the proceeds of the first GSL or SLS loan made to the borrower for attendance at the school. A correspondence school shall provide the borrower with written counseling materials by mail prior to releasing those proceeds.

(2) In conducting the initial counseling the school must—(i) Emphasize to the borrower the seriousness and importance of the repayment obligation the borrower is assuming;

(ii) Describe in forceful terms the likely consequences of default, including adverse credit reports and litigation, and

(iii) In the case of a borrower of a GSL or SLS program loan (other than a loan made or originated by the school) for enrollment in an undergraduate non-baccalaureate degree program designed to prepare students for a particular vocational, trade, or career field, emphasize that the borrower is obligated to repay the full amount of the loan even if the borrower does not complete the program, is unable to obtain employment upon completion, or is otherwise dissatisfied with or does not receive the educational or other services that the borrower purchased from the school.

(3) Additional matters that the Secretary recommends that a school include in the initial counseling session or materials are set forth in Appendix D to 34 CFR Part 668.

(g) *Exit counseling.* (1) A school shall conduct in-person exit counseling with each GSL and SLS borrower shortly before the borrower ceases at least half-time study at the school, except that—

(i) In the case of a correspondence school, the school shall provide the borrower with written counseling materials by mail within 30 days after the borrower completes the program; and

(ii) If the borrower withdraws from school without the school's prior knowledge, or fails to attend an exit counseling session as scheduled, the school shall mail written counseling material to the borrower at the borrower's last known address within 30 days after learning that the borrower has withdrawn from school or failed to attend the scheduled session.

(2) In conducting the exit counseling the school must—

(i) Provide the borrower with general information with respect to the average indebtedness of the students who have obtained GSL or SLS program loans for attendance at the school;

(ii) Inform the student as to the average anticipated monthly repayment for those students based on that average indebtedness;

(iii) Review for the borrower available repayment options (*e.g.*, loan consolidation, refinancing);

(iv) Suggest to the borrower debt management strategies that the school determines would best facilitate repayment by the borrower; and

(v) Include the matters described in paragraph (f)(2) of this section.

(3) Additional matters that the Secretary recommends that a school include in the exit counseling session or materials are set forth in Appendix D to Part 668.

(4) The school shall maintain in the student borrower's file documents substantiating the school's compliance with paragraphs (f)–(g) of this section as to that borrower.

(Authority: 20 U.S.C. 1077, 1078, 1078–1, 1082, 1085, 1092, 1094)

14. Section 682.605 is amended by revising paragraph (a) to read as follows:

§ 682.605 Determining the date of a student's withdrawal.

(a) *Purpose.* This section establishes rules for how a school shall determine the withdrawal date for a student to whom or on whose behalf a loan has been made under this part, for the purpose of reporting to the lender the date that the student has withdrawn from the school and for determining when a refund must be paid under § 682.607 of this part.

* * * * *

15. Section 682.606 is revised to read as follows:

§ 682.606 Refund policy.

(a) A school participating in the GSL, SLS, or PLUS Loan Program shall use a *pro rata* refund policy, as defined in paragraph (c) of this section, under which the school shall make a refund of unearned tuition, fees, room and board, and other charges to a student who received a GSL or SLS Program loan, or whose parent received a PLUS Program loan on behalf of the student, if the student—

(1) Does not register for the period of attendance for which the loan was intended; or

(2) Withdraws or otherwise fails to complete the period of enrollment for which the loan was made.

(b) The school shall provide a written statement containing its *pro rata* refund policy, together with examples of the application of this policy, to a prospective student prior to the student's enrollment, and shall make its policy known to currently enrolled students. The school shall include in its statement the procedures that a student

must follow to obtain a refund. However, the school shall pay the portion of a refund allocable to the student's GSL, SLS, or PLUS program loans whether or not the student follows those procedures. If the school changes its refund policy, it shall ensure that all students are made aware of the new policy.

(c)(1) *"Pro rata* refund," as used in this section, means a refund of that portion of the tuition, fees, room and board, and other charges assessed to the student by the school equal to the portion of the period of enrollment for which the student has been charged that remains on the last recorded day of attendance by the student, plus—

(i) A reasonable administrative fee not to exceed the lesser of 5 percent of the tuition, fees, room and board, and other charges assessed the student, or $100; and

(ii) Charges authorized by paragraph (c)(5) of this section.

(2) For purposes of paragraph (c)(1) of this section, in the case of a program that is measured in credit hours, "the portion of the period of enrollment for which the student has been charged that remains" is determined by dividing the total number of weeks comprising the period of enrollment for which the student has paid into the number of weeks remaining in that period as of the last recorded day of attendance by the student.

(3) For purposes of paragraph (c)(1) of this section, in the case of a program that is measured in clock hours, "the portion of the period of enrollment for which the student has been charged that remains" is determined by dividing the total clock hours comprising the period of enrollment for which the student has paid into the number of clock hours remaining to be completed by the student in that period as of the last recorded day of attendance by the student.

(4) For purposes of paragraph (c)(1) of this section, in the case of a correspondence program, "the portion of the period of enrollment for which the student has been charged that remains" is determined by dividing the total number of lessons comprising the period of enrollment for which the student has paid into the total number of such lessons not submitted by the student.

(5) A school may require that equipment issued to the student by the school that the school would reissue to another student be returned by a student once the school determines that the borrower has withdrawn, if the school makes a written request for that return that is received by the student within 10 days of the date of that determination. If the school notified the student in writing prior to enrollment that return of the specific equipment involved would be required if the student withdrew, the school may deduct from the refund owed under this section the documented cost to the school of that equipment if the student fails to return it within 10 days of the date of the student's receipt of the request from the school. However, the school may not delay its payment of a refund to a lender under § 682.607 by reason of this process.

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1082, 1094)

16. Section 682.607 is amended by revising paragraph (c) to read as follows:

§ 682.607 Payment of a refund to a lender.

* * * * *

(c) *Timely payment.* A school shall pay a refund that is due—

(1) Within 30 days after the earliest of the—

(i) Student's withdrawal as determined under § 682.605 (b)(1)(i) or (b)(3);

(ii) Expiration of the semester in which the student withdrew, as determined under § 682.605(b)(1)(ii); or

(iii) Expiration of the period of enrollment for which the loan was made; or

(2) In the case of a student who does not return to school at the expiration of an approved leave of absence under § 682.605(c), within 30 days after the last day of that leave of absence.

17. Section 682.610 is amended by adding a new paragraph (f) to read as follows:

§ 682.610 Records, reports, and inspection requirements for participating schools.

* * * * *

(f) Information sharing. Upon request, a school shall promptly provide a lender or guarantee agency with any information it has respecting the last known address, employer, and employer address of a borrower who attends or has attended the school.

(Authority: 20 U.S.C. 1078, 1078–1, 1078–2, 1082, 1094)

Appendix A [Removed]

18. Appendix A is removed.

[FR Doc. 88–21171 Filed 9–15–88; 8:45 am]

BILLING CODE 4000–01–M

federal register

Friday
September 16, 1988

Part V

Environmental Protection Agency

40 CFR Part 763

Asbestos; Proposed Mining and Import Restrictions and Proposed Manufacturing Importation and Processing Prohibitions; Proposed Rule; Notice of Public Hearing

Part V

Environmental Protection Agency

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62036H; FRL-3450-6]

Asbestos; Proposed Mining and Import Restrictions and Proposed Manufacturing Importation and Processing Prohibitions; Public Hearing

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of public hearing.

SUMMARY: EPA has scheduled a cross-examination hearing on the rulemaking to ban certain asbestos products and phase out other such products.

DATES: The hearing will be held on September 19, 1988 through September 22, 1988, from 9 a.m. to 5 p.m. EPA anticipates that transcripts of the hearings will be available September 26, 1988. Under EPA's procedural rules, reply comments are due 2 weeks after the hearing transcript is available. EPA anticipates that reply comments will be due approximately October 11, 1988. To determine the actual date reply comments are due, please contact the TSCA Assistance Office at (202) 554-1404 after September 26, 1988.

ADDRESS: The hearing will be held at:

Sheraton Crystal City, Ballroom C, 1800 Jefferson Davis Highway, Arlington, VA.

Reply comments must be identified by the docket control number [OPTS-62036H] and sent in triplicate to:

TSCA Public Docket Office [TS-793], Rm. NE-G004, Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. B-44, 401 M St., SW., Washington, DC 20460. Telephone: (202-554-1404), TDD: (202-554-0551).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 29, 1986 (51 FR 3738), EPA proposed a rule under section 6 of TSCA which would immediately ban the manufacture, import, and processing of certain asbestos products and would phase out the remaining products over a 10-year period. The proposal outlined several options for implementing the ban and phase out and allowed 5 months for public comment. EPA received further public comment on the proposal in legislative and cross-examination hearings held in July and October of 1986. In the **Federal Register** of April 1, 1988 (53 FR 10546), EPA requested comment on four new documents to be used to support its rulemaking for the ban and phase out of certain uses of asbestos. In the **Federal Register** of May 4, 1988 (53 FR 15857), EPA requested comment on four additional documents concerning substitutes for asbestos. Comments on all eight documents were due on June 30, 1988.

The Asbestos Information Association/North America and the Asbestos Institute requested cross-examination hearings on the new documents. EPA granted that request and will hold 4 days of cross-examination hearings, from September 19, 1988 through September 22, 1988. The transcript of the hearings is expected to be available by September 26, 1988. Under EPA's procedural rules, reply comments are due 2 weeks after the hearing transcript is available. EPA anticipates that reply comments will be due approximately October 11, 1988. To determine the actual date reply comments are due, please contact the TSCA Assistance Office at (202) 554-1404 after September 26, 1988.

List of Subjects in 40 CFR Part 763

Asbestos, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements.

Dated: September 14, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-21385 Filed 9-15-88; 11:30 am]

BILLING CODE 6560-50-M

Reader Aids

Federal Register

Vol. 53, No. 180

Friday, September 16, 1988

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-5237

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

33801-34012	1
34013-34272	2
34273-34478	6
34479-34710	7
34711-35060	8
35061-35190	9
35191-35282	12
35283-35422	13
35423-35798	14
35799-35986	15
35987-36228	16

CFR PARTS AFFECTED DURING SEPTEMBER

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

Proclamations:

5851	35061
5852	35063
5853	35065
5854	35191
5855	35193
5856	35195
5857	35283
5858	35423
5859	35987
5860	35989

Executive Orders:

12650	35285
12651	35287

Administrative Orders:

Memorandums:

Aug. 17, 1988	34711

Presidential Determinations:

No. 88-20 of July 26, 1988	33801
No. 88-22 of Sept. 8, 1988	35289

5 CFR

300	34273
302	35291
333	35291
531	34273
831	35294
890	35991

Proposed Rules:

581	34305
890	34305

7 CFR

1	35296
246	35296
252	34013
301	34014, 35425
354	34021, 35426
401	34022
907	34022, 34026
908	34022, 34026
910	35197, 35991
920	33801, 34033
926	35992
931	34479
932	34479
981	34035
982	34480
987	35993
989	34713
999	34713
1065	35994
1421	33803
1446	35984
1809	35638
1902	35638
1910	35638
1924	35638
1941	35638
1943	35638
1944	35067, 35638
1945	35638
1951	38904, 35638
1955	35638
1962	35638
1965	35638
3404	34481

Proposed Rules:

29	36050
210	35083
225	34761
226	34761
401	34762
910	34107
945	34764
981	36051, 36052
987	34108
1006	34766
1012	34766
1013	34766
1124	33823
1137	36054

8 CFR

103	35799

9 CFR

78	34035
92	34037
97	35068

Proposed Rules:

317	35089

10 CFR

0	35301
50	35996

Proposed Rules:

76	35827

11 CFR

Proposed Rules:

100	35827
110	35827, 35829
114	35827

12 CFR

611	35303
614	35427
615	35427
617	35303
618	35303, 35427
622	35306
623	35306
790	34481
791	34481

Proposed Rules:

8	34307
563c	35319
571	35319
615	34109

13 CFR

101.....36005
108.....35458
115.....34872
120.....35459
122.....35459

14 CFR

1.....34198
13.....34646, 35255
21.....34274
23.....34194
25.....34274
27.....34198
29.....34198
33.....34198
39.....34038, 34040, 35306, 35307, 36006, 36150
71.....34041, 34042, 34276, 34277, 35308, 35309, 36150
73.....34277
97.....34039, 35310
99.....34043

Proposed Rules:

39.....34116, 34117, 35319–35322, 36055
71.....35323, 35324
129.....34874

15 CFR

373.....35799
379.....35459, 35803
391.....36007
399.....35459, 35466, 35799, 35803

16 CFR

Proposed Rules:

13.....34307, 34776

17 CFR

146.....35197
211.....34715

Proposed Rules:

270.....35830

18 CFR

154.....35312
157.....35312
161.....34277
250.....34277
260.....35312
284.....34277, 35312
385.....35312
388.....35312

Proposed Rules:

4.....34119
16.....34119
101.....34545

20 CFR

243.....35806
262.....35806
295.....35806
350.....35806
416.....35807
901.....34481

Proposed Rules:

Ch. V.....36056
204.....35515
404.....35516
416.....35516, 35830
603.....34120

21 CFR

12.....34871
74.....35255
81.....35255
82.....35255
175.....34278
176.....34043
336.....35808
341.....35808
357.....35808
558.....35312
808.....35313
886.....35602
1308.....36152

Proposed Rules:

103.....36063
184.....36067
205.....35325
510.....35833

22 CFR

204.....33805

23 CFR

Proposed Rules:

770.....35178

24 CFR

8.....34634
200.....34279
203.....34279
204.....34279
213.....34279
220.....34279
221.....34279
222.....34279
234.....34279
235.....34279
240.....34279
511.....34372
570.....34416
813.....34372
882.....34372
887.....34372
888.....34372
960.....34372
964.....34676

Proposed Rules:

111.....34668

26 CFR

1.....34045, 34194, 34284, 34488, 34716, 34729, 35467, 35953
31.....34734, 35810
501.....35467
504.....35467
505.....35467
506.....35467
507.....35467
511.....35467
512.....35467
518.....35467
519.....35467
602.....34045, 34194, 34488, 34729, 34734, 35467

Proposed Rules:

1.....34120, 34194, 34545, 34778, 34779, 35204, 35525
154.....34194
301.....35953
501.....35525
504.....35525
505.....35525
506.....35525
507.....35525
511.....35525
512.....35525
518.....35525
519.....35525
602.....34120

27 CFR

Proposed Rules:

55.....35330
71.....35093

28 CFR

0.....35811

Proposed Rules:

2.....34546
16.....35836

29 CFR

502.....35154
1910.....34736, 35610
1926.....35610, 35953, 36009
2676.....35812

Proposed Rules:

103.....33934
1910.....33823, 33807, 34708, 34780
1915.....33823, 34780
1918.....33823, 34780
1926.....35972
1952.....34121

30 CFR

208.....34737
250.....34493
816.....34636, 35953
817.....34636, 35953

Proposed Rules:

925.....34128

32 CFR

199.....33808, 34285

Proposed Rules:

230.....35331
231.....35331
231a.....35331

33 CFR

100.....35069, 35070
117.....34076

Proposed Rules:

117.....34129, 34130, 35094
160.....35095

34 CFR

367.....35071
400.....35258
401.....35258

Proposed Rules:

668.....36216
682.....36216

36 CFR

1190.....35507

Proposed Rules:

261.....35526
1228.....34131

38 CFR

21.....34494, 34739
36.....34294

39 CFR

111.....35314, 35813

40 CFR

52.....33808, 34077, 34500, 35820–35823, 36009, 36011
81.....34507, 35071
167.....35056
180.....33897, 34508–34512
186.....34513
260.....34077
261.....35412
264.....33938, 34077
265.....33938, 34077
270.....34077
271.....34758, 34759
300.....33811
302.....35412
761.....33897
795.....34514
799.....34514

Proposed Rules:

52.....33824, 33826, 34132, 34310–34318, 34550, 34780–34788, 35204, 35207, 35527, 35528
60.....34551
62.....34549
81.....34318, 34557, 34791, 35956
141.....35952
142.....35952
180.....34792, 34794
261.....36070
271.....35836
721.....36076
763.....36227
798.....35838
799.....35838

41 CFR

101–40.....35410

44 CFR

64.....34087
67.....34089

45 CFR

233.....45198
306.....36014

46 CFR

Ch. I.....36022
1.....34532
2.....34532
4.....34532
6.....34532
30.....34296, 34532
31.....34532, 34872
32.....34532
35.....34532
42.....34532
46.....34532
50.....34296, 34532
67.....34532
69.....34296, 34532
70.....34296, 34532
71.....34532
90.....34296, 34532
91.....34532, 34872
93.....34532
98.....34532
107.....34532
110.....34532
147.....34296
150.....34532
151.....34532
153.....34532
154.....34532
154a.....34532

159.....34532
160.....34532
161.....34532
162.....34532
164.....34532
167.....34296
169.....34296
170.....34532
171.....34532
172.....34532
188.....34296, 34532
189.....34532
401.....34532
550.....34298

47 CFR

1.....34538
73.....34299, 34300, 34538-34542, 35824, 36080
76.....36080
90.....35964

Proposed Rules:

1.....34558
22.....35851
69.....33826
73.....34559, 34560, 35336-35338
90.....35339, 35965
97.....35341

48 CFR

Ch. 12.....34301
Ch. 63.....34104
1.....34224
3.....34224
7.....34224
9.....34224
10.....34224
19.....34224
29.....34224
31.....34224
36.....34224
47.....34224
52.....34224, 36028
204.....34090
207.....35201
210.....35201
215.....35201
232.....35511
252.....34090, 35201, 35511
519.....33812
542.....34089

Proposed Rules:

Ch. 16.....34320
352.....35852
548.....34871
552.....34871
927.....35281

49 CFR

192.....36028
544.....35073
571.....33898, 35075
1342.....33813

Proposed Rules:

Ch. VI.....35341
171.....35968
175.....35968
571.....35097
623.....35178
641.....34560
644.....34560
1152.....36081

50 CFR

17.....33990, 34696-34701, 35076, 36029
20.....36033
23.....33815, 35825
32.....34301
33.....34301
227.....33820
259.....35202
661.....34543, 34760, 35316 35513
674.....34303, 35080, 35317
675.....35081

Proposed Rules:

13.....34795
14.....34795
17.....34560, 35210, 35215
23.....35530
611.....34322
651.....35532
672.....33897, 34322
675.....34322

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.**

Last List September 14, 1988.

LIST OF PUBLIC LAWS

Last List September 14, 1988

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 1158/Pub. L. 100-430

Fair Housing Amendments Act of 1988. (Sept. 13, 1988; 102 Stat. 1619; 18 pages) Price: $1.00

Order Now!

The United States Government Manual 1988/89

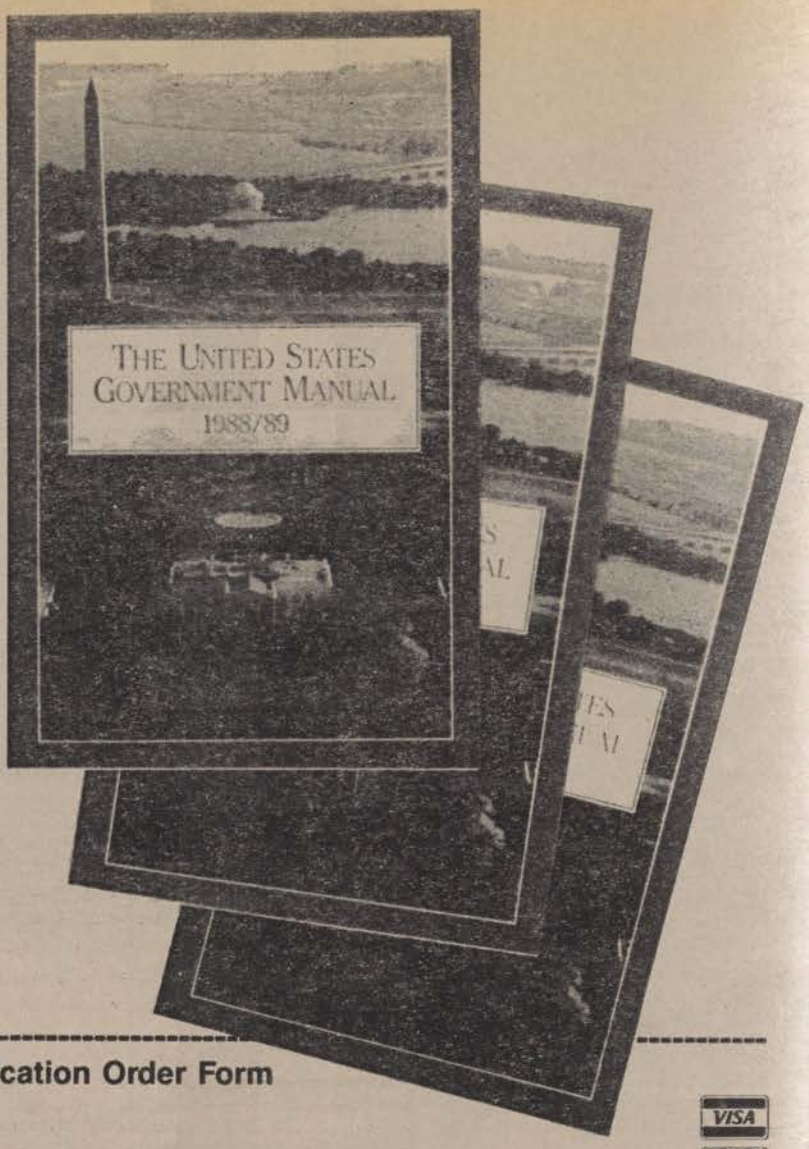
As the official handbook of the Federal Government, the *Manual* is the best source of information on the activities, functions, organization, and principal officials of the agencies of the legislative, judicial, and executive branches. It also includes information on quasi-official agencies and international organizations in which the United States participates.

Particularly helpful for those interested in where to go and who to see about a subject of particular concern is each agency's "Sources of Information" section, which provides addresses and telephone numbers for use in obtaining specifics on consumer activities, contracts and grants, employment, publications and films, and many other areas of citizen interest. The *Manual* also includes comprehensive name and agency/subject indexes.

Of significant historical interest is Appendix C, which lists the agencies and functions of the Federal Government abolished, transferred, or changed in name subsequent to March 4, 1933.

The *Manual* is published by the Office of the Federal Register, National Archives and Records Administration.

$20.00 per copy



Publication Order Form

Order processing code: *6450

☐ **YES,** please send me the following indicated publications:

VISA MasterCard

_____ copies of THE UNITED STATES GOVERNMENT MANUAL, 1988/89 at $20.00 per copy. S/N 069-000-00015-1.

1. The total cost of my order is $_____ International customers please add 25%. All prices include regular domestic postage and handling and are good through 3/89. After this date, please call Order and Information Desk at 202-783-3238 to verify prices.

Please Type or Print

2. _____
(Company or personal name)

_____
(Additional address/attention line)

_____
(Street address)

_____
(City, State, ZIP Code)

(_____)
(Daytime phone including area code)

3. Please choose method of payment:

☐ Check payable to the Superintendent of Documents

☐ GPO Deposit Account ☐☐☐☐☐☐☐–☐

☐ VISA, or MasterCard Account

☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

_____
(Credit card expiration date)

Thank you for your order!

_____
(Signature)

(Rev. 8-88)

4. **Mail To:** Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9325