

11-28-88
Vol. 53 No. 228
Pages 47799-47926

Monday
November 28, 1988

Register



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 per year in paper form; \$195 per year in microfiche form; or \$37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is \$1.50 for each issue, or \$1.50 for each group of pages as actually bound, or \$175.00 per magnetic tape. 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.

Contents

Federal Register

Vol. 53, No. 228

Monday, November 26, 1988

Administrative Conference of the United States

NOTICES

Meetings:

- Financial Services Special Committee, 47838
- Plenary Session, 47838

Agricultural Marketing Service

RULES

- Lemons grown in California and Arizona, 47800

Agriculture Department

- See Agricultural Marketing Service; Animal and Plant Health Inspection Service; Commodity Credit Corporation; Rural Electrification Administration

Air Force Department

NOTICES

- Patent licenses, exclusive:
 - Environmental Research & Development, Inc., 47852

Animal and Plant Health Inspection Service

RULES

- Overtime services relating to imports and exports:
 - Commuted traveltime allowances, 47799

Army Department

- See Engineers Corps

Arts and Humanities, National Foundation

- See National Foundation on the Arts and the Humanities

Blind and Other Severely Handicapped, Committee for Purchase From

- See Committee for Purchase From the Blind and Other Severely Handicapped

Census Bureau

NOTICES

- Merchandise trade press release, monthly; change, 47840

Commerce Department

- See also Census Bureau; Export Administration Bureau; Foreign-Trade Zones Board; International Trade Administration; Minority Business Development Agency; National Technical Information Service; Patent and Trademark Office

NOTICES

- Agency information collection activities under OMB review, 47839, 47840
 - (4 documents)

Committee for Purchase From the Blind and Other Severely Handicapped

NOTICES

- Procurement list, 1989:
 - Additions and deletions, 47850
 - (2 documents)
 - Establishment; correction, 47850

Committee for the Implementation of Textile Agreements

NOTICES

- Cotton, wool, and man-made textiles:
 - Pakistan, 47848
 - Taiwan, 47849

Commodity Credit Corporation

NOTICES

- Loan and purchase programs:
 - Price support levels—
 - Pulled wool and mohair, 47838

Consumer Product Safety Commission

NOTICES

- Meetings; Sunshine Act, 47899

Customs Service

NOTICES

- Customhouse broker license cancellation, suspension, etc.:
 - Jose A. Montemayor e Hijos, Inc., 47898

Defense Department

- See also Air Force Department; Engineers Corps

NOTICES

- Meetings:
 - Science Board, 47851
 - Science Board task forces, 47851

Economic Regulatory Administration

NOTICES

- Natural gas exportation and importation:
 - Vector Energy (U.S.A.) Inc., 47857
- Powerplant and industrial fuel use; new electric powerplant coal capability; compliance certifications:
 - Watsonville Cogeneration Partnership, 47859

Education Department

NOTICES

- Agency information collection activities under OMB review, 47853
- Grants and cooperative agreements; availability, etc.:
 - Jacob K. Javits fellows program, 47854
- Meetings:
 - Accreditation and Institutional Eligibility National Advisory Committee, 47854
- Privacy Act:
 - Systems of records, 47855

Employment and Training Administration

NOTICES

- Adjustment assistance:
 - Indiana Gas & Chemical Corp., 47882
 - London Fog, 47882
 - Phillips Petroleum Co., 47883
 - Ultramar Oil & Gas Ltd., 47883

Energy Department

- See Economic Regulatory Administration; Federal Energy Regulatory Commission; Southeastern Power Administration

Engineers Corps**RULES**

Danger zones and restricted areas:

Thames River, CT, 47802

NOTICES

Environmental statements; availability, etc.:

Sacramento, CA; flood control measures, 47852

Environmental Protection Agency**RULES**

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Menthol, 47810

Permethrin, 47811

NOTICES

Pesticide programs:

Registration standards and special reviews; docket indices; mailing lists inclusions, 47865

Pesticides in food; Delaney clause; correction, 47901

Toxic and hazardous substances control:

Chemical testing—

Data receipt, 47867

Confidential business information and data transfer to contractors, 47867

Premanufacture exemption applications, 47867

Premanufacture notices; monthly status reports, 47910

Executive Office of the President

See Trade Representative, Office of United States

Export Administration Bureau**NOTICES**

Foreign availability assessments:

Trichlorotrifluoroethane-containing solvents, 47841

Federal Communications Commission**RULES**

Common carrier services:

Telephone companies—

Class A and Tier 1 automated reporting requirements, 47817

PROPOSED RULES

Common carrier services:

Access charges—

Universal Service Fund and lifeline assistance charges; interexchange carriers charge assessment, 47836

Federal Deposit Insurance Corporation**NOTICES**

Meetings; Sunshine Act, 47899

State nonmember banks; independent external auditing programs; policy statement, 47868

Federal Emergency Management Agency**RULES**

Flood elevation determinations:

Arizona et al., 47814

Louisiana, 47812

New Jersey et al., 47813

PROPOSED RULES

Flood elevation determinations:

Arkansas et al., 47831

Federal Energy Regulatory Commission**NOTICES**

Electric rate, small power production, and interlocking directorate filings, etc.:

Canal Electric Co. et al., 47859

Natural gas certificate filings:

Williams Natural Gas Co. et al., 47860

Preliminary permits surrender:

American Hydro Power Co. et al., 47861

Applications, hearings, determinations, etc.:

Arkla Energy Resources, 47861

Midwestern Gas Transmission Co., 47861

Northern Natural Gas Co., 47862

Northwest Alaskan Pipeline Co., 47861

Paiute Pipeline Co., 47862

Southern Natural Gas Co., 47862

Texas Eastern Transmission Corp., 47863

United Gas Pipe Line Co., 47864

Virginia Electric & Power Co., 47864

Williams Natural Gas Co., 47863

Williston Basin Interstate Pipeline Co., 47863

Federal Maritime Commission**NOTICES**

Agreements filed, etc., 47873

Meetings; Sunshine Act, 47899

Federal Railroad Administration**RULES**

Railroad operating rules:

Alcohol and drug use control—

Post-accident testing laboratory; address change, 47819

Federal Reserve System**NOTICES**

Meetings; Sunshine Act, 47899

Federal Trade Commission**PROPOSED RULES**

Premerger notification:

Reporting and waiting period requirements, 47829

Fish and Wildlife Service**NOTICES**

Environmental statements; availability, etc.:

Reelfoot Lake, TN and KY, 47875

Foreign-Trade Zones Board**NOTICES**

Applications, hearings, determinations, etc.:

Hawaii, 47842

Health and Human Services Department

See Health Care Financing Administration; Human Development Services Office

Health Care Financing Administration**NOTICES**

Meetings:

Supplemental Health Insurance Panel, 47873

Human Development Services Office**NOTICES**

Grants; availability, etc.:

Indian tribes; supportive and nutritional services for older Indians, 47874

Interior Department

See Fish and Wildlife Service; Land Management Bureau; Minerals Management Service; National Park Service

International Trade Administration**RULES****Antidumping and countervailing duties:**

Sanction procedures for violations of protective order,
47916

NOTICES**Antidumping:**

Calcined bauxite proppants from Australia, 47842
Digital readout systems and subassemblies from Japan,
47844

Interstate Commerce Commission**NOTICES**

Agreements under sections 5a and 5b; applications for
approval, etc.:

United Tariff Bureau, Inc., 47878

Justice Department**NOTICES**

Agency information collection activities under OMB review,
47879

Labor Department

See Employment and Training Administration; Occupational
Safety and Health Administration; Workers'
Compensation Programs Office

Land Management Bureau**PROPOSED RULES****Oil and gas leasing:**

Inspection by non-Federal employees; cooperative
agreement with States and tribes, 47904

NOTICES**Closure of public lands:**

Oregon, 47875

Mineral interest applications:

Arizona, 47876

Oil and gas leases:

New Mexico, 47876

Realty actions; sales, leases, etc.:

Arizona; correction, 47876

Oregon, 47876

Survey plat filings:

Wyoming, 47877

Withdrawal and reservation of lands:

California; correction, 47901

Wyoming; correction, 47901

Minerals Management Service**PROPOSED RULES****Outer Continental Shelf; oil, gas, and sulfur operations:**

Gas and oil product valuation

Extraordinary cost allowances, etc., 47829

NOTICES

Outer Continental Shelf; development operations
coordination:

Pennzoil Exploration & Production Co., 47877

Minority Business Development Agency**NOTICES**

Business development center program applications:
Puerto Rico, 47847

National Aeronautics and Space Administration**NOTICES****Meetings:**

Space Station Advisory Committee, 47885

National Foundation on the Arts and the Humanities**NOTICES**

Agency information collection activities under OMB review,
47886

National Park Service**NOTICES**

Environmental statements; availability, etc.:

Grand Canyon National Park, AZ, 47878

National Technical Information Service**NOTICES**

Patent licenses, exclusive:

Eli Lilly & Co., 47848

National Transportation Safety Board**NOTICES**

Meetings; Sunshine Act, 47899

Nuclear Regulatory Commission**PROPOSED RULES**

Production and utilization facilities; domestic licensing:

Nuclear power plants—

Maintenance, 47822

NOTICES**Meetings:**

Reactor Safeguards Advisory Committee, 47866

Applications, hearings, determinations, etc.:

Pacific Gas & Electric Co., 47886

Texas Utilities Electric Co. et al., 47888, 47889

(2 documents)

Occupational Safety and Health Administration**NOTICES**

Variance applications, etc.:

Union Carbide Corp., 47884

Office of United States Trade Representative

See Trade Representative, Office of United States

Patent and Trademark Office**RULES****Patent cases:**

Miscellaneous amendments, 47803

Pension Benefit Guaranty Corporation**RULES**

Multiemployer and single-employer plans:

Premium payments; interest rates

Correction, 47901

Personnel Management Office**NOTICES****Excepted service:**

Schedules A, B, and C; positions placed or revoked—

Update, 47889

Postal Rate Commission**NOTICES****Complaints filed:**

Third Class Mail Association, 47890

Postal Service**PROPOSED RULES****Domestic Mail Manual:**

International air mail envelopes, cards, and postal
stationary; domestic mail service use prohibition,
47830

Rural Electrification Administration**PROPOSED RULES**

Electric borrowers; criteria for REA approvals required under mortgage, financial and management matters, 47820

Securities and Exchange Commission**RULES**

Accounting bulletins, staff:

Financial statement requirements for businesses acquired or to be acquired, 47800

NOTICES

Meetings; Sunshine Act, 47800

Self-regulatory organizations; proposed rule changes:

New York Stock Exchange, Inc., 47890

Pacific Stock Exchange, Inc., 47892

Applications, hearings, determinations, etc.:

Chemical Mortgage Acceptance Corp., 47893

Guardian Generation Series Trust, 47893

MBL Growth Fund, Inc., et al., 47896

Southeastern Power Administration**NOTICES**

Power rates:

Georgia-Alabama System of Projects, 47864

State Department**NOTICES**

Meetings:

Historical Diplomatic Documentation Advisory Committee, 47897

Textile Agreements Implementation Committee

See Committee for the Implementation of Textile Agreements

Trade Representative, Office of United States**NOTICES**

Canada:

Duty remission programs for automotive components, 47897

Japan:

Architectural, engineering, and construction service persons; barriers, 47897

Transportation Department

See Federal Railroad Administration

Treasury Department

See also Customs Service

NOTICES

Agency information collection activities under OMB review,

47897, 47898

(2 documents)

United States Information Agency**NOTICES**

Meetings:

Radio Engineering Advisory Committee, 47898

Workers' Compensation Programs Office**PROPOSED RULES**

Federal employees:

Compensation claims, 47829

Separate Parts In This Issue**Part II**

Department of the Interior, Bureau of Land Management, 47904

Part III

Environmental Protection Agency, 47910

Part IV

Department of Commerce, International Trade Administration, 47916

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.

7 CFR	
354.....	47799
910.....	47800
Proposed Rules:	
1715.....	47820
10 CFR	
Proposed Rules:	
50.....	47822
16 CFR	
Proposed Rules:	
801.....	47829
802.....	47829
803.....	47829
17 CFR	
211.....	47800
19 CFR	
353.....	47916
354.....	47916
355.....	47916
20 CFR	
Proposed Rules:	
10.....	47829
29 CFR	
2610.....	47901
30 CFR	
Proposed Rules:	
206.....	47829
33 CFR	
334.....	47802
37 CFR	
1.....	47803
39 CFR	
Proposed Rules:	
111.....	47830
40 CFR	
180 (2 documents).....	47810, 47811
43 CFR	
Proposed Rules:	
3190.....	47904
44 CFR	
65 (2 documents).....	47812, 47813
67.....	47814
Proposed Rules:	
67.....	47831
47 CFR	
43.....	47817
Proposed Rules:	
69.....	47836
49 CFR	
219.....	47819

Index and Table of Contents

A complete list of the contents of this book is given on the following pages. The index is arranged in alphabetical order of the subjects treated. The table of contents gives the page numbers of the chapters and sections. The index is a valuable aid to the student in finding the material he needs for his studies.

Chapter I. Introduction	1
Chapter II. The History of the Subject	10
Chapter III. The Principles of the Subject	25
Chapter IV. The Methods of the Subject	40
Chapter V. The Applications of the Subject	55
Chapter VI. The Future of the Subject	70
Chapter VII. The Conclusion	85
Chapter VIII. The Appendix	100
Chapter IX. The Bibliography	115
Chapter X. The Glossary	130
Chapter XI. The Index	145
Chapter XII. The Table of Contents	160
Chapter XIII. The Preface	175
Chapter XIV. The Acknowledgments	190
Chapter XV. The Dedication	205
Chapter XVI. The Epilogue	220
Chapter XVII. The Postscript	235
Chapter XVIII. The Appendix	250
Chapter XIX. The Bibliography	265
Chapter XX. The Glossary	280
Chapter XXI. The Index	295
Chapter XXII. The Table of Contents	310
Chapter XXIII. The Preface	325
Chapter XXIV. The Acknowledgments	340
Chapter XXV. The Dedication	355
Chapter XXVI. The Epilogue	370
Chapter XXVII. The Postscript	385
Chapter XXVIII. The Appendix	400
Chapter XXIX. The Bibliography	415
Chapter XXX. The Glossary	430
Chapter XXXI. The Index	445
Chapter XXXII. The Table of Contents	460
Chapter XXXIII. The Preface	475
Chapter XXXIV. The Acknowledgments	490
Chapter XXXV. The Dedication	505
Chapter XXXVI. The Epilogue	520
Chapter XXXVII. The Postscript	535
Chapter XXXVIII. The Appendix	550
Chapter XXXIX. The Bibliography	565
Chapter XL. The Glossary	580
Chapter XLI. The Index	595
Chapter XLII. The Table of Contents	610
Chapter XLIII. The Preface	625
Chapter XLIV. The Acknowledgments	640
Chapter XLV. The Dedication	655
Chapter XLVI. The Epilogue	670
Chapter XLVII. The Postscript	685
Chapter XLVIII. The Appendix	700
Chapter XLIX. The Bibliography	715
Chapter L. The Glossary	730
Chapter LI. The Index	745
Chapter LII. The Table of Contents	760
Chapter LIII. The Preface	775
Chapter LIV. The Acknowledgments	790
Chapter LV. The Dedication	805
Chapter LVI. The Epilogue	820
Chapter LVII. The Postscript	835
Chapter LVIII. The Appendix	850
Chapter LIX. The Bibliography	865
Chapter LX. The Glossary	880
Chapter LXI. The Index	895
Chapter LXII. The Table of Contents	910
Chapter LXIII. The Preface	925
Chapter LXIV. The Acknowledgments	940
Chapter LXV. The Dedication	955
Chapter LXVI. The Epilogue	970
Chapter LXVII. The Postscript	985
Chapter LXVIII. The Appendix	1000

Rules and Regulations

Federal Register

Vol. 53, No. 228

Monday, November 28, 1988

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 88-147]

7 CFR Part 354

Commuted Traveltime Periods

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Plant Protection and Quarantine (PPQ) by adding commuted traveltime allowances in Delaware. Commuted traveltime allowances are the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by PPQ employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of the commuted traveltime between these locations.

EFFECTIVE DATE: November 28, 1988.

FOR FURTHER INFORMATION CONTACT: Paul Eggert, Director, Resource Management Support, PPQ, APHIS, USDA, Room 614, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7250.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR, Chapter III, and 9 CFR, Chapter I, Subchapter D, require inspection, laboratory testing, certification, or quarantine of certain plants, plant products, animals, animal products, or other commodities intended

for importation into, or exportation from, the United States. When these services must be provided by an employee of PPQ on a Sunday or holiday, or at any other time outside the PPQ employee's regular duty hours, the Government charges a fee for the services in accordance with 7 CFR Part 354. Under circumstances described in § 354.1(a)(2), this fee may include the cost of commuted traveltime. Section 354.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as is practicable, the periods of time required for PPQ employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty.

We are amending § 354.2 of the regulations by adding commuted traveltime allowances between certain locations in Delaware. The amendments are set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between these locations. Executive Order 12291 and Regulatory Flexibility Act.

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than \$100 million; will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

The number of requests for overtime services of a PPQ employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has

determined that this action will not have a significant economic impact on a substantial number of small entities.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the Federal Register.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 354

Agricultural commodities, Exports, Government employees, Imports, Plants (Agriculture), Quarantine, Transportation.

Accordingly, 7 CFR Part 354 is amended as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

1. The authority citation for Part 354 continues to read as follows:

Authority: 7 U.S.C. 2260, 49 U.S.C. 1741; 7 CFR 2.17, 2.51, and 371.2(c).

2. Section 354.2 is amended by adding, in alphabetical order, the information as shown below:

§ 354.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES

(In hours)

Location covered	Served from—	Metropolitan area	
		Within	Out-side
Add:	*	*	*
Delaware:	*	*	*
Wilmington.....	Carlisle, PA.....	6	
(including marine terminal and airport)...	Dallas, PA.....	6	
	Gap, PA.....	4	
	*	*	*

Done in Washington, DC, this 22nd day of November, 1988.

Larry B. Slagle,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88-27381 Filed 11-25-88; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Regulation 641]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 641 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 338,250 cartons during the period November 27 through December 3, 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 641 (§ 910.941) is effective for the period November 27 through December 3, 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, D.C. 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 (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 November 22, 1988, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and, by a 10-1 vote, recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that the demand for lemons is good.

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 910.941 is added to read as follows:

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

§ 910.941 Lemon Regulation 641.

The quantity of lemons grown in California and Arizona which may be handled during the period November 27, 1988, through December 3, 1988, is established at 338,250 cartons.

Dated: November 23, 1988.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 88-27479 Filed 11-25-88; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 211

[Release No. SAB-80]

Staff Accounting Bulletin No. 80

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: The interpretations in this staff accounting bulletin express certain views of the staff regarding the application of Rules 3-05 and 1-02(v) of Regulation S-X in determining the financial statements of businesses acquired or to be acquired that are required to be included in registration statements for initial public offerings.

DATE: November 21, 1988.

FOR FURTHER INFORMATION CONTACT: Teresa Iannaconi, Office of the Chief Accountant (202-272-2130), or Robert Bayless, Division of Corporation Finance (202-272-2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in staff accounting bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official

approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal Securities laws.

Jonathan G. Katz,
Secretary.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 80 to the table found in Subpart B.

Staff Accounting Bulletin No. 80

The staff hereby adds Section J to Topic 1 of the staff accounting bulletin series. Topic 1—J sets forth the administrative policy of the Division of Corporation Finance and the Office of the Chief Accountant as to the method of application of Rules 3-05 and 1-02(v) of Regulation S-X to the requirements for financial statements of businesses acquired and to be acquired to registration statements for certain types of initial public offerings.

Topic 1: Financial Statements

J. *Application of Rule 3-05 in Initial Public Offerings Facts:* Rule 3-05 of Regulation S-X establishes the financial statement requirements for businesses acquired or to be acquired. If required, financial statements must be provided for one, two or three years depending upon the relative significance of the acquired entity as determined by the application of Rule 1-02(v) of Regulation S-X. The calculations required for these tests are applied by comparison of the financial data of the registrant and acquiree(s) for the fiscal years most recently completed prior to the acquisition. The staff has recognized that these tests literally applied in some initial public offerings may require financial statements for an acquired entity which may not be significant to investors because the registrant has had substantial growth in assets and earnings in recent years.¹

Question: How should Rules 3-05 and 1-02(v) of Regulation S-X be applied in determining the periods for which financial statements of acquirees are

required to be included in registration statements for initial public offerings?

Interpretive Response: It is the staff's view that initial public offerings involving businesses that have been built by the aggregation of discrete businesses that remain substantially intact after acquisition² were not contemplated during the drafting of Rule 3-05 and that the significance of an acquired entity in such situations may be better measured in relation to the size of the registrant at the time the registration statement is filed, rather than its size at the time the acquisition was made. Therefore, for a first time registrant, the staff has indicated that in applying the 10%, 20% and 40% tests in Rule 3-05, the three tests in Rule 1-02(v) generally can be measured against the combined entities, including those to be acquired, which comprise the registrant at the time the registration statement is filed. The staff's policy is intended to ensure that the registration statement will include not less than three, two and one year(s) of audited financial statements for not less than 60%, 80% and 90%, respectively, of the constituent businesses that will comprise the registrant on an ongoing basis. In all circumstances, the audited financial statements of the registrant are required for three years, or since its inception if less than three years. The requirement to provide the audited financial statements of a constituent business in the registration statement is satisfied for the post-acquisition period by including the entity's results in the audited consolidated financial statements of the registrant. If additional periods are required, the entity's separate audited financial statements for the immediate pre-acquisition period(s) should be presented.³

In order for the pre-acquisition audited financial statements of an acquiree to be omitted from the

¹ For example, nursing homes, hospitals or cable TV systems. This interpretation would not apply to businesses for which the relative significance of one portion of the business to the total business may be altered by post acquisition decisions as to the allocation of incoming orders between plants or locations. This bulletin does not address all possible cases in which similar relief may be appropriate but, rather, attempts to describe a general framework within which administrative policy has been established. In other distinguishable situations, registrants may request relief as appropriate to their individual facts and circumstances.

² If audited pre-acquisition financial statements of a business are necessary pursuant to the alternative tests described here, the interim period following that entity's latest pre-acquisition fiscal year end but prior to its acquisition by the registrant generally would be required to be audited.

registration statement, the following conditions must be met:

a. The combined significance of businesses acquired or to be acquired for which audited financial statements cover a period of less than 9 months⁴ may not exceed 10%;

b. The combined significance of businesses acquired or to be acquired for which audited financial statements cover a period of less than 21 months may not exceed 20%; and

c. The combined significance of businesses acquired or to be acquired for which audited financial statements cover a period of less than 33 months may not exceed 40%.

Combined significance is the total, for all included companies, of each individual company's highest level of significance computed under the three tests of significance. The significance tests should be applied to pro forma financial statements of the registrant, prepared in a manner consistent with Article 11 of Regulation S-X. The pro forma balance sheet should be as of the date of the registrant's latest balance sheet included in the registration statement, and should give effect to businesses acquired subsequent to the end of the latest year or to be acquired as if they had been acquired on that date. The pro forma statement of operations should be for the registrant's most recent fiscal year included in the registration statement and should give effect to all acquisitions consummated during and subsequent to the end of the year and probable acquisitions as if they had been consummated at the beginning of that fiscal year.

The three tests specified in Rule 1-02(v) should be made in comparison to the registrant's pro forma consolidated assets and pretax income from continuing operations. The assets and pretax income of the acquired businesses which are being evaluated for significance should reflect any new cost basis arising from purchase accounting.

Example: On February 20, 19X9 Registrant files Form S-1 containing its audited consolidated financial statements as of and for the three years ended December 31, 19X8. Acquisitions since inception have been:

⁴ As a matter of policy the staff accepts financial statements for periods of not less than 9, 21 and 33 consecutive months (not more than 12 months may be included in any period reported on) as substantial compliance with requirements for financial statements for 1, 2 and 3 years, respectively.

¹ An acquisition which was relatively significant in the earliest year for which a registrant is required to file financial statements may be insignificant to its latest fiscal year due to internal growth and/or subsequent acquisitions. Literally applied, Rules 3-05 and 1-02(v) might still require separate financial statements for the now insignificant acquisition.

Acquiree	Fiscal year end	Date of acquisition	Highest significance at acquisition (percent)
A.....	3/31	1/1/X7.....	60
B.....	7/31	4/1/X7.....	45
C.....	9/30	9/1/X7.....	40
D.....	12/31	2/1/X8.....	21
E.....	3/31	11/1/X8.....	11
F.....	12/31	To be acquired.	11

The following table reflects the application of the significance tests to the combined financial information at the time the registration statement is filed.

(In percent)

Component entity	Significance of			Highest level of significance
	Assets	Earnings	Investment	
A.....	12	23	12	23
B.....	10	21	10	21
C.....	21	3	4	21
D.....	10	5	13	13
E.....	4	9 loss	3	9
F.....	2	11	6	11

Year 1 (most recent fiscal year)—Entity E is the only acquiree for which pre-acquisition financial statements may be omitted for the latest year since significance for each other entity exceeds 10% under one or more test.

Year 2 (preceding fiscal year)—Financial statements for E and F may be omitted since their combined significance is 20% and no other combination can be formed with E which would not exceed 20%.

Year 3 (second preceding fiscal year)—Financial statements for D, E and F may be omitted since their combined significance of these entities is 33%^{*} and no other combination can be formed with E and F which would not exceed 40%.

The financial statement requirements must be satisfied by filing separate pre-acquisition audited financial statements for each entity that was not included in the consolidated financial statements for the periods set forth above. The following table illustrates the requirements for this example.

^{*} Combined significance is the sum of the significance of D's investment test (13%), E's earnings test (9%) and F's earnings test (11%).

Component entity	Date of acquisition	Minimum financial statement requirement	Period in consolidated F/S	Separate pre-acquisition audited F/S
Registrant.....	N/A	33	36	
A.....	1/1/X7	33	24	9
B.....	4/1/X7	33	21	* 12
C.....	9/1/X7	33	16	17
D.....	2/1/X8	21	11	10
E.....	11/1/X8		2	
F.....	([†])	9		9
acquired				

* The audited preacquisition period need not correspond to the acquiree's pre-acquisition fiscal year. However, audited periods must not be for periods in excess of 12 months.

[†] To be acquired.

[FR Doc. 88-27365 Filed 11-25-88; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Restricted Area, Thames River in Waterford/Groton, CT

AGENCY: U.S. Army Corps Of Engineers, DoD.

ACTION: Interim final rule.

SUMMARY: This interim final rule invites comments on the Department of the Army's proposal to establish a naval restricted area in the waters of the Thames River in the vicinity of the New London Submarine Base for the increased safety and security of Government owned facilities and vessels. These regulations will normally have minimal impact on vessel movements within the designated restricted area but will prohibit vessels from entering the restricted area when notified by submarine base personnel that such use within the area will interfere with submarine maneuvering, operations or security.

DATES: Interim final rule effective November 28, 1988. Written comments must be submitted on or before December 28, 1988.

ADDRESSES: HQDA, CECW-OR, Washington, DC 20314-1000.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Lee at (617) 647-8158 or Mr. Ralph T. Eppard at (202) 272-1783.

SUPPLEMENTARY INFORMATION: The Commanding Officer, Naval Submarine Base, New London, Connecticut, has requested the Department of the Army

establish the restricted area in the Thames River, the dividing line between the towns of Groton and Waterford. The restricted area covers the river area immediately adjacent to the submarine base and generally extends to the western limits of the dredged channel. The northernmost and southernmost portions of the restricted area extend beyond the dredged channel limits to the western shore. A detailed description of the restricted area boundaries is in the regulations ((a) The area).

On February 19, 1987, the New England Division Engineer issued a public notice to all known interested parties soliciting comments on this proposal and on March 30, 1987, the division engineer held a public hearing on the proposed restricted area. Due to the amount of opposition expressed in response to the public notice and at the hearing, the Navy scaled down its proposal. The revised restricted area is contained in this interim final regulation.

In view of the extensive public involvement at the local level and immediate needs of the Navy for improved security, we have found that notice of proposed rulemaking and public procedures thereto are unnecessary and impracticable and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register**.

Economic Assessment and Certification

This rule is issued with respect to a military function of the Defense Department and provisions of E.O. 12291 do not apply. I hereby certify that this interim final regulation will have no significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 334

Navigation (water), Transportation, Danger zones.

In consideration of the above the Department of the Army is amending Part 334 of Title 33 to read as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for Part 334 continues to read as follows:

Authority: 40 Stat. 266; (33 U.S.C. 1) and 40 Stat. 892; (33 U.S.C. 3).

2. Section 334.75 is added as follows:

§ 334.75 Thames River, Naval Submarine Base New London, Restricted Area.

(a) *The area:* The open waters of the Thames River approximately 5 nautical miles upriver from its mouth along the boundary between Groton and

Waterford, Connecticut, within an area bounded as follows:

From a point on the eastern shore at latitude 41° 24' 14.4" N, longitude 72° 05' 38.0" W then northerly along the coast to latitude 41° 24' 20.0" N, longitude 72° 05' 37.9" W then westerly across the river to a point on the western shore at latitude 41° 24' 20.0" N, longitude 72° 05' 55.5" W then southerly along the coast to a point on the western shore at latitude 41° 24' 5.0" N, longitude 72° 05' 55.7" W then easterly to the western edge of the dredged channel to a point located at latitude 41° 24' 04.1" N, longitude 72° 05' 51.2" W then southerly along the western edge of the dredged channel to a point at latitude 41° 24' 00" N, longitude 72° 05' 52.6" W then southerly along the western edge of the dredged channel to a point located at latitude 41° 23' 57.1" N, longitude 72° 05' 52.5" W then southerly to buoy "11" located at a point at latitude 41° 23' 45.6" N, longitude 72° 05' 53.7" W then southerly to buoy "B" on the northeastern shore of Mamacoke Hill to a point at latitude 41° 23' 33.8" N, longitude 72° 05' 53.7" W then southerly along the shore to buoy "A" at latitude 41° 23' 25.0" N, longitude 72° 05' 45.4" W then southeasterly to buoy "9" at a point located at latitude 41° 23' 15.0" N, longitude 72° 05' 35.0" W then easterly to a point on the eastern shore at latitude 41° 23' 15.0" N, longitude 72° 05' 17.9" W then northerly along the shore to a point on the eastern shore at latitude 41° 23' 15.8" N, longitude 72° 05' 17.9" W then along the following points:

Latitude	Longitude
41° 23' 15.8" N	72° 05' 22.0" W
41° 23' 25.9" N	72° 05' 29.9" W
41° 23' 33.8" N	72° 05' 34.7" W
41° 23' 37.0" N	72° 05' 38.0" W
41° 23' 41.0" N	72° 05' 40.3" W
41° 23' 47.2" N	72° 05' 42.3" W
41° 23' 53.8" N	72° 05' 43.7" W
41° 23' 59.8" N	72° 05' 43.0" W
41° 24' 12.4" N	72° 05' 43.2" W

Then to the point of beginning on the eastern shore.

(b) *The regulations.* (1) Vessels and other watercraft within the designated navigation channel may proceed through the restricted area at normal operating speeds without stopping. Vessels and watercraft may also utilize the water area within the restricted area located between the western edge of the designated channel and the western shore for fishing, anchoring and other recreational uses. However, all vessels and watercraft, except U.S. military vessels must leave the restricted area when notified by personnel of the New London Submarine Base that such use will interfere with submarine maneuvering, operations or security.

(2) Commercial fishermen and shell fishermen may fish within the restricted area provided their vessels display registration numbers issued by the Naval Submarine Base, New London,

Connecticut. The registration numbers may be obtained by contacting the Commanding Officer, Naval Submarine Base New London. All commercial fishermen and shell fishermen must also leave the restricted area when notified by personnel of the New London Submarine Base that such use will interfere with submarine maneuvering, operations or security.

(3) Vessels which are owned, operated or sponsored by local, state municipalities or academic institutions preparing for or participating in a water sport or water related recreational event sponsored by those local or state municipalities or academic institutions, or private or commercial vessels engaged in observing the conduct of the above event shall be exempt from the restrictions above, providing:

(i) The Commanding Officer, Naval Submarine Base New London, and the Coast Guard Captain of the Port are advised in writing at least 48 hours in advance of the event, or

(ii) The event was publicized in such a manner that the local public in general had a reasonable opportunity to learn of the event 48 hours in advance.

(iii) The regulations in this section shall be enforced by the Commander, U.S. Naval Submarine Base New London, Connecticut, and such agencies as he/she may designate.

Date: November 17, 1988.

Patrick J. Kelly,

Brigadier General, USA, Director of Civil Works.

[FR Doc. 88-27337 Filed 11-25-88; 8:45 am]

BILLING CODE 3710-06-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 80108-8200]

Miscellaneous Changes in Patent Practice

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office is amending its regulations to (1) correct certain rules to conform to previous changes in other rules, (2), require all correspondence directed to the Patent and Trademark Office concerning a patent application to include the series code and serial number or serial number and filing date, (3) provide for the indication of copyright and mask work protection in patent applications, (4) require that any

necessary corrections to drawings be made only by submission of new or replacement drawings, (5) provide in limited situations for the use of color drawings in utility patent applications, (6) prohibit the use of broken lines in design patent application drawings to show hidden planes and surfaces, and (7) provide for a refund of a portion of the preliminary examination fee where the Demand is withdrawn. The change pertaining to the drawings would remove any need for patent applicants or their representatives to borrow drawings filed in patent applications from the Office after the effective date of the rule change for purposes of making corrections.

EFFECTIVE DATE: January 1, 1989. The non-return of drawings provision of § 1.85(b) will apply to drawings in patent applications filed after January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Louis O. Maassel by telephone at (703) 557-3070 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Proposed rulemaking requesting comment was published on May 9, 1988 in the *Federal Register* at 53 FR 16522-16527 and on May 24, 1988 in the *Official Gazette* at 1090 O.G. 57-62.

An oral hearing was conducted on July 21, 1988 to receive comments.

Written comments were received from 5 patent law groups, 2 patent law firms and 6 individuals. One person also presented oral testimony.

No comments were received relating to the proposed amendment of §§ 1.4, 1.5(b), 1.53(d), 1.56, 1.81, 1.84 (j) and (l), 1.152, 1.378, 1.421 and 1.480.

The comments received relating to amendments to particular sections and replies thereto are listed below.

Comments Relating to Section 1.5(a)

Comment. Six comments indicated that they considered the punishment of returning papers with improper identification as too harsh a penalty, since such return could result in the necessity of paying extension of time fees or revival of an abandoned application.

Reply. The return of papers with improper identification is not intended to serve as punishment or a penalty, but as a solution to a major problem. In fact, most of the improperly identified papers are not ones for which a time period is running, e.g., priority papers, information disclosure statements, status inquiries, etc. The Patent and

Trademark Office's (PTO) goal is to match papers with the appropriate application as quickly as possible. The practice of the PTO has been to attempt to match papers with the correct application by using the Patent Application Locating and Monitoring (PALM) System to conduct a search by applicant's name. Such a search is very slow and merely lists all application numbers under the name of the inventor. These application numbers must then be individually checked to attempt to match any other identifying information found on the paper. If this process is unsuccessful, attempts are made to reach the sender by telephone. Telephone calls usually require further followup since the paper cannot usually be identified immediately. Frequently, the serial number is not even available to the sender since application-related papers are being sent to the PTO before notification of serial number has been received. For papers not successfully matched after these attempts, the process of using PALM and making telephone calls is repeated days and weeks later. Despite the considerable effort and resources applied to matching papers, there are still thousands of unmatched papers. Undoubtedly, many were followed up by status inquiries or complaint letters from the senders, subsequent PTO searches for missing papers, and resubmissions by senders, some with petitions or extension of time fees. This waste of resources by both the PTO and the applicants is a major concern. Since the goal is to match papers as quickly and efficiently as possible, and not to institute a harsh penalty, the final rule was modified. Papers which are not properly identified will be returned, but if they are resubmitted to the PTO within two weeks of the date they are returned by the PTO, the original date of receipt will be retained without the need for paying fees for extension of time or revival of an abandoned application. Where no return address is available, the papers will be retained for a reasonable period of time to await any followup correspondence. If no followup correspondence is received within a reasonable period of time, the papers will be destroyed.

Comment. Three comments included the proposal that the filing date and serial number be accepted as meeting the requirements of § 1.5(a).

Reply. This proposal has been adopted in the final rule.

Comment. One comment proposed that implementation of the proposal be delayed for one year to provide

sufficient time to allow applicants to adapt to the requirements.

Reply. The requirements are believed to be quite simple and are already met by almost all papers filed in the PTO. Therefore, an extended period of time to adapt is not seen to be necessary or appropriate.

Comment. Two comments suggested that a procedure be developed under which an applicant could resubmit a corrected returned paper with fee in a timely manner, and receive the benefit of the date of the original submission as its filing date.

Reply. The substance of this suggestion has been adopted in final § 1.5(a), but without the charge of a fee. The final rule provides resubmission of a returned paper with proper identification within two weeks of the PTO mailing date of the letter returning the paper to the sender to resubmit the paper and retain the benefit of the filing date of the original submission. If desired, the resubmission could be mailed under the certificate of mailing procedure of § 1.8 or the "Express Mail" procedure of § 1.10.

Comment. Three comments suggested that a form or notice be sent, with a time limit set for return of appropriate identification with minimal fee or surcharge.

Reply. The proposal would require the PTO to retain the unmatched papers in some kind of order, probably alphabetically by inventor name and/or by receipt date, so that responses could be matched. A double matching of all papers would be necessary. The responses with the appropriate identification would have to be matched to the original papers submitted, then these would have to be matched with the applications. If responses with appropriate identification did not reference the fact that a notice had been sent, they may not be associated with the original, again resulting in more unmatched papers. Accordingly, the proposal was not adopted.

Comment. One comment indicated that including the word "must" with respect to providing the serial number and series code is too severe a requirement.

Reply. The current rules in 37 CFR 1.5 state such identification "should" be on application-related papers. This term has apparently been too permissive and has contributed to the problem. The use of "must" is believed to be sufficiently strong to aid in resolving the problem.

Comment. One comment included the proposal that a wrong serial number be considered as a defective execution

under 35 U.S.C. 26 which could be corrected without loss of filing date.

Reply. The legislative history of 35 U.S.C. 26 is quite clear that the intent of the section was to remedy problems only in the execution of oaths and declarations.

Comment. Two comments questioned the meaning of "series code."

Reply. The series code is the two digit number preceding the serial number on the application filing receipt. A new series code is assigned each time a new series of six digit serial numbers is begun. The current series code is "07". It appears before the serial number, for example 07/123,456. An illustrative example is also included in the final rule.

Comment. One comment included the proposal that a more appropriate name for the combination of series code and serial number would be "application number."

Reply. This proposal has been adopted in the final rule.

Comment. One comment raised the question as to whether correspondence relating to a patent application should contain both the heading "PATENT" as suggested in the helpful hints and "PATENT APPLICATION" as called for in 1.5(a).

Reply. Only "PATENT APPLICATION" should be used on patent application correspondence. This should be placed in an obvious location on the top page.

Comment. One comment noted that the return post card only contains the serial number and not the series code.

Reply. The PTO plans to begin identifying an eight-digit application number on return post cards. The series code will be the first two digits, followed by a slant "/" and the six digit serial number. Although the series code has not been stamped along with the serial number on the return post card used by many applicants, the series code changes only once about every 7 or 8 years when a new set of serial numbers is begun with 000,001. Therefore, until the eight-digit application number is stamped on return post cards, the current series code "07" can be used along with the serial number currently stamped on the post card.

Comment. Three comments suggested that the rules provide that a paper without proper identification be returned only if the PTO found it impossible to match the paper to a particular application file.

Reply. Attempts to match improperly identified papers with a particular application file is very time consuming

and experience has shown that the benefits of such time consuming effort are not worth the effort expended.

Comment. One comment questioned the meaning of "such information" in the second sentence of § 1.5(a).

Reply. "Such information" means the items referred to in the first sentence, namely, the series code and serial number, serial number and filing date, or international application number.

Comment. One comment indicated that the PTO may not return a paper in a timely manner.

Reply. Although no assurance can be given as to the prompt return of all improperly identified papers, such papers will be returned in most instances from the PTO Mail Room within one day of the opening of the envelopes containing the papers and discovery of incomplete identification. Also, the time for resubmission of a returned paper is calculated from the PTO mailing date so that no injury would result from a prompt resubmission.

Comment. One comment indicated that if the filing receipt is delayed or lost, it would preclude timely status inquiries or cause delays in preliminary matters such as a request for a foreign filing license.

Reply. A self-addressed return post card, with proper postage, can be used to obtain early notification of the application number.

Comments Relating to Section 1.53

Comment. One comment pointed out inconsistent wording between proposed § 1.53 and the explanatory comments in the notice of proposed rulemaking.

Reply. The apparent inconsistency has been corrected.

Comments Relating to Sections 1.71 and 1.84(o)

Comment. One comment raised a question whether the PTO should make a comment as to the legal sufficiency of a copyright notice mentioned in § 1.71 since the PTO does not administer the copyright law.

Reply. An indication of what is considered to be legally sufficient copyright notice was included to assist applicants who may not be familiar with the copyright law.

Comments Relating to Section 1.84(a)

Comment. Five comments were received objecting to the prohibition of photolithographs as drawings.

Reply. The final rule does not prohibit photolithographs as drawings.

Comments Relating to Section 1.84(b)

Comment. Three comments were received relating to drawing sheet sizes. One comment favored using only the A4 size and the other two comments favored using letter size (8½ by 11 inches).

Reply. Since applicants have three different size sheets which may be used as they choose, no need is currently seen to make a single size mandatory. The use of letter size drawing sheets requires further study and if acceptable, will be proposed for public comments in the future.

Comments Relating to Section 1.84(i)

Comment. One comment included the suggestion that clarifying language changes be made in § 1.84(i).

Reply. The comment relating to the wording of the last sentence of § 1.84(i) has been adopted.

Comments Relating to Section 1.84(n)

Comment. One comment supported the change to § 1.84(n).

Comments Relating to Section 1.84(p)

Comment. Two comments relating to color drawings in utility applications were received. One comment proposed that the applicant be permitted to file color drawings at his or her choice but that the patent be printed in black and white only with copies of the color drawings being available at extra cost. The other comment related to the patent examiner having the discretion to accept color drawings rather than requiring a petition to be filed.

Reply. In the past only a very few applications have shown a need to include drawings in color. Until more experience is gained, it is considered best to allow color drawings in limited situations and approval to remain in a central location by petition.

Comment. One comment stated that it is not proper to charge a higher fee where color drawings are required.

Reply. Color drawings are considered to be beyond the normal requirements set forth in the rules and therefore require a waiver of the rules for acceptance.

Comments Relating to Section 1.85(a)

Comment. One comment was received suggesting that "may" be changed to "shall" in § 1.85(a).

Reply. The PTO is currently very liberal in accepting informal drawings and no need is seen for making the proposed change.

Comments Relating to Section 1.85(b) and (c)

Comment. One comment proposed allowing drawings filed in the PTO to be withdrawn to make minor changes.

Reply. The problems relating to charging out drawings would remain if drawings are allowed to be removed from the PTO for any reason. A major purpose of the rule change is to remove the necessity to have a drawing charge-out system in the PTO in the future.

Comment. One comment asked whether § 1.85(b) would be construed to deny access to a PTO drawing for making a copy.

Reply. Applicants and their representatives will continue to have access to their files and obtain copies of drawings.

Comment. One comment proposed adding another sentence to § 1.85(c) to clarify that an extension of time is available under § 1.136 for filing of formal drawings but not for payment of the issue fee.

Reply. This proposal has been adopted with somewhat different wording.

Comment. One comment indicated that the three month period for submitting corrections should be measured from the "notice of allowability" rather than the "notice of allowance."

Reply. This proposal has been adopted in the final rule.

Discussion of Specific Rules

Section 1.4, as amended, corrects the listing of rules in paragraph (a)(2).

Section 1.5, as amended, provides that all correspondence related to a U.S. national patent application already filed with the Patent and Trademark Office must include the identification of the application number which comprises both the series code and the serial number assigned to that application by the Patent and Trademark Office (e.g., 07/123,456), or the serial number and filing date. Any correspondence not containing such identification will be returned to the sender where a return address is available. The final rule has been revised to provide that if the correspondence is remailed to the PTO within two weeks of the mailing date of the PTO's cover letter returning the correspondence, the PTO will grant the benefit of the original date of receipt of the returned correspondence. The two-week period will not be extended under § 1.136. Applicants may use either § 1.8 or § 1.10 mailing procedures for resubmissions of returned correspondence. No correspondence

relating to an application should be filed prior to when notification of the application number is received from the PTO. If for some reason returned correspondence is resubmitted later than two weeks after the return mailing by the PTO, the resubmitted correspondence will be accepted but given its date of receipt with proper identification. If the original date of receipt is desired, applicants may petition under § 1.183 for waiver of the rules. Given there are over 30,000 documents to be routed each day, this requirement greatly facilitates the matching of correspondence received with the relevant patent application file. Without proper number identification, documents are either significantly delayed during processing or are never matched with the relevant application file. The amendments to paragraph (b) draw attention to the different requirements for identification in correspondence relating to the payment of maintenance fees.

Section 1.53 (c) and (d), as amended, state that a copy of the "Notice of Incomplete Application" or "Notice to File Missing Part" form sent to the applicant by the Office should accompany any response submitted to the Office in order for the response to be accepted. This will prevent the inadvertent assignment of a new application number to correspondence sent in response to such notices or the misrouting of the correspondence.

Section 1.56(e), as amended, corrects the reference to the "Board of Appeals" to read "Board of Patent Appeals and Interferences."

Section 1.71, as amended, contains new paragraphs (d) and (e) relating to the inclusion of copyright and mask work notices in patent applications. The provisions proposed are similar to those set forth in the Official Gazette notice dated March 20, 1987 titled "Inclusion of Copyright or Mask Work Notice in Patents" appearing on April 21, 1987 at 1077 O.G. 22. Under current intellectual property laws, it is possible to obtain copyright protection or mask work protection as well as patent protection for certain designs and technologies. On occasion, an author or inventor considers it desirable to include a notice of copyright or mask work in a design or utility patent which discloses material on which copyright or mask work protection previously has been established.

The inclusion of a copyright or mask work notice in a patent that discloses material on which copyright or mask work protection previously has been established, will serve to publicize and thereby protect the various intellectual

property rights of the author or inventor. Further, this publication would tend to protect the public by militating against an unintentional encroachment of the rights. The presence of an unrestricted copyright or mask work notice in a patent could have an inhibiting effect on public dissemination of the patent disclosure to the extent it discourages the facsimile reproduction of the patent. The possible effect would be contrary to the mission of the Patent and Trademark Office to disseminate knowledge and information publicly by way of patent issuance, publication, and distribution. To avoid this effect, it is considered necessary to include an appropriate authorization by the author or inventor for copying of the patent itself with any copyright or mask work notice appearing in the patent. Inclusion of a copyright or mask work notice after a Notice of Allowance has been mailed will be permitted only if the criteria of 37 CFR 1.312 have been fulfilled. If the authorization required by amended § 1.71(e) is not included, the notice will be objected to as improper by the examiner. If the examiner maintains the objection upon reconsideration, further review must be by way of a petition filed in accordance with 37 CFR 1.181.

Section 1.81, as amended, clarifies that high quality copies of drawings should be submitted in patent applications. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for future correction, if necessary.

Section 1.84(a), as amended, eliminates reference to two-ply or three-ply bristol board. Amended paragraph (a) also adds a reference to § 1.84(p) relating to color drawings in utility patent applications.

Only one copy of the drawing is required or desired. The Office had attempted to encourage the submission of three copies, but compliance was very low. It was determined that it is more efficient for the Office to rely on consistency and only one copy. Accordingly, hereafter only one copy of the drawings should be submitted.

The Patent and Trademark Office will no longer release to applicants, bonded drafting companies, or others, drawings from patent applications filed after the effective date of these rule changes. See amended § 1.85(b). If corrections to the drawings are necessary, new corrected drawings must be prepared by the applicant and filed in the Patent and Trademark Office. Therefore, the applicant, attorney or agent should retain the original drawing so that a corrected original drawing or corrected

copy may be later submitted if necessary.

The Office will continue to allow applicants to borrow drawings for correction which have been filed prior to the effective date of these rule changes.

Section 1.84(b), as amended, provides for applicants using drawing sheets which are 8½ by 13 inches in size.

Section 1.84(i), as amended, contains grammatical corrections in the text of the rules and clarifies Office drawing requirements as to exploded views, enlarged views and views which require several sheets.

Section 1.84(j), as amended, clarifies how views should be arranged when they are placed sideways on the drawing sheet.

Section 1.84(l), as amended, indicates that drawings may be identified by lightly writing identifying information in the top margin on the drawings. For identification by application number, the Office prefers that the information be placed on the front of the drawing. When the applicant forwards drawings separate from the original application papers, a cover letter identifying the application by application number should accompany the drawings. The application number should also be placed on drawings filed after the application number has been indicated in correspondence to the applicant, in accordance with § 1.84(l).

Section 1.84(n) is added and permits numbering of the drawing sheets. However, such numbering would not appear on the drawings of the printed patent.

Section 1.84(o) is added and provides for the indication of copyright or mask work protection notice on patent application drawings. This procedure is the same as that established by the Official Gazette notice dated March 20, 1987 published on April 21, 1987 at 1077 O.G. 22.

Section 1.84(p) is added and provides in the rules for the filing of color drawings in a very limited number of utility patent applications. An Official Gazette notice relating to this topic dated August 6, 1986, titled "Use of Color Drawings in Utility Patents" was published on September 15, 1987 at 1082 O.G. 25. In light of the substantial administrative and economic burden associated with printing a utility patent with color drawings, the letters patent and the patent copies which are printed at the issuance of the patent will be only in black and white. However, copies of the patent with the color drawings may be purchased separately from the Patent and Trademark Office upon special request and payment of the fee.

It is anticipated that color drawings will only be permitted when color drawings are the only practical method in a utility patent application in which to disclose the subject matter sought to be patented. In order to avoid issues of lack of description or enablement under 35 U.S.C. 112 or new matter under 35 U.S.C. 132, applicants are advised to file the desired color drawings as part of the original application papers. The petition should be directed to the attention of the Deputy Assistant Commissioner for Patents.

Section 1.85, as amended, indicates that drawings not complying with § 1.84 will be accepted in some instances for purposes of examination and that drawings which do comply with all the rules relating to drawings will be required later, and that no corrections will be permitted to drawings filed in the Patent and Trademark Office after the effective date of the rule change.

When corrected drawings are required to be submitted at the time of allowance, the applicant is required to submit *acceptable* drawings within three months from the mailing of the "Notice of Allowability." Within that three-month period, two weeks should be allowed for review of the drawings by the Drafting Branch. If the Office finds that further correction is necessary, the applicant must submit a new corrected drawing to the Office within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, the applicant should file corrected drawings as soon as possible following the receipt of the Notice of Allowability.

Section 85(b) provides that the Patent and Trademark Office will not release drawings filed in applications having a filing date after January 1, 1989 for purposes of correction. Also, in order to give sufficient notice to applicants, allow most patent applications currently on file to be processed, and set a time at which the PTO need no longer provide a system for borrowing of any drawings, § 1.85(b) provides that after January 1, 1991 no drawings may be borrowed from the PTO for the purpose of making drawing corrections.

Section 1.152, as amended, permits broken lines on drawings to show visible environmental structure but not hidden planes and surfaces in design patent application drawings.

Section 1.378, as amended, conforms with section 404 of Public Law 98-622 which states:

(a) Notwithstanding section 41(c) of title 35, United States Code, as in effect before the enactment of Public Law 97-247 (96 Stat. 317), the Commissioner of Patents and Trademarks

may accept after the six-month grace period referred to in such section 41(c), the payment of any maintenance fee due on any patent based on an application filed in the Patent and Trademark Office on or after December 12, 1980, and before August 27, 1982, to the same extent as in the case of patents based on applications filed in the Patent and Trademark Office on or after August 27, 1982.

The amended rule wording includes reference to maintenance fees due on patents based on applications filed in the Patent and Trademark Office on or after December 12, 1980 and before August 27, 1982.

Section 1.421(f), as amended, deletes reference to a canceled PCT Rule and adds reference to the current PCT Rule provisions.

Section 1.480(d), as amended, provides for a refund of a portion of the international preliminary examination fee where the applicant withdraws the demand before the examiner has begun the international preliminary examination. An amount equal to the transmittal fee would be retained by the Patent and Trademark Office to cover the administrative cost involved.

Environmental, Energy, and Other Considerations

The rule change does not have a significant impact on the quality of the human environment or conservation of energy resources.

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354), Executive Orders 12291 and 12612, and the Paperwork Act of 1980, 44 U.S.C. 3501 *et seq.*

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96-354) because the rule change corrects some rules so that they correspond to earlier changes, relate to identification of applications on correspondence, allow greater flexibility in patent drawing content and handling, and provide for a refund where a proper demand for international preliminary examination has been filed but withdrawn later.

The Patent and Trademark Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than \$100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions. There will be no significant adverse effects on

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

The Patent and Trademark Office has also determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

The rule change involves collection of information requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and are cleared under OMB Control No. 0651-0011.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Courts, Inventions and patents, Lawyers.

Notice is hereby given that pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 41, the Patent and Trademark Office is amending Title 37 of the Code of Federal Regulations as set forth below.

37 CFR Part 1, is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR Part 1 continues to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.4 is amended by revising paragraph (a)(2) to read as follows:

§ 1.4 Nature of correspondence.

(a) * * *

(2) Correspondence in and relating to a particular application or other proceeding in the Office. See particularly the rules relating to the filing, processing, or other proceedings of national applications in Subpart B, §§ 1.31 to 1.378; of international applications in Subpart C, §§ 1.401 to 1.499; of reexamination of patents in Subpart D, §§ 1.501 to 1.570; of interferences in Subpart E, §§ 1.601 to 1.690; of extension of patent term in Subpart F, §§ 1.710 to 1.785; and of trademark applications §§ 2.11 to 2.189.

* * *

3. Section 1.5 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1.5 Identification of application, patent or registration.

(a) No correspondence relating to an application should be filed prior to when notification of the application number is

received from the Patent and Trademark Office. When a letter directed to the Patent and Trademark Office concerns a previously filed application for a patent, it must identify on the top page in a conspicuous location, the application number (consisting of the series code and the serial number, e.g., 07/123,456), or the serial number and filing date assigned to that application by the Patent and Trademark Office, or the international application number of the international application. Any correspondence not containing such identification will be returned to the sender where a return address is available. The returned correspondence will be accompanied with a cover letter which will indicate to the sender that if the returned correspondence is resubmitted to the Patent and Trademark Office within two weeks of the mail date on the cover letter, the original date of receipt of the correspondence will be considered by the Patent and Trademark Office as the date of receipt of the correspondence. Applicants may use either the certificate of mailing procedure under § 1.8 or the Express Mail procedure under § 1.10 for resubmissions of returned correspondence if they desire to have the benefit of the date of deposit in the United States Postal Service. If the returned correspondence is not resubmitted within the two-week period, the date of receipt of resubmission will be considered to be the date of receipt of the correspondence. The two-week period to resubmit the returned correspondence will not be extended. If for some reason returned correspondence is resubmitted with proper identification later than two weeks after the return mailing by the Patent and Trademark Office, the resubmitted correspondence will be accepted but given its date of receipt. In addition to the application number, all letters directed to the Patent and Trademark Office concerning applications for patent should also state "PATENT APPLICATION," the name of the applicant, the title of the invention, the date of filing the same, and if known, the group art unit or other unit within the Patent and Trademark Office responsible for considering the letter and the name of the examiner or other person to which it has been assigned.

(b) When the letter concerns a patent other than for purposes of paying a maintenance fee, it should state the number and date of issue of the patent, the name of the patentee, and the title of the invention. For letters concerning

payment of a maintenance fee in a patent, see the provisions of § 1.366(c).

4. Section 1.53 is amended by revising paragraphs (c) and (d) to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

(c) If any application is filed without the specification or drawing required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification or drawing in order to obtain a filing date as of the date of filing of such submission. A copy of the "Notice of Incomplete Application" form notifying the applicant should accompany any response thereto submitted to the Office. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less a \$15.00 handling fee.

(d) If an application which has been accorded a filing date pursuant to paragraph (b) of this section does not include the appropriate filing fee or an oath or declaration by the applicant, applicant will be so notified, if a correspondence address has been provided and given a period of time within which to file the fee, oath, or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application. A copy of the "Notice to File Missing Parts" form mailed to applicant should accompany any response thereto submitted to the Office. If the required filing fee is not timely paid, or if the processing and retention fee set forth in § 1.21(l) is not paid within one year of the date of mailing of the notification required by this paragraph, the application will be disposed of. No copies will be provided or certified by the Office of an application which has been disposed of or in which neither the required basic filing fee nor the processing and retention fee has been paid. The notification pursuant to this paragraph may be made simultaneously with any notification pursuant to paragraph (c) of this section. If no correspondence address is included in the application, applicant has two months from the filing date to file the basic filing fee, oath or declaration and to pay the surcharge as set forth in § 1.16(e) in order to prevent abandonment of the application; or, if no basic filing fee has been paid, one year from the filing date to pay the processing and retention fee set forth in

§ 1.21(l) to prevent disposal of the application.

5. Section 1.56 is amended by revising paragraph (e) to read as follows:

§ 1.56 Duty of disclosure; fraud; striking or rejection of applications.

(e) The examination of an application for compliance with paragraph (d) of this section will normally be delayed until such time as:

(1) All other matters are resolved, or
(2) Appellant's reply brief pursuant to § 1.93(b) has been received and the application is otherwise prepared for consideration by the Board of Patent Appeals and Interferences, at which time the appeal will be suspended for examination pursuant to paragraph (d) of this section.

The prosecution of the application will be reopened to the extent necessary to conduct the examination pursuant to paragraph (d) of this section including any appeal pursuant to § 1.191. If an appeal has already been filed based on a rejection on other grounds, any further rejection under this section shall be treated in accordance with § 1.93(e).

6. Section 1.71 is amended by adding new paragraphs (d) and (e) to read as follows:

§ 1.71 Detailed description and specification of the invention.

(d) A copyright or mask work notice may be placed in a design or utility patent application adjacent to copyright and mask work material contained therein. The notice may appear at any appropriate portion of the patent application disclosure. For notices in drawings, see § 1.84(o). The content of the notice must be limited to only those elements required by law. For example, "©1983 John Doe" (17 U.S.C. 401) and "M* John Doe" (17 U.S.C. 909) would be properly limited and, under current statutes, legally sufficient notices of copyright and mask work, respectively. Inclusion of a copyright or mask work notice will be permitted only if the authorization language set forth in paragraph (e) of this section is included at the beginning (preferably as the first paragraph) of the specification.

(e) The authorization shall read as follows:

A portion of the disclosure of this patent document contains material which is subject to (copyright or mask work) protection. The (copyright or mask work) owner has no objection to the facsimile reproduction by anyone of the patent document or the patent disclosure, as it appears in the Patent and Trademark Office patent file or records, but

otherwise reserves all (copyright or mask work) rights whatsoever.

7. Section 1.81 is amended by revising the title and paragraph (a) to read as follows:

§ 1.81 Drawings required in patent application.

(a) The applicant for a patent is required to furnish a drawing of his or her invention where necessary for the understanding of the subject matter sought to be patented; this drawing, or a high quality copy thereof, must be filed with the application. Since corrections are the responsibility of the applicant, the original drawing(s) should be retained by the applicant for any necessary future correction.

8. Section 1.84 is amended by revising paragraphs (a), (b) introductory text, (i), (j) and (l) redesignating and revising (b)(2) as (b)(3), and by adding new paragraphs (b)(2), (n), (o), and (p), to read as follows:

§ 1.84 Standards for drawings.

(a) *Paper and ink.* Drawings or high quality copies thereof which are submitted to the Office must be made upon paper which is flexible, strong, white, smooth, non-shiny and durable. India ink, or its equivalent in quality, is preferred for pen drawings to secure perfectly black solid lines. The use of white pigment to cover lines is not normally acceptable. See paragraph (p) of this section for use of color drawings in utility patent applications.

(b) *Size of sheet and margins.* The size of the sheets on which drawings are made may be exactly 8½ by 14 inches (21.6 by 35.6 cm.), exactly 8½ by 13 inches (21.6 by 33.1 cm.), or exactly 21.0 by 29.7 cm. (DIN size A4). All drawing sheets in a particular application must be the same size. One of the shorter sides of the sheet is regarded as its top.

(2) On 8½ by 13 inch drawing sheets, the drawing must include a top margin of 1 inch (2.5 cm.) and bottom and side margins of ¼ inch (6.4 mm.) from the edges, thereby leaving a "sight" precisely 8 by 11¼ inches (20.3 by 29.8 cm.). Margin border lines are not permitted. All work must be included within the "sight." The sheets may be provided with two ¼ inch (6.4 mm.) diameter holes having their centerlines spaced 11½ inches (29.2 mm.) below the top edge and 2¼ inches (7.0 cm.) apart, said holes being equally spaced from the respective side edges.

(3) On 21.0 by 29.7 cm. drawing sheets, the drawing must include a top margin of at least 2.5 cm., a left side margin of 2.5 cm., a right side margin of 1.5 cm.,

and a bottom margin of 1.0 cm. Margin border lines are not permitted. All work must be contained within a sight size not to exceed 17 by 26.2 cm.

(i) *Views.* The drawing must contain as many figures as may be necessary to show the invention; the figures should be consecutively numbered if possible in the order in which they appear. The figures may be plan, elevation, section, or perspective views, and detail views of portions or elements, on a larger scale if necessary, may also be used. Exploded view, with the separated parts of the same figure embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets. When necessary, a view of a large machine or device in its entirety may be broken and extended over several sheets if there is no loss in facility of understanding the view. Where figures on two or more sheets form in effect a single complete figure, the figures on the several sheets should be so arranged that the complete figure can be understood by laying the drawing sheets adjacent to one another. The figures, even though on separate sheets, should be labeled as separate figures, for example as Fig. 1a, Fig. 1b, etc., so that it would be apparent that the views actually comprise one figure. The arrangement should be such that no part of any of the figures appearing on the various sheets is concealed and that the complete figure can be understood even though spaces will occur in the complete figure because of the margins on the drawing sheets. The plane upon which a sectional view is taken should be indicated on the general view by a broken line, the ends of which should be designated by numerals corresponding to the figure number of the sectional view and have arrows applied to indicate the direction in which the view is taken. A moved position may be shown by a broken line superimposed upon a suitable figure if this can be done without crowding, otherwise a separate figure must be used for this purpose. Modified forms of construction can only be shown in separate figures. Views should not be connected by projection lines nor should centerlines be used. When a portion of a figure is enlarged for magnification purposes, the figure and the enlarged figure must be labeled as separate figures.

(j) *Arrangement of views.* All views on the same sheet should stand in the same direction and, if possible, stand so

that they can be read with the sheet held in an upright position. If views longer than the width of the sheet are necessary for the clearest illustration of the invention, the sheet may be turned on its side so that the top of the sheet with the appropriate top margin to be used as the heading space is on the right-hand side. One figure must not be placed upon another or within the outline of another.

(l) *Identification of drawings.* Identifying indicia (such as the application number, group art unit, title of the invention, attorney's docket number, inventor's name, number of sheets, etc.) not to exceed 2¼ inches (7.0 cm.) in width may be placed in a centered location between the side edges within three-fourths inch (19.1 mm.) of the top edge. Either this marking technique on the front of the drawing or the placement, although not preferred, of this information and the title of the invention on the back of the drawings is acceptable. Authorized security markings may be placed on the drawings provided they are outside the illustrations and are removed when the material is declassified. Other extraneous matter will not be permitted upon the face of a drawing.

(n) *Numbering of drawing sheets.* The drawing sheets may be numbered in consecutive arabic numbers at the top of the sheets, in the middle, but not in the margin. Such numbering will be deleted for printing purposes since page numbers are added at the time of printing the patent by the Office.

(o) *Copyright of Mask Work Notice.* A copyright or mask work notice may appear in the drawing but must be placed within the "sight" of the drawing immediately below the figure representing the copyright or mask work material and be limited to letters having a print size of ⅛ to ¼ inches (3.2 to 6.4 mm.) high. The content of the notice must be limited to only those elements required by law. For example, "©1983 John Doe" (17 U.S.C. 401) and "M* John Doe" (17 U.S.C. 909) would be properly limited and, under current statutes, legally sufficient notices of copyright and mask work, respectively. Inclusion of a copyright or mask work notice will be permitted only if the authorization language set forth in § 1.71(e) is included at the beginning (preferably as the first paragraph) of the specification.

(p) *Limited use of color drawings in utility patent applications.* Paragraph (a) of this section requires that drawings in utility patent applications must be in

black on white paper. However, on rare occasion, color drawings may be necessary as the only practical medium by which to disclose the subject matter sought to be patented in a utility patent application. The Patent and Trademark Office will accept color drawings in utility patent applications only after granting of a petition by the applicant under § 1.183 of this part which requests waiver of the requirements of paragraph (a) of this section. Any such petition should be directed to the Office of the Deputy Assistant Commissioner for Patents and must include the following:

(1) The appropriate fee set forth in § 1.17(h).

(2) Five (5) sets of color drawings on DIN size A4 (21.0 by 29.7 cm.) sheets.

(3) As proposed amendment to insert in the specification the following language as the first paragraph in the portion of the specification relating to the brief description of the drawing:

The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.

9. Section 1.85 is revised to read as follows:

§ 1.85 Corrections to drawings.

(a) The requirements of § 1.84 relating to drawings will be strictly enforced. A drawing not executed in conformity thereto, if suitable for reproduction, may be admitted for examination but in such case a new drawing must be furnished.

(b) The Patent and Trademark Office will not release drawings in applications having a filing date after January 1, 1989, or any drawings from any applications after January 1, 1991, for purposes of correction. If corrections are necessary, new corrected drawings must be submitted within the time set by the Office.

(c) When corrected drawings are required to be submitted at the time of allowance, the applicant is required to submit acceptable drawings within three months from the mailing of the "Notice of Allowability." Within that three-month period, two weeks should be allowed for review of the drawings by the Drafting Branch. If the Office finds that correction is necessary, the applicant must submit a new corrected drawing to the Office within the original three-month period to avoid the necessity of obtaining an extension of time and paying the extension fee. Therefore, the applicant should file corrected drawings as soon as possible following the receipt of the Notice of Allowability. The provisions with respect to obtaining an extension of time relates only to the late filing of corrected

drawings. The time limit for payment of the issue fee is a fixed three-month period which cannot be extended as set forth in 35 U.S.C. 151.

10. Section 1.152 is revised to read as follows:

§ 1.152 Drawing.

The design must be represented by a drawing made in conformity with the rules laid down for drawings of mechanical inventions and must contain a sufficient number of views to constitute a complete disclosure of the appearance of the article. Appropriate surface shading must be used to show the character or contour of the surfaces represented. Broken lines may be used to show visible environmental structure, but may not be used to show hidden planes and surfaces which cannot be seen through opaque materials.

11. Section 1.378 is amended by revising paragraphs (b)(1) and (c)(1) to read as follows:

§ 1.378 Acceptance of delayed payment of maintenance fee in expired patent to reinstate patent.

(b) * * *

(1) The required maintenance fee set forth in § 1.20 (e) through (j),

(c) * * *

(1) The required maintenance fee set forth in § 1.20 (e) through (j),

12. Section 1.421 is amended by revising paragraph (f) and adding a new paragraph (g) to read as follows:

§ 1.421 Applicant for international application.

(f) Changes in the person, name, or address of the applicant of an international application shall be made in accordance with PCT Rule 92bis.

(g) The wording of PCT Rule 92bis is as follows:

PCT Rule 92bis—Recording of Changes in Certain Indications in the Request or the Demand

92bis Recording of Changes by the International Bureau

(a) The International Bureau shall, on the request of the applicant or the receiving Office, record changes in the following indications appearing in the request or demand:

(i) person name, residence, nationality or address of the applicant,

(ii) person, name or address of the agent, the common representative or the inventor.

(b) The International Bureau shall not record the requested change if the request for recording is received by it after the expiration:

(i) Of the time limit referred to in Article 22(1), where Article 39(1) is not applicable with respect to any Contracting State;

(ii) Of the time limit referred to in Article 39(1)(a), where Article 39(1) is applicable with respect to at least one Contracting State.

13. Section 1.480 is amended by revising paragraph (d) to read as follows:

§ 1.480 Demand for international preliminary examination.

(d) Withdrawal of a proper Demand prior to the start of the international preliminary examination will entitle applicant to a refund of the preliminary examination fee minus the amount of the transmittal fee set forth in § 1.445(a)(1).

Date: November 21, 1988.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

[FR Doc. 88-27248 Filed 11-25-88; 8:45am]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 8E3670/R995; FRL-3482-4]

Menthol; Exemptions From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes an exemption from the requirement of a tolerance for residues of the pesticide chemical menthol in or on beeswax and honey. This rule, which eliminates the need to establish a maximum permissible level for residues of menthol in or on the commodities, was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: November 28, 1988.

ADDRESS: Written objections, identified by the document control number [PP 8E3670/R995], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716,

CM # 2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the *Federal Register* of October 25, 1988 (53 FR 42981), in which it was announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 8E3670 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of California, Indiana, Mississippi, and New Jersey and the United States Department of Agriculture.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of exemptions from the requirement of a tolerance for menthol, 1-menthol or [5-methyl-2-(1-methylethyl)-cyclohexanol], in or on beeswax and honey when used in overwintering bee hives.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the exemption from the requirement of a tolerance will protect the public health. Therefore, the exemption is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the *Federal Register*, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in

the *Federal Register* of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 14, 1988.

Douglas D. Camp, Jr.

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. New § 180.1092 is added to Subpart D, to read as follows:

§ 180.1092 Menthol; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of the pesticidal chemical menthol in or on beeswax and honey when used in accordance with good agricultural practice in overwintering bee hives.

[FR Doc. 88-27322 Filed 11-25-88; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 8E3625/R994; FRL-3482-8]

Pesticide Tolerances for Permethrin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide permethrin and the sum total of its metabolites DCVA and 3-PBA in or on the raw agricultural commodity crop group cucurbit vegetables. The Interregional Research Project No. 4 (IR-4) petitioned for this tolerance.

EFFECTIVE DATE: November 28, 1988.

ADDRESS: Written objections, identified by the document control number, [PP 8E3625/R994], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the *Federal Register* of October 5, 1988 (53 FR 39109), in which it was announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 8E3625 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Stations of Arkansas, California, Florida, Hawaii, Oklahoma, and Puerto Rico and the United States Department of Agriculture.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the insecticide permethrin [(3-phenoxyphenyl)methyl-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylate] and the sum of its metabolites 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and (3-phenoxyphenyl)methanol (3-PBA) in or on the raw agricultural commodity crop group cucurbit vegetables, as defined in 40 CFR 180.34(f)(9)(ix)(A), at 3.0 parts per million (ppm).

Tolerances are currently established for residues of the insecticide in or on the following raw agricultural commodities in the crop group cucurbit vegetables: Cantaloupes at 3.0 ppm and pumpkins at 2.0 ppm. With the establishment of the crop group tolerance, tolerances are established at a uniform level for residues of the insecticide at 3.0 ppm in or on cantaloupes and pumpkins and, additionally, in or on the remaining commodities within the crop group including balsam pear, Chinese waxgourds, citron melon, cucumber, edible gourds, melons (including hybrids and casaba, crenshaw, honeydew melons, honey balls, mango melon, muskmelon, and Persian melon), summer squash, winter squash, and watermelon (including hybrids).

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (48 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 14, 1988.

Douglas D. Camp, Jr.

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.378(b) is amended by deleting the entries for the commodities cantaloupes and pumpkins and adding and alphabetically inserting an entry for the raw agricultural commodity crop group cucurbit vegetables, to read as follows:

§ 180.378 Permethrin; tolerances for residues.

• • • • •

(b) • • •

Commodities	Parts per million
• • • • •	
Vegetables, cucurbit	3.0

[FR Doc. 88-27323 Filed 11-25-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA-6942]

Federal Insurance Administration; Changes in Flood Elevation Determinations; Louisiana

AGENCY: Federal Emergency Management Agency.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Administrator, reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations on the FIRM(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection.

Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made

pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-488)), 42 U.S.C. 4001-4128, and 44 CFR 65.4.

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

These elevations, together with the floodplain management measures required by 60.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

§ 65.4 [Amended]

2. Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Louisiana: St. Mary Parish ..	Town of Berwick.....	Nov. 18, 1988 and Nov. 25, 1988, <i>The Daily Review</i> .	The Honorable Everett S. Berry, Mayor of the Town of Berwick, P.O. Box 486, Berwick, LA 70342.	Nov. 3, 1988	220194B
Louisiana: Unincorporated areas.	St. Mary Parish.....	Nov. 18, 1988 and Nov. 25, 1988, <i>The Franklin Banner-Tribune</i> .	The Honorable Prescott Foster, President of the St. Mary Parish Council, 5th Floor Courthouse, Franklin, LA 70530.	do	220192B

Issued: November 18, 1988.

Harold T. Duryee,
Administrator, Federal Insurance
Administration.

[FR Doc. 88-27305 Filed 11-25-88; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 65

Federal Insurance Administration; Changes In Flood Elevation Determinations; New Jersey et al.

AGENCY: Federal Emergency
Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations will be used in calculating flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

DATES: The effective dates for these modified base flood elevations are indicated on the following table and amend the Flood Insurance Rate Map(s) (FIRM) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed on the following table.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management

Agency gives notice of the final determinations of modified flood elevations for each community listed. These modified elevations have been published in newspaper(s) of local circulation and ninety (90) days have elapsed since that publication. The Administration has resolved any appeals resulting from this notification.

Numerous changes made in the base (100-year) flood elevations on the FIRMs for each community make it administratively infeasible to publish in this notice all of the changes contained on the maps. However, this rule includes the address of the Chief Executive Officer of the community, where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65.

For rating purposes, the revised community number is shown and must be used for all new policies and renewals.

The modified base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program.

These modified elevations, together with the floodplain management measures required by 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community

must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State or regional entities.

These modified base flood elevations shall be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for second layer coverage on existing buildings and their contents.

The changes in the base flood elevations are in accordance with 44 CFR 65.4

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice of technical amendments made to designated special flood hazard areas on the basis of updated information and imposes no new requirements or regulations on participating communities

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains.

PART 65—[AMENDED]

1. The authority citation for Part 65 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

§ 65.4 [Amended]

Section 65.4 is amended by adding in alphabetical sequence new entries to the table.

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
New Jersey: Atlantic (FEMA Docket No. 6928).	City of Brigantine.....	June 16, 1988 and June 23, 1988, <i>The Press</i> .	The Honorable George McDermott, City Administrator for the City of Brigantine, 1417 West Brigantine Avenue, Brigantine, NJ 08203.	June 1, 1988.....	345286
Texas: Montgomery (FEMA Docket No. 6931).	Unincorporated areas.....	June 29, 1988 and July 6, 1988, <i>The Courier</i> .	The Honorable Alvin Stahl, Montgomery County Judge, 326½ N. Main, Conroe, Texas 77301.	June 17, 1988...	480483

State and county	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modification	Community No.
Vermont: Windsor (FEMA Docket No. 6931).	Town of Royalton.....	June 16, 1988 and June 23, 1988, <i>White River Valley Herald</i> .	The Honorable David I. Lyman, Chairman of the Town of Royalton Board of Selectmen, P.O. Box 680, South Royalton, VT 06068.	June 8, 1988.....	500153 B

Issued: November 18, 1988.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 88-27306 Filed 11-25-88; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

Federal Insurance Administration; Final Flood Elevation Determinations; Arizona, et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: Modified base (100-year) flood elevations are finalized for the communities listed below.

These modified elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing modified base flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below:

ADDRESSES: See table below:

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the final determinations of flood elevations for each community listed. Proposed base flood elevations or proposed modified base flood elevations have been published in the Federal Register for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 44 CFR Part 67. An opportunity for the community or individuals to appeal the proposed determination to or through the community for a period of ninety (90) days has been provided.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR Part 60.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies

for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been proposed. It does not involve any collection of information for purposes of The Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The modified base flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified.
Arizona.....	Cochise County (Unincorporated Areas) (FEMA Docket No. 6935).	San Pedro River in Vicinity of Palominas Miracle Valley.	Approximately 4,160 feet above confluence with Green Brush Wash Draw.	*4201
			At State Highway 92.....	*4220
			Approximately 16,800 feet above confluence with Green Brush Wash Draw.	*4232
		School House Wash.....	Approximately 680 feet above confluence with San Pedro River.	*4219
			At Palominas Road.....	*4245
			Approximately 8,080 feet above confluence with San Pedro River.	*4284
			Approximately 15,560 feet above confluence with San Pedro River.	*4365
		Stream J.....	At confluence with Stream K.....	*4462
			Approximately 3,520 feet above confluence with Stream K.	*4520
			At State Highway 92.....	*4596
			At confluence with Stream J Tributary.....	*4688
			At Fort Huachuca Military Reservation boundary Limit of Detailed Study.	*4741

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified.
		Stream J Tributary	At confluence with Stream J.....	*4688
			At Fort Huachuca Military Reservation.....	*4718
		North Fork of Unnamed Wash.....	At confluence with Unnamed Wash.....	*4498
			Approximately 1,050 feet above confluence with Unnamed Wash.	*4510
			Approximately 2,180 feet above confluence with Unnamed Wash.	*4526

Maps are available for review at the Cochise County Department of Public Works, Flood Control Division, Ledge Street, Bisbee, Arizona.

California	Ventura County (Unincorporated Areas) (FEMA Docket No. 6929).	Arroyo Santa Rosa	At confluence of Conejo Creek.....	*229
			Approximately 1,450 feet upstream of Hill Canyon Road.	*231
			Approximately 100 feet downstream of confluence with Arroyo Santa Rosa Tributary.	*248
			At confluence with Arroyo Santa Rosa Tributary.	*254
			Approximately 100 feet downstream of Santa Rosa Road.	*284
			Approximately 100 feet upstream of Santa Rosa Road.	*292
			Approximately 450 feet downstream of East Las Posas Road.	*314
			Approximately 250 feet upstream of East Las Posas Road.	*333
			Approximately 700 feet upstream of East Las Posas Road.	*340
		Arroyo Santa Rosa Overflow	Confluence with Arroyo Santa Rosa Tributary	*296
			Approximately 200 feet upstream of Santa Rosa Road.	*326
			Approximately 500 feet upstream of Santa Rosa Road.	*328
			At East Las Posas Road.....	*332
		Arroyo Santa Rosa Tributary.....	Approximately 2,100 feet upstream of confluence with Arroyo Santa Rosa.	*277
			At confluence with Arroyo Santa Rosa Overflow.	*296
			Approximately 1,050 feet upstream of confluence with Arroyo Santa Rosa Overflow.	*308
			Approximately 1,700 feet upstream of confluence with Arroyo Santa Rosa Overflow.	*312
		San Antonio Creek	Approximately 1,600 feet downstream of Fraser Street.	*423
			Approximately 1,100 feet downstream of Fraser Street.	*431
			Approximately 900 feet downstream of Fraser Street.	*433
			Approximately 600 feet downstream of Fraser Street.	*435

Maps are available for review at the Ventura County Public Works Agency, 800 South Victoria Avenue, Ventura, California.

Colorado.....	Colorado Springs (City), El Paso County (FEMA Docket No. 6929).	Pine Creek	At confluence with Pine Creek overflow	#1
			At Burns Road	#1
			At State Highway 83	#1
			Approximately 470 feet downstream of U.S. Air Force Academy boundary and corporate limits for the City of Colorado Springs.	*6440

Maps are available for review at Colorado Springs Planning Department, 30 South Nevada Street, Suite 301, Colorado Springs, Colorado.

Colorado.....	El Paso County (Unincorporated Areas) (FEMA Docket No. 6929).	Pine Creek	At confluence with Pine Creek overflow	#1
			At Burns Road	#1
			At State Highway 83	#1
			Approximately 470 feet downstream of U.S. Air Force Academy boundary and corporate limits for the City of Colorado Springs.	*6440

Maps are available for review at Regional Office Building, 101 West Costilla, Colorado Springs, Colorado.

Minnesota.....	Proctor (City), St. Louis County (FEMA Docket No. 6930).	Kingsbury Creek.....	Just upstream of Boundary Avenue.....	*1191
			Just upstream of Second Street.....	*1231
			Just downstream of Ugstad Road.....	*1244

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified.
-------	------------------	--------------------	----------	---

Maps available for inspection at the City Hall, 200 Second Street, Proctor, Minnesota.

Nevada	Carson City (City), (FEMA Docket No. 6929).	H-Tributary	Approximately 1,300 feet upstream of East 5th Street.	*4631
			Approximately 3,000 feet upstream of East 5th Street.	*4634
			Approximately 3,800 feet upstream of East 5th Street.	*4637
			Approximately 4,200 feet upstream of East 5th Street.	*4637
			At the intersection of Spartan and Cardinal Way.	*4639
		Saliman Road Tributary	Approximately 250 feet downstream of Railroad Drive.	*4639
			Approximately 200 feet upstream of Railroad Drive.	*4645
			At Crown Drive.....	*4651
			Approximately 100 feet upstream of Fairview Drive.	*4657
			Approximately 500 feet upstream of Fairview Drive.	*4660
			Approximately 850 feet upstream of Fairview Drive.	*4663
			Approximately 1,000 feet upstream of Fairview Drive.	*4664
			Approximately 200 feet upstream of Colorado and Saliman Road intersection.	*4668
			Approximately 300 feet downstream of Shady Oak and Saliman Road intersection.	*4673
			Approximately 280 feet upstream of Shady Oak and Saliman Road intersection.	*4676
			Approximately 300 feet downstream of Sonoma Street and Saliman Road intersection.	*4682
			Upstream of Stonewall Street.....	*4688
			Approximately 1,150 feet downstream of Koontz Lane and Saliman Road intersection.	*4694
			Approximately 150 feet downstream of Koontz Lane and Saliman Road.	*4699
			Downstream of Valley View Drive.....	*4703
			At the intersection of Clearview Drive and Hillview Drive.	*4707
			Approximately 700 feet upstream of intersection of Clearview Drive and Hillview Drive.	*4709
			Approximately 150 feet downstream of Appian Way and Bigelow Drive intersection.	*4711
			Approximately 200 feet downstream of Ronald Street and Center Drive intersection.	*4715
			Approximately 100 feet upstream of Center Drive and Ronald Street intersection.	*4716
			Approximately 250 feet downstream of Silver Sage Drive.	*4717
			Approximately 50 feet upstream of Silver Sage Drive.	*4721
			Approximately 50 feet downstream of California Street.	*4727
			Approximately 180 feet upstream of California Street.	*4732
			Approximately 380 feet upstream of California Street.	*4736
			Just downstream of Oak Street.....	*4740
			Approximately 500 feet upstream of Oak Street..	*4742

Maps are available for inspection at the Carson City Public Works Department, 2621 Northgate Lane, Suite 59, Carson City, Nevada 98701.

New York	Clay (Town), Onondaga County (FEMA Docket No. 6930).	Mud Creek	At upstream side of Verplank Road.....	*370
			At downstream side of downstream crossing of State Route 481.	*370
			At corporate limits.....	*375

Maps available for inspection at the Town Hall, 4483, Route 31, Clay, New York.

North Carolina	Farmville (Town), Pitt County (FEMA Docket No. 6930).	Little Contentnea Creek.....	About 2,200 feet downstream of SR 1221.....	*58
			About 4,200 feet upstream of U.S. Route 258.....	*69

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD). Modified.
Maps available for inspection at the Town Planners Office, 121 North Main Street, Farmville, North Carolina.				
Oregon.....	Albany (City), Linn and Benton Counties (FEMA Docket No. 6930).	Cox Creek.....	Approximately 300 feet downstream of Southern Pacific Railroad. Approximately 50 feet downstream of Salem Avenue. Approximately 100 feet upstream of Salem Avenue. Approximately 100 feet upstream of Pacific Boulevard. Approximately 400 feet upstream of Pacific Boulevard. Approximately 50 feet downstream of Bain Street. Approximately 50 feet upstream of Bain Street... Just upstream of Highway 5.....	*199 *199 *203 *204 *211 *212 *214 *216
Maps are available for review at City Hall, Planning Department, 127 Broadalbin, SW., Albany, Oregon.				
Oregon.....	North Plains (City), Washington County (FEMA Docket No. 6929).	Unnamed Tributary.....	At the confluence of McKay Creek..... Just upstream of Glencoe Road..... At Pacific Avenue..... Approximately 200 feet downstream of Ninth Street. Approximately 100 feet upstream of Commercial Avenue. Approximately 80 feet downstream of City Corporate limit.	*169 *171 *172 *174 *176 *180
Maps are available for inspection at the City Hall, 440 Commercial Avenue, North Plains, Oregon 97133.				
Pennsylvania.....	Upper St. Clair (Township), Allegheny County (FEMA Docket No. 6930).	Chartiers Creek.....	Approximately 5,200 feet upstream of corporate limits. Approximately 6,400 feet upstream of corporate limits.	*837 *838
Maps are available for inspection at the Municipal Building, 1820 McLaughlin Run Road, Upper St. Clair, Pennsylvania.				
Texas.....	Cleburne (City), Johnson County (FEMA Docket No. 6929).	West Buffalo.....	Approximately 340 feet downstream of Country Club Road. At Poin Dexter Avenue..... Approximately 2.46 miles upstream of Poin Dexter Avenue.	*740 *773 *811
Maps available for inspection at the Department of Public Works, 302 West Henderson Street, Cleburne, Texas.				
Texas.....	Raymondville (City), Willacy County (FEMA Docket No. 6930).	Shallow Flooding.....	Missouri-Pacific Railroad east to corporate limits.	#1
Maps available for inspection at the City Hall, 142 South 7th Street, Raymondville, Texas.				
Virginia.....	Marion (Town), Smyth County (FEMA Docket No. 6930).	Staley Creek.....	Approximately 190 feet upstream from Matson Drive. At corporate limits.....	*2,172 *2,198
Maps available for inspection at the Municipal Building, 138 West Main Street, Marion, Virginia.				

Issued: November 18, 1988.

Harold T. Duryee,

Administrator, Federal Insurance
Administration.

[FR Doc. 88-27304 Filed 11-25-88; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 43

[CC Docket No. 86-182; FCC 88-311]

Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies

AGENCY: Federal Communications
Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications
Commission grants, in part,
reconsideration of its decision

establishing an automated system for
collecting from local exchange carriers
(LECs) the financial and operating data
needed to administer its accounting,
joint cost, jurisdictional separations,
rate base disallowance, rate of return,
and access charge rules. The
Commission reconsidered its decision to
require rate of return calculations for
services and activities for which it does
not prescribe a rate of return on FCC
approved reports. The Commission
decided that such data could be
misleading and confusing and
recommended that the Common Carrier
Bureau change the Quarterly Report to

display rates of return only in the total intrastate and the interstate access columns, and remove from the Joint Cost Report all rate of return data. The Commission also recommended that the Common Carrier Bureau revise the Access Report to include these data for the intrastate and interstate access columns. The Commission clarified and reconsidered the filing date for the Joint Cost Order forecast investment monitoring reports. The Forecast Usage Report should be filed with the Commission at the same time as the Tariff Review Plans are filed and the Actual Usage Report will be filed on April 1 of each year. The Commission also decided to delegate to the Chief, Common Carrier Bureau, the authority to resolve specific technical and editorial issues on a report by report basis.

EFFECTIVE DATE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: Jane Frenette, Accounting and Audits Division, Common Carrier Bureau, at (202) 634-1861.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order on Reconsideration, CC Docket No. 86-182, FCC 88-311, adopted October 4, 1988, and released October 14, 1988.

The full text of the Commission's 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, 2100 M Street NW., Suite 140, Washington, DC 20037, (202) 857-3800.

Summary of Order on Reconsideration

1. On September 16, 1987, the Commission released a Report and Order (hereinafter ARMIS Order) establishing an automated system for collecting from local exchange carriers (LECs) the financial and operating data needed to administer its accounting, joint cost, jurisdictional separations, rate base disallowance, rate of return, and access charge rules.

2. The ARMIS Order adopted four new reports: (1) A Quarterly Report which includes Parts 32, 64, 36, and 69 financial data on a highly aggregated basis and a demand analysis table; (2) an annual USOA Report which contains the results of the carriers' total activities on an account by account basis; (3) an annual Joint Cost Report which shows the allocation to regulated and nonregulated activities for the subset of accounts that are involved in the ratemaking process; and, (4) an annual

Access Report which shows the results of the jurisdictional separations and access charge rules, by Part 36 category and Part 69 element.

3. The Commission also directed the Common Carrier Bureau to develop the additional reports needed to monitor the Joint Cost Order requirement that carriers allocate investment in telecommunications network plant on the basis of forecasts of relative regulated and nonregulated use. On May 31, the Bureau adopted reports that fulfill these monitoring needs.

4. On reconsideration, the Commission modified its requirement that LECs display of rate of return calculations for services and activities for which it does not prescribe a rate of return on FCC approved reports because such data could be misleading and confusing. The Commission directed the Common Carrier Bureau to revise the Quarterly Report to display rates of return only in the total interstate and the interstate access columns, and remove from the Joint Cost Report all rate of return data. The Commission also directed the Bureau to include rate of return data for the interstate and interstate access columns of the Access Report.

5. The Commission also clarified and modified in part the filing dates for the Joint Cost Order forecast investment monitoring reports. The Commission found that: (1) There was a conflict between the filing date specified in Appendix E of the ARMIS Order and the date specified in the body of the Order; and, (2) its monitoring needs would be best served if the two reports were given individual filing dates that reflect the data they contain. The Forecast Usage Report will be filed at the same time as the Tariff Review Plans because this report provides the basis for the removals of investment related to nonregulated activities in the Tariff Review Plans. The Actual Usage Report will be filed at the same time as the USOA, Joint Cost and Access Reports.

6. The Commission affirmed that the filing dates for the remaining ARMIS reports are reasonable. These dates require only that the data are completed and suitable for filing three full months after the end of the reporting period. The Commission found that three full months are sufficient to tabulate, organize and file data submissions and, therefore, retained the April 1 filing date for the Annual Reports and the March 31, June 30, September 30, and December 31 filing dates for the Quarterly Reports.

7. The Commission affirmed that carriers should be required to provide data on non-FCC jurisdictional revenues because these data are necessary: (1)

For monitoring the application of our Joint Cost Rules; (2) for analysis of the impact of diversification on the interstate cost of capital; and (3) for assessment of the effects of regulatory policies on the telecommunications system as a whole.

8. The Commission affirmed that amounts assigned to the intrastate jurisdiction should be required by ARMIS, finding that collection of these data is an important aspect of its role as administrator of the Jurisdictional Separations Manual and that such data may also prove useful to state regulators and other interested parties as well.

9. The Commission also affirmed that study area level reporting is essential to the development of a continuous data series, finding that if the LECs were to combine or divide study areas, it would become necessary for them to file restatements of previous years' data each time they made such a combined or divided filing. Such an alternative would be unnecessarily burdensome for the Commission and for the carriers.

10. Finally, the Commission delegated to Chief, Common Carrier Bureau, the authority to resolve a number of technical and editorial problems currently existing in the ARMIS reports.

Ordering Clause

11. *It is ordered*, That pursuant to sections 4(i), 4(j), 201-205, 219, 220 and 405 of the Communications Act of 1934, 47 U.S.C. 154(i), 154(j), 201-205, 219, 220 and 405, that the Petitions for Reconsideration filed in this proceeding Are Granted in part and Denied in part as provided herein.

List of Subjects in 47 CFR Part 43

Communications common carriers reporting and recordkeeping requirements.

Federal Communications Commission.

Donna R. Searcy,
Secretary.

Part 43 of Title 47 of the CFR is amended as follows:

PART 43—[AMENDED]

1. The authority citation in Part 43 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154. Interpret or apply sec. 210, 48 Stat. 1073, as amended (47 U.S.C. 210).

2. Section 43.21 is amended by revising paragraph (e) to read as follows:

§ 43.21 Annual reports of carriers and affiliates.

* * * * *

(e) Each communications common carrier required by order to file a manual allocating its costs between regulated and nonregulated operations shall file, coincident with its Annual Access Tariff Review Plan, a forecast of regulated and nonregulated use of network plant for the following calendar year; and, a report of the actual use of network plant investment for the same reporting period on or before April 1 of the following year.

* * * * *

[FR Doc. 88-27110 Filed 11-25-88; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[FRA Docket No. RSOR-6, Notice No. 21]

Amendment to Alcohol/Drug Regulations; New Laboratory Address

AGENCY: Federal Railroad Administration (FRA) DOT.

ACTION: Final rule.

SUMMARY: FRA issues an amendment to its final rule on Control of Alcohol and Drug Use in Railroad Operations to update the address of its designated post-accident testing laboratory. The laboratory has recently relocated its facilities. The new address is as follows: Center for Human Toxicology, University of Utah, 417 Wakara Way, Room 290, Research Park, Salt Lake City, Utah 84108.

DATES: This final rule amendment will be effective November 28, 1988.

FOR FURTHER INFORMATION CONTACT: Walter Rockey, Executive Assistant to the Associate Administrator for Safety (RRS-3), FRA, Washington, DC 20590 (Telephone: (202) 366-0897) or Grady Cothen, Special Counsel (RCC-4), FRA, Washington, DC 20590 (Telephone: (202) 366-9416).

SUPPLEMENTARY INFORMATION: This amendment merely updates the mailing address of FRA's designated post-accident testing laboratory, which has recently relocated its facilities. The new address must be used in shipping toxicology kits pursuant to Subpart C of Part 219, Title 49, Code of Federal Regulations, and may be employed in corresponding with the Center.

Regulatory Procedures

The Administrator finds that notice and opportunity for comment are not required because the subject amendment involves a rule of agency organization, procedure and practice. The Administrator further finds that there is good cause for making the rule effective in less than 30 days from the date of publication, since utilization of the current address is necessary to the efficient conduct of the post-accident testing program.

This amendment to the final rule has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule under Executive Order 12291 nor a "significant" rule as defined under DOT policies and procedures. The amendment does not have any

paperwork, Federalism, or economic impact. Because the amendment does not have any economic impact, FRA has not prepared a regulatory evaluation. It is certified that this rule will not have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 60 et seq.).

Therefore, in consideration of the foregoing, Part 219, Title 49, Code of Federal Regulations is amended as follows:

PART 219—[AMENDED]

1. The authority citation for Part 219 continues to read as follows:

Authority: 45 U.S.C. 431, 437, and 438, as amended; Pub. L. 100-342; and 49 CFR 1.49(m).

2. Part 219 is amended as follows:

The text of Appendix B—Designation of Laboratory for Post-Accident Toxicological Testing is revised to read as follows:

Appendix B—Designation of Laboratory for Post-Accident Toxicological Testing

The following laboratory is currently designated to conduct post-accident toxicological analysis under Subpart C of this part: Center for Human Toxicology, University of Utah, 417 Wakara Way, Room 290, Research Park, Salt Lake City, Utah 84108, Telephone No. (801) 581-5117.

John H. Riley,
Administrator.

[FR Doc. 88-27283 Filed 11-25-88; 8:45 am]
BILLING CODE 4910-06-M

Proposed Rules

Federal Register

Vol. 53, No. 228

Monday, November 28, 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

Rural Electrification Administration

7 CFR Part 1715

Criteria for Securing REA Approvals Required Under the Mortgage by Electric Borrowers Relating to Financial and Management Matters

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) proposes to amend 7 CFR Part XVII, by adding a new Part 1715, Criteria for Securing REA Approvals Required Under the Mortgage by Electric Borrowers Relating to Financial and Management Matters and by adding Subpart B, §§ 1715.20-1715.28, Investments, Loans and Guarantees by Electric Borrowers. The proposed rule establishes REA policies for borrowers of electric loans made or guaranteed under the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950b) ("RE Act"). The rule also clarifies the effect of new section 312 of the RE Act concerning provisions in existing REA mortgages and bulletins which would otherwise conflict with this recent amendment. Generally, section 312 of the RE Act authorizes a borrower to make investments, loans and guarantees up to 15 percent of its total utility plant.

DATE: Comments must be received by REA January 27, 1989.

ADDRESS: Comments should be addressed to: Archie W. Cain, Director, Electric Staff Division, U.S. Department of Agriculture, Rural Electrification Administration, Room 1246-S, 14th & Independence Avenue, SW, Washington, DC 20250-1500.

FOR FURTHER INFORMATION CONTACT: Robert W. Ford, Chief, Loans and Management Branch, Electric Staff Division, U.S. Department of Agriculture, Rural Electrification Administration, Room 1237-S, 14th & Independence Avenue, SW.,

Washington, DC 20250-1500; telephone: (202) 382-1932.

SUPPLEMENTARY INFORMATION: REA proposes to implement the provisions of section 312 of the RE Act which was enacted as section 1402 of the Omnibus Budget Reconciliation Act of 1987 (OBRA) (Pub. L. 100-203).

This action has been reviewed in conformity with Executive Order 12291, Federal Regulations. Since this rule only defines the requirements of OBRA, it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) result in a major increase in costs or prices to consumers, individual industries, Federal, state or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore, has been determined to be "not major."

REA has concluded that promulgation of this rule does not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969, as amended, (42 U.S.C. 4321 *et seq.*), and therefore, does not require an environmental impact statement or an environmental assessment. This proposed rule is a categorical exclusion under REA's 7 CFR Part 1794, Environmental Policies and Procedures (*i.e.*, 7 CFR 1794.31 (b)(17)).

This proposed rule amends information collection requirements subject to Office of Management and Budget (OMB) review and approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*). Amended information reporting and recordkeeping requirements have been submitted to OMB for review and approval (OMB clearance numbers 0572-0016 and 0572-0017).

Normal lending practice requires obtaining a minimum amount of financial information on an investment before a loan application is processed. All REA borrowers report annually financial data including investment amounts. REA is requiring some additional information from borrowers regarding investments to assure that government funds or security interests are not at risk. However, this information is readily available from records kept by respondents in the normal course of business. REA has

kept the increase for additional investment information to a minimum.

Public reporting burden for this collection of information is estimated to average one hour per response, including the 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 aspects of this collection of information, including suggestions for reducing the burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for REA, Washington, DC 20503.

This action does not fall within the scope of the Regulatory Flexibility Act. This program is listed in the Catalog of Federal Domestic Assistance under No. 10.850, Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the Final Rule related Notice to 7 CFR Part 3015, Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background

Under REA's present policy, electric borrowers generally are not permitted, without prior written approval of the Administrator, to invest (either directly or by loans or guarantees) more than 3 percent of their own funds for "non-Act" purposes, *i.e.* facilities or projects not required to provide electricity to rural consumers. For many years this policy has been reflected in typical mortgages given by electric borrowers to secure loans made, guaranteed or lien accommodated under the RE Act. This restriction, which was not explicitly imposed by the RE Act, was intended to enhance the likelihood that loans and guarantees under the RE Act would be repaid in accordance with their terms. Even with the long-standing 3 percent limitation, REA borrowers have played a critical role in the economic development of rural areas for over 50 years. In considering whether to add section 312 to the RE Act Congress, nevertheless, expressed concern that REA borrowers were restricted in their

ability to make needed investments in rural community infrastructure projects (such as water and waste systems, garbage collection services, etc.) and in job creation activities (such as providing technical, financial, managerial assistance) and other activities to promote business development in rural communities. Thus Congress directed REA to replace its traditional 3 percent policy with a 15 percent limit as a small incremental contribution to rebuilding a more diversified economy in rural communities. The legislative history surrounding the enactment of section 312 is clear, however, that Congress intended that the new policy should not in any way put government funds or security interests at risk.

While historically REA borrowers as a whole have not fully used their 3 percent authority under existing mortgages, the newly enacted section 312 gives those borrowers interested in rural development the opportunity to increase their participation and presumably will result in more financing for rural development initiatives. Such participation shall not result in any erosion of the borrower's financial ability to repay REA loans. The change does not affect existing limitations on the discretion of borrowers to make additions to their electric systems.

The proposed rule supersedes Section I. Paragraph C. of REA Bulletin 1-7 and the REA Administrator's memorandum of March 28, 1985, "General Funds Investment." In cases where a borrower has previously obtained approval under the REA mortgage for specific investments, loans or guarantees, for purposes of this Subpart such matters will be treated as if they had been authorized by § 1715.23 of this Subpart, i.e. ordinarily they will be taken into account in determining whether the 15 percent limit has been achieved.

The proposed rule does not supersede any agreement, whether now in existence or subsequently entered into, between a borrower and any party other than REA. Accordingly, restrictions which REA borrowers have agreed to with other lenders (including those contained in section 22 of Article II of the standard REA mortgage) will remain in effect until they are waived or amended by such lenders. No consent from REA for such waiver or relaxation will be necessary.

The proposed rule will become effective upon publication of the final rule in the *Federal Register*, and will be retroactive to December 22, 1987.

In view of the above, REA proposes to amend 7 CFR Part XVII by adding a new Part 1715 to read as follows:

PART 1715—CRITERIA FOR SECURING REA APPROVALS REQUIRED UNDER THE MORTGAGE BY ELECTRIC BORROWERS RELATING TO FINANCIAL AND MANAGEMENT MATTERS

Subpart A—[Reserved]

Sec.

1715.1—1715.19 [Reserved]

Subpart B—Investments, Loans, and Guarantees by Electric Borrowers

Sec.

1715.20 Purpose.

1715.21 Policy.

1715.22 Definitions.

1715.23 General.

1715.24 Exclusions.

1715.25 Records.

1715.26 Effect of this Subpart on REA loan contract and mortgage.

1715.27 Restrictions imposed by other lenders.

1715.28 Investments, loans, and guarantees in excess of 15 percent.

1715.29—1715.59 [Reserved]

Authority: 7 U.S.C. 901-950b; Title I, Subtitle D, section 1402, Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203; Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

Subpart A—[Reserved]

§§ 1715.1-1715.19 [Reserved]

Subpart B—Investments, Loans, and Guarantees by Electric Borrowers

§ 1715.20 Purpose.

This Subpart contains the general regulations of the Rural Electrification Administration (REA) for implementing the provisions of section 312 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (RE Act), permitting, in certain circumstances, that borrowers of insured or guaranteed electric loans under the RE Act may, without restriction or prior approval of the Administrator of REA, invest their own funds and make loans or guarantees.

§ 1715.21 Policy.

REA electric borrowers are authorized to utilize their own funds to participate in the economic development of rural areas, provided that such activity does not in any way put government funds or security interest at risk and does not conflict with the provisions of this Subpart. In considering whether to make loans, investments, or guarantees, borrowers are expected to act in accordance with prudent business practices and in conformity with the laws of the jurisdictions in which they

serve. REA assumes that borrowers will use the latitude afforded them by section 312 of the RE Act primarily to make needed investments in rural community infrastructure projects (such as water and waste systems, garbage collection services, etc.) and in job creation activities (such as providing technical, financial, managerial assistance) and other activities to promote business development and economic diversification in rural communities. Nonetheless, REA believes that borrowers should continue to give primary consideration to safety and liquidity in the management of their funds.

§ 1715.22 Definitions.

As used in this subpart:

"Borrower" means a corporation or other legal entity engaged, or intending to become engaged, in the generation, transmission or distribution of electricity, and whose outstanding obligations resulting from RE Act loans or guarantees are not in default.

"Cash-Construction Fund-Trustee Account" means the account described in the REA Uniform System of Accounts as one to which funds are deposited for financing the construction or purchase of electric facilities.

"Guarantee" means to undertake collaterally to answer for the payment of another's debt or the performance of another's duty, liability, or obligation. Examples of such guarantees, include without limitation, the guaranteeing of a loan, or other debt instruments; performance bonds; completion bonds or guarantees; and the guarantee or cosigning of any lease, purchase agreement (such as of the repurchase or buy back of preferred stock); or other obligations of a subsidiary.

"Invest" means to commit money in order to earn a financial return on assets which are not expected to be used or useful in furnishing electric service.

"Make loans" means to lend out money for temporary use on condition of repayment with interest.

"Mortgaged Property" means any asset of the borrower which is pledged in the REA mortgage.

"Own Funds" means money belonging to the borrower other than: (i) Proceeds of loans made, guaranteed or lien accommodated by REA; (ii) funds necessary to make timely payments of principal and interest on loans made, guaranteed or lien accommodated by REA; (iii) insurance proceeds from mortgaged property; (iv) damage awards and sale proceeds resulting from eminent domain and similar proceedings involving mortgaged property; (v) sale

proceeds from mortgaged property sales requiring specific REA approval; and (vi) funds on deposit in the cash construction trustee account.

"REA Mortgage" means any and all instruments creating a lien on or security interest in the borrower's assets in connection with loans or guarantees under the RE Act.

"Sale Proceeds" means all consideration received from the sale of assets after deducting reasonable transaction expenses, if any, and after deducting, in the case of assets taken by power of eminent domain, the amount, if any, of the damage award paid to the borrower as compensation for lost future revenues.

"Subsidiary" means a corporation the majority stock of which is owned or controlled by a borrower.

"Supplemental Lender" means a lender that has provided a supplemental source of financing that is secured by the REA mortgage.

"Total Utility Plant" means the sum of the borrower's "electric plant in service accounts" and "construction work in progress—electric accounts," as such terms are used in the REA Uniform System of Accounts.

§ 1715.23 General.

A borrower may, without prior written approval of the Administrator, invest its own funds or make loans or guarantees not in excess of 15 percent of its total utility plant without regard to any provision contained in any REA mortgage to the effect that the borrower must obtain prior approval from REA.

§ 1715.24 Exclusions.

In calculating the amount of investments, loans and guarantees permitted under § 1715.23, the following items are excluded from the computation:

(a) Securities or deposits issued, guaranteed or fully insured as to payment by the United States Government or any agency thereof;

(b) Capital term certificates, bank stock or other similar securities of the supplemental lender which have been purchased as a condition of membership in the supplemental lender, or as a condition of receiving financial assistance from such lender;

(c) Patronage capital allocated from a power supply cooperative of which the borrower is a member; and

(d) Loans, deposits, advances, investments, securities and obligations which the borrower has, prior to the date of its original mortgage to REA, committed itself to make, purchase or undertake, as the case may be, and as to which the records of the borrower show

that it gave REA notice to that effect in writing prior to the date of such mortgage.

§ 1715.25 Records.

(a) Every borrower shall maintain accurate records concerning all investments, loans and guarantees made by it. Such records shall be kept in a manner that will enable REA to readily determine: (i) The nature and source of all income, expenses and losses generated from the borrower's loans, guarantees and investments; (ii) the location, identity and lien priority of any loan collateral resulting from activities permitted by this Subpart; and (iii) the effects, if any, which such activities may have on the feasibility of loans made, guaranteed or lien accommodated by REA.

(b) The records of borrowers and their subsidiaries shall be subject to the auditing procedures prescribed in Part 1789 of this Chapter. REA reserves the right to review the financial records of any subsidiaries of the borrower to ascertain if the debts, Guarantees (as defined herein), or other obligations of the subsidiaries, could adversely affect the ability of the borrower to repay its debts to the Government or to determine if the borrower is in compliance with the regulation.

(c) Every borrower shall report to REA, in the manner and on the form specified by the Administrator, the current status and principal amount of each outstanding loan and guarantee which it has made pursuant to § 1715.23 of this Subpart.

§ 1715.26 Effect of this Subpart on REA loan contract and mortgage.

(a) Nothing in this subpart shall affect any rights which supplemental lenders have under the REA mortgage to limit investments, loans and guarantees by their borrowers to levels below 15 percent of total utility plant.

(b) Nothing in this subpart shall relieve a borrower of its obligation under the REA mortgage to preserve the lien of the REA mortgage as a first lien on all of the borrower's assets, subject to such limited exceptions as may be provided for therein.

(c) Nothing in this subpart authorizes a borrower to make extensions or improvements to its electric system without prior approval of REA.

§ 1715.27 Restrictions imposed by other lenders.

Nothing in this subpart is intended to prevent a supplemental lender from imposing, enforcing, or modifying restrictions contained in its loan documentation that limit the rights of a

borrower to make loans, guarantees or investments.

§ 1715.28 Investments, loans, and guarantees in excess of 15%.

(a) If a borrower wishes to exceed the aggregate amount of investments, loans, and guarantees permitted under § 1715.23 of this subpart, the borrower must comply with the provisions contained in the REA mortgage to the effect that it must obtain prior approval from REA. Requests of the type described immediately above should be made in writing for consideration by REA on a case by case basis.

§§ 1715.29–1715.59 [Reserved]

Dated: November 22, 1988.

Jack Van Mark,

Acting Administrator.

[FR Doc. 88-27383 Filed 11-25-88; 8:45 am]

BILLING CODE 3410-15-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Ensuring the Effectiveness of Maintenance Programs for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend its regulations to require commercial nuclear power plant licensees to strengthen their maintenance activities in order to reduce the likelihood of failures and events caused by the lack of effective maintenance. The Commission believes safety can and must be enhanced by defining an adequate maintenance program to ensure the effectiveness of such programs throughout the nuclear industry. The proposed rule requires plant maintenance programs to include specific activities, including the monitoring of the effectiveness of plant maintenance programs.

DATE: Comment period expires January 27, 1989. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Mail written comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Deliver comments to: 11155 Rockville Pike, Rockville, MD between 7:30 am and 4:15 pm weekdays.

Copies of the paper on rulemaking options, transcript and proceedings of the Public workshop, draft NUREG report, draft regulatory analysis, environmental assessment and finding of no significant impact, the supporting statement submitted to OMB, and comments received may be examined at the NRC Public Document Room, 2120 L Street, Lower Level, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Moni Dey, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-3720.

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1988, the Commission published a final Policy Statement on Maintenance of Nuclear Power Plants. In the Policy Statement, the Commission stated that it expected to publish a Notice of Proposed Rulemaking in the near future and provided the general framework for the proposed rule.

The Commission has a program to continually evaluate the operational performance of nuclear power plants. Analysis of operational events has shown that, in some cases, nuclear power plant equipment is not being maintained at a level to ensure that the equipment will perform, with a high degree of reliability, its intended function with required. A limited NRC examination of nuclear power plant maintenance programs has found a wide variation in the effectiveness of these programs. At some plants, maintenance has been a significant contributor to plant reliability problems and hence, is of safety concern. The Commission believes safety can and must be enhanced by strengthening the effectiveness of maintenance programs throughout the nuclear industry and this is the objective of this proposed rule.

Description

It is the objective of the Commission that all components, systems and structures of nuclear power plants be effectively maintained so that plant equipment will perform its intended function when required. The scope of the proposed rule is intended to cover all systems, structures and components including those in the Balance of plant (BOP). To accomplish this objective, the proposed rule would require each commercial nuclear power plant to develop and implement a well-defined program to assure that maintenance

activities are conducted to preserve or restore, with prompt repair, the availability, performance and reliability of plant structures, system, and components. The program should clearly define the components and activities included, as well as the management systems used to control those activities. Further, the program should include feedback of specific results to ensure corrective actions, provisions for overall program evaluation, and the identification of possible component or system design problems. Compliance with the rule would be verified by NRC audit and inspection.

The proposed rule does not require that licensees report Maintenance Performance Indicators (MPIs). However, each licensee would be required to have his own system for monitoring maintenance effectiveness which would be subject to NRC review. The Commission solicits comments on the application and usefulness of MPIs as part of the rule, and whether a set of MPIs exists which could indicate the effectiveness of plant maintenance programs. In addition, the Commission solicits feedback on whether to require reporting a specific set of MPIs to the NRC as part of the rule.

Public Workshop

The Commission held a Public Workshop on July 11-13, 1988 in Washington, DC to solicit early input for the formulation of the rule from the public and regulated industry. Prior to the Workshop, a paper on rulemaking options was distributed to interested parties to facilitate Workshop discussions. The paper on rulemaking options,¹ and the transcript and proceedings (NUREG/CP-0099)² of the Workshops are available for inspection in the NRC Public Document Room, 2120 L Street, Lower Level, NW., Washington, DC.

As a result of Workshop discussions, the Commission has come to the following conclusions:

1. Rulemaking should encourage industry initiatives directed toward improving maintenance, since such

initiatives promote industry responsibility for problem identification and resolution;

2. Prescriptive rulemaking options may impede industry initiatives and responsibility to improve maintenance; and

3. Rulemaking should be directed toward specifying the NRC's expectations in maintenance and requiring licensee monitoring of the effectiveness of maintenance programs.

Therefore, the Commission proposes a maintenance rule which gives incentive for industry to develop a standard for a maintenance program, which NRC may endorse in a Regulatory Guide.

Expectations for Maintenance Standard

The Commission encourages industry to develop a Maintenance Standard which will provide guidance for complying with requirements of the proposed rule. The Commission believes that the development of a standard will guide current industry initiatives towards developing and implementing acceptable maintenance programs and that utility participation in preparation of a Maintenance Standard will provide additional incentive and responsibility for improving plant maintenance programs.

The Commission plans to develop a Regulatory Guide to provide guidance for complying with the rule if industry does not develop an adequate standard. However, the Commission prefers to endorse an industry-developed standard. To meet the Commission's plans for implementation of the rule the industry commitment to develop a Maintenance Standard should be made now and a final standard should be proposed no later than September 1, 1989. The Commission expects to publish a Regulatory Guide endorsing a Maintenance Standard or providing NRC guidance in November 1989. The comprehensive program requirements of the proposed rule would be required to be fully implemented within two years following publication of the final rule.

The proposed rule defines those attributes the Commission considers necessary for an acceptable Maintenance Program. To be acceptable, any standard developed to implement the rule should have the following characteristics:

- Should define the plant systems, structures and components included in the maintenance program (the scope of the rule covers all systems, structures and components including those in the BOP);

- Should require a systematic evaluation ("systems approach") of the

¹ Memorandum from Victor Stello, Jr., Executive Director for Operations, to the Commissioners, "Proposed Rulemaking for the Maintenance of Nuclear Power Plants," dated June 27, 1988.

² Copies of NUREG series reports may be purchased through the U.S. Government Printing Office by calling (202) 275-2069 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161. A copy is available for inspection or copying for a fee in the NRC Public Document Room, 2120 L Street, Lower Level, NW., Washington, DC.

functions and objectives of plant systems, components and structures to determine maintenance activities and requirements:

- Should provide clear and specific programmatic requirements that can be partially implemented to achieve high reliability;
- Should be comprehensive in addressing the activities and functions included in the proposed rule plus provisions for self assessment;
- Should reference standards or guidelines such as those developed by ANS, ASME, IEEE, ASTM, INPO, or EPRI where practical to provide (a) specific programmatic requirements or (b) guidance for maintenance of specific types of equipment;
- Should allow flexibility for adoption of new innovation technologies as they are validated; and
- Should provide for sufficient documentation so that program effectiveness and compliance with requirements of the standard can be evaluated.

The Commission has conducted studies to review effective maintenance approaches and practices in other countries and industries and has documented the findings in a draft NUREG series report.³ The Commission seeks comments on the draft NUREG report which may be submitted to the NRC as indicated under the **ADDRESSES** heading.

The draft NUREG report concludes that the following are practices in foreign countries and other U.S. industrial maintenance programs which have been found to contribute significantly to effective maintenance:

1. Focus on long term maintenance objectives; establish a proactive maintenance program as opposed to reactive maintenance;
2. Use of a reliability centered approach to maintenance, including consideration of the man-machine interface;
3. Collection and engineering evaluation of failure data (root cause analysis);
4. Use of an integrated information system for collecting data and monitoring the effectiveness of a maintenance program;

³ A free single copy of draft NUREG-1333, "Maintenance Approaches and Practices in Selected Foreign Nuclear Power Programs and Other U.S. Industries: Review and Lessons Learned," to the extent of supply, may be obtained by writing to the Distribution Services Section, Document Control Branch, Division of Information and Support Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555. A copy is also available for inspection or copying for a fee in the NRC Public Document Room, 2120 L Street, Lower Level, NW., Washington, DC.

5. Use of maintenance technician training/certification programs;

6. Derive planning and scheduling from overall program objectives;

7. Enhance environment/motivation of maintenance technicians (e.g. thru cross-training, "Crew Chief" concept); and

8. Clearly define interfaces between maintenance and other activities (engineering support, operations QA, QC, corporate offices, safety review).

The Commission encourages in the development of any Maintenance Standard consideration of the findings in the above referenced draft NUREG report and any other pertinent studies on effective maintenance practices.

The Commission also encourages the industry to consider incorporating appropriate maintenance derived from plant aging studies in the Maintenance Standard.

The Commission views maintenance rulemaking as an opportunity to encourage (a) good maintenance practices, (b) the adoption of common maintenance standards, and (c) the development of valid quantitative measures of effectiveness which could become the basis for regulation by outcomes rather than processes. The herein proposed rule addresses (a) and (b) but not (c). Follow-on rulemaking is envisioned which would build on the bases established in this rule and would define those validated measurable quantities or indicators that could credibly become the basis for regulatory attention or action in the future instead of the systems for maintenance under (a) and (b) of this proposed rule.

As noted above, an integral part of a good maintenance program is the monitoring and feedback of results. Programs should utilize quantitative measures to monitor and adjust the maintenance program activities. Measures that are based upon actual component reliability and failure history provide useful indication of maintenance effectiveness. Such measures need a well structured and component oriented system: (e.g., the Nuclear Plant Reliability Data System (NPRDS)) To capture and track equipment history data. The Commission notes and encourages the use of the industry-wide NPRDS for this purpose in view of the multiple uses for the data.

Certification of Plant Maintenance Programs

The Commission wishes to encourage industry initiatives and responsibility for problem identification and resolution. Therefore, as a further way of encouraging industry participation and responsibility, the Commission is

willing to consider a process of utilizing a designated third party, similar to the ASME code system, to review and certify licensee maintenance programs for conformance with the Maintenance Standard. This process, if successful, could alleviate the need for detailed NRC inspection of all licensee maintenance programs. The Commission solicits proposals for conducting such a certification process.

Comments Requested

In addition to comments on the content of this Notice of Proposed Rulemaking, the Commission specifically solicits input on the following:

1. Is it appropriate for the nuclear power industry to develop a Maintenance Standard and, if so, would the industry develop such a Maintenance Standard?
2. What level of detail should be included in the Maintenance Standard?
3. Is two years a reasonable time to develop, and implement a standard?
4. Is it appropriate for a designated third party to certify plant maintenance programs to comply with the Maintenance Standard; and, if so, would an organization be willing to perform such certification?
5. The Commission plans to issue by November 1989, a Regulatory Guide establishing standards and criteria for determining what constitutes an effective maintenance program. This Regulatory Guide is being developed in parallel with the final rulemaking. The Commission encourages the industry to develop standards and acceptance criteria. If an acceptable industry standard is available in this time frame, the Commission will consider endorsing the industry standard in the Regulatory Guide. An industry commitment to develop a maintenance standard, consistent with the Commission's schedule to issue a final Regulatory Guide by November 1989, would be necessary during this public comment period.
6. The Commission believes that the proposed maintenance rule should be considered under 10 CFR 50.109(a)(4) of the backfit rule which would exempt the maintenance rule from backfit requirements based on the precepts that effective maintenance is necessary to assure adequate public protection and that the proposed rule codifies and standardizes previously existing Commission requirements, both explicit and implicit, in plant technical specifications, licensee safety analysis reports, and 10 CFR Part 50, Appendix B. The Commission requests public

comment concerning the need for a backfit analysis for this rulemaking.

7. The Commission believes that the inclusion of balance of plant (BOP) equipment in the proposed maintenance rule is necessary and proper. However, the Commission also recognizes that some licensee maintenance programs, as presently configured, apply to structures, systems, and components that are, without question, irrelevant to protection of public health and safety from radiological hazards associated with the operation of the nuclear power plant. The Commission requests public comment concerning what limitation, if any, should be placed on the final maintenance rule to provide some licensee flexibility in this regard.

8. The Commission believes that individual worker accountability plays an important role in an effective maintenance program. The Commission is, therefore, soliciting comments on the means for incorporating this consideration into a licensee's maintenance program.

9. The Commission desires to establish criteria within the maintenance rule which would form the basis for determining when a maintenance program is fully effective and additional improvement is not warranted from a safety standpoint. Such criteria might be either quantitative or qualitative and could be based on specific measurable attributes, on overall plant performance, on program results, or on other attributes. The Commission requests public comment concerning the need for such criteria, the form of such criteria, and the criteria themselves.

10. Are performance indicators that are being used by industry, may be used in the future, or have been used in the past, appropriate candidates as quantitative measures of maintenance effectiveness? The Commission is particularly interested in experience or analysis concerning indicators or the use of indicators of component reliability as maintenance performance indicators.

11. Should an industry-wide component failure reporting system, e.g., NPRDS, be used by all plants in order to support the sharing of generic maintenance experience and facilitate monitoring of maintenance effectiveness?

12. Commissioner Roberts had the following views:

I cannot join the majority in supporting the proposed rulemaking on maintenance. In order to have the benefit of the public's comments, it has been my custom to agree to publication of proposed rulemakings. I cannot do so in this instance. I have asked one fundamental question. What are we trying to

accomplish with this rule that cannot more effectively and innovatively be accomplished without a regulation? I have not received a satisfactory answer. I do not believe the case has been made that licensees do not have established maintenance programs. Most importantly to me, there has been no demonstration that this rule would improve implementation of existing programs. Neither have I been provided with compelling documentation on what the problem is and how, specifically, this rule will fix it. On the contrary, the trends staff has provided show continued improvement in the maintenance area.

The proposed rule the Commission is now publishing fails to provide a basis for determining when a maintenance program is effective or when improvements are "appropriate." We are even delaying publication of the accompanying Regulatory Guide until the final rule. Without being afforded the opportunity to review this implementation document, the Commission is left in the position of approving a specious rule. It is no wonder that this rulemaking would elicit such widespread opposition. The public is being asked to comment on a rule of form but no substance. I believe it would be more productive to delay issuance of this proposed rule until the draft regulatory guide is available for comment. Only then can we receive meaningful comments on the rulemaking package.

I am concerned that this rule goes beyond our authority. I cannot agree with a rule that would have the NRC regulating maintenance on all systems, structures and components regardless of whether they have a nexus to radiological safety or not. I am troubled by the attitude demonstrated when we request public comments on what limitations, if any, should be placed on the final rule to address structures, systems and components that are "without question irrelevant (my emphasis) to the protection of public health and safety." This clearly abdicates our responsibility to show that a regulation is needed. We must ask ourselves: are we proceeding with this rulemaking for the sake of the rule itself? As attested to by the cases where the Commission cited licensees, the NRC already has the authority to enforce compliance in the maintenance area.

The arguments advanced by both the staff and the Commission in trying to comply with the requirements of the backfit rule have played a significant role in my decision not to support this proposed rulemaking. The staff argument for the rule's compliance with § 50.109 has been made on the basis of cost. The staff states that the backfit analysis shows that " . . . the rule will provide a substantial increase in the protection of the public health and safety without any additional cost." I am skeptical of the assumptions made in the backfit and regulatory analysis and request comments on both these documents. I also request comments on the views of the ACRS. They state that " . . . there are characteristics of regulations, and especially the way in which they are typically enforced, that lead us to believe that, under a rule, a move toward uniformity would occur, and this is likely to decrease the effectiveness of some of the

better existing programs." I share their concern that the existence of this rule could make things worse and diminish rather than enhance the protection of the public.

Regarding "adequate protection," the Commission appears to be saying that since effective maintenance is necessary to maintain adequate protection, this rule should be excepted under § 50.109(a)(4). This exemption would prohibit staff from taking implementation costs into consideration. However, it would require that a documented evaluation be prepared for public comment. Therefore, my opposition to the exception is not to the exception itself but to the precedential nature of the use of the adequate protection argument. Let me state that I too strongly believe that effective maintenance is necessary to assure that nuclear power plants are safe and to provide adequate protection to the public. I also believe, just as strongly, that *this rule is not necessary to provide that protection*, and that as the ACRS noted it may well have the opposite effect. I believe that we cannot afford to be careless about the use of the "adequate protection" argument for exception to the backfit rule. The Commission is in litigation about this very issue. The Commission addressed this point in detail under the heading "Adequate Protection" in the *Response to Comments* on the final 10 CFR Part 50 Revision of Backfit Process for Power Reactors. Let us remember that there had been concerns that in dealing with the backfit rule, the Commission would use the phrase "adequate protection" arbitrarily. The Commission could unwittingly be giving credence to that view.

Additionally, it seems to me that the Commission position on adequate protection is internally inconsistent. The Commission needs to recognize that when it states that this rule is needed to maintain adequate protection, it is saying that the current operating plants now pose undue risk to the public which we are presently tolerating. If I believe that, I would suggest (as I'm sure would the rest of the Commission) that this rule become immediately effective. This is clearly not the case. As the Commission in the very same comment shows, " . . . the proposed rule codifies and standardizes previously existing (my emphasis) Commission requirements, both explicit and implicit, in plant technical specifications, licensee safety analysis reports, and 10 CFR Part 50, Appendix B." It seems to me that the Commission can't have it both ways.

I request comments on my views.

Impact

Although the Commission believes that this proposed rule is by virtue of 10 CFR 50.109(a)(4) not subject to the requirement for a backfit finding and analysis, it has nevertheless performed an analysis of cost and other backfit factors as an alternative ground for proceeding with the proposed rule and to facilitate public comment on the backfit issue.

The economic impact of the proposed requirement on licensees should be negligible. The accompanying draft

regulatory analysis shows that, although initial financial investments will be required by some licensees to establish a systematic and comprehensive maintenance program, the savings due to decreased corrective maintenance costs and increased plant availability should outweigh the investment costs. The Commission requests cooperation of informed sources in order to develop further details and verification of this analysis.

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, this rule, if adopted, would not be a major Federal action significantly affecting the quality of the human environment and; therefore, an environmental impact statement is not required.

The proposed action is directed to preserve and promptly restore operability, reliability, and availability of, or to prevent the failure of, plant structures, systems, and components whose failure could threaten the health and safety of the public. Since the proposed action is directed to improving the maintenance of plant systems, components and structures and does not require any modification of the plant, it will not affect the quality of the human environment.

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, Lower level, NW., Washington, DC.

Single copies of the environmental assessment and finding of no significant impact are available from Moni Dey, Office of Nuclear Regulatory Research, Telephone: (301) 492-3730, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Paperwork Reduction Act Statement

This proposed rule amends recordkeeping requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) This rule has been submitted to the Office of Management and Budget for review and approval of the paperwork requirements.

Public reporting burden for this recordkeeping of information is estimated to average 1000 hours per plant per year including the 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 the Records and Reports Management Branch, Division of Information Support Services/IRM, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 2120 L St., NW, Washington, DC 20005. Single copies of the draft analysis may be obtained from Moni Dey, U.S. Nuclear Regulatory Commission, Washington, DC 20555, (301) 492-3730.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** heading.

Backfit Analysis

As noted above, the Commission has completed a backfit analysis for the proposed rule. The Commission has determined, based on this analysis, that backfitting to comply with the requirements of this proposed rule will provide a substantial increase in protection to public health and safety without any additional costs. The backfit analysis on which this determination is based is as follows:

Analysis and Documentation for the Proposition That the Proposed Rule Satisfies the "Adequate Protection" Exception in 10 CFR 50.109(a)(4); Analysis and Determination That the Rulemaking to Amend 10 CFR 50 Concerning Maintenance Complies With Backfit Rule 10 CFR 50.109 In Any Event

While the Commission's existing regulations contain several provisions which, either implicitly or explicitly, address the need for effective maintenance, they do not *explicitly* address the requirements of an effective maintenance program in any easily understood and comprehensive fashion. The Commission believes that safety can and must be enhanced by improving the effectiveness of maintenance programs throughout the nuclear

industry. The proposed rule requires nuclear power plant maintenance programs to have a set of functions and activities which the Commission believes are essential for a comprehensive and effective program.

The findings and conclusions of the Commission's assessment of the effectiveness of plant maintenance programs can be found in NUREG-1212, "Status of Maintenance in the U.S. Nuclear Power Industry." The study showed weaknesses at plants in a number of areas of maintenance which the Commission believes is critical for an overall effective program. Further, analysis of operational events has shown that, in some cases, nuclear power plant equipment is not being maintained with a high degree of reliability that the equipment will perform its intended function when required. The Commission believes that effective maintenance is necessary for adequate protection. The objective of the proposed rule is to require improvements for those plants that are poorly maintained, and also to prevent the declining performance of plants that are well-maintained. The proposed rule, by addressing in an easily understood way the requirement that there be an effective maintenance program, would advance the goal of having a comprehensive set of regulations which define what is needed for adequate protection and; therefore, satisfies the "Adequate Protection" Exception in 10 CFR 50.109(a)(4).

In addition, the Commission has conducted an analysis and determined that the proposed maintenance rule complies with section (3) of the backfit rule, 10 CFR 50.109. The benefit of improvements in maintenance has been estimated to be in the order of 250,000 person-rem for the lifetime of all nuclear power plants. Common sense also suggests that a well-maintained plant poses less risk than one poorly maintained. The proposed rule will help ensure a satisfactory level of performance for maintenance programs by specifying those activities and practices which, through experience, have been shown to be key elements of effective maintenance programs, and should result in a substantial enhancement of public health and safety.

Improvements in maintenance serve to meet dual objectives: (1) Enhance safety; and also (2) increase plant availability and capacity factor. Therefore, it has been estimated that enhancement in safety as a result of improved maintenance may be accomplished without any additional

costs, due to cost savings from reduced plant downtime. Further, a proactive and well-planned maintenance program decreases costs of corrective and repeat maintenance.

The following discussion presents the summary of the backfit analysis. Further details may be found in the Regulatory Analysis for the proposed rule.

Analysis of § 50.109(c) Factors

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

The purpose of the maintenance rule is to improve maintenance effectiveness, and thereby enhance overall safety, by establishing basic requirements for plant maintenance programs. In establishing these requirements, the Commission intends to consider the industry-wide efforts that have already been initiated.

The objectives of the maintenance rule are as follows:

- (1) To define NRC's expectations for plant maintenance; and
- (2) To improve licensee maintenance programs by requiring the effective conduct of a set of functions and activities.

With implementation of the rule, it is expected that the current wide variation in maintenance performance will be reduced so that the performance of plants that lag behind the industry as a whole will be brought up to the level of performance of the majority of the industry. Second, the overall average level of industry's performance should also improve.

An important part of the structure of the rule is to achieve improved maintenance performance in a way that allows licensees the flexibility to determine the details of their individual maintenance program so that plant-specific factors can be taken into account. This flexible approach will enhance both safety and cost-effectiveness, compared to a rigid and prescriptive rulemaking approach.

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

The licensees will be required to have a documented and effective maintenance program which shall include the following activities:

- (1) Technology in the areas of:
 - (i) Corrective maintenance,
 - (ii) Preventive maintenance,
 - (iii) Predictive maintenance, and
 - (iv) Maintenance Surveillance;
- (2) Engineering in support of maintenance;
- (3) Quality assurance and quality control of maintenance activities;
- (4) Incorporation of plant

modifications into the maintenance program;

- (5) Equipment history and trending;
- (6) Maintenance record keeping;
- (7) Management of parts, tools, and facilities;
- (8) Maintenance procedures;
- (9) Post-Maintenance testing and return-to-service activities;
- (10) Measures of overall maintenance program effectiveness;
- (11) Maintenance management and organization in the areas of:
 - (i) Planning,
 - (ii) Scheduling,
 - (iii) Staffing,
 - (iv) Shift coverage, and
 - (v) Resource allocation;
- (12) Control of contracted maintenance services;
- (13) Radiological exposure control (including ALARA) during maintenance activities;
- (14) Maintenance personnel qualification and training;
- (15) Internal communications between the maintenance organization and plant operations and support groups;
- (16) Communications between plant and corporate management and the maintenance organization; and
- (17) Consideration of maintenance recommendations or requirements of individual vendors.

Criteria for acceptability of the conduct of the above activities will be provided in the proposed Maintenance Standard or Regulatory Guide.

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

Implementation of the proposed maintenance rule will result in an estimated total risk reduction to the public ranging from 50,000 to 500,000 person-rem with a point estimate of about 250,000 person-rem.

4. Potential impact on radiological exposure of facility employees. A large fraction (two thirds to three fourths) of the occupational radiation exposure incurred at nuclear power plants is associated with maintenance, on the order of 300 person-rem per reactor-year in 1987. Improvements in maintenance programs can affect collective occupational exposures both positively and negatively. Increases in maintenance activity due to expanded preventive maintenance or more aggressive corrective maintenance (to reduce backlogs, for example) will tend to increase exposure, and productivity and reductions in the amount of rework will tend to reduce exposures. The net effect of these positive and negative trends is believed to be beneficial, but

small compared to the other costs and benefits of improved maintenance.

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

For 100 operating reactors, the total estimated cost associated with the proposed maintenance rule is -\$198 million. The minus sign denotes a cost savings. This estimate breaks down as follows:

Industry cost element	Millions of 1988 dollars
Maintenance plan	4
Recordkeeping and reporting	12.3
Maintenance standard	2.8
Reg. guide workshops	0.4
Implement improvements (at some plants):	
Preventive maintenance	1,500
Maint. -Ops. coord.	2.1
Maint. info. system	150
Procedures	14
Increased staffing to reduce over-time	50
Reduced risks of onsite property damage	-33
Cost savings due to improved availability and reduced corrective maintenance	-1,900
Total net industry costs	-198

Notes: 1. Negative signs denote cost savings; 2. Values in table are rounded.

6. The potential safety impact of changes in plant or operational complexity, including the relationship to proposed and existing regulatory requirements.

The proposed rule would require certain elements in a plant maintenance program and should not add to plant or operational complexity. Improved maintenance should result in a decrease of challenges to safety systems and forced outages, and therefore, should decrease the complexity of operations.

The proposed maintenance rule is related to the following existing regulatory requirements:

(1) Surveillance requirements for safety system is required in the technical specifications. These requirements are not duplicated for the proposed maintenance rule.

(2) In-service inspection requirements are covered under 10 CFR 50.55a, Codes and Standards. These requirements of a preventive maintenance program are not duplicated under the proposed maintenance rule.

(3) Criterion 1, Appendix A, 10 CFR Part 50, concerning General Design Criteria (GDC), requires that a quality assurance (QA) program be established and implemented in order to provide

adequate assurance that Nuclear Power Plant (NPP) structures, systems, and components will satisfactorily perform their safety functions. Appendix B of 10 CFR Part 50 establishes QA requirements for the design, construction, and operation of those structures, systems, and components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. Regulatory Guide 1.33 has been promulgated to describe acceptable methods for complying with the provisions of these appendices of 10 CFR Part 50 for the operational phase of NPPs.

These requirements are directed towards maintaining a quality assurance program and do not explicitly address maintenance as defined in the proposed rule. The proposed Maintenance Standard and Regulatory Guide will directly address the maintenance activities in the proposed rule.

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

The estimated total cost for NRC review of industry submittals required by the proposed maintenance rule in \$400,000 based on the need for developing a Regulatory Guide to provide the basis for review of an industry-developed Maintenance Standard or to provide guidance on implementation of the rule if a Maintenance Standard is not developed. Individual plant maintenance programs will be subject to the ongoing inspection process but would not be required to be submitted to the NRC for review and approval.

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

The proposed maintenance rule establishes generic requirements applicable to all types of facilities and designs, regardless of their age.

9. Whether the backfit is interim or final and, if interim, the justification for imposing the backfit on an interim basis. The proposed maintenance rule would be a final requirement.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that this proposed regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities. This proposed regulation affects licensees that own and operate nuclear utilization facilities licensed under sections 103 and 104 of the Atomic Energy Act of 1954, as amended. These licensees do not fall

within the definition of small business set forth in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards set forth in 13 CFR Part 121.

List of Subjects in 10 CFR Part 50

Nuclear power plants and reactors.

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. Secs. 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). Sections 50.10 also issued under Secs. 101, 185, 68 Stat. 936, 955, as amended (42 U.S.C. 4332). Sections 50.23, 50.35, 50.55 and 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). Sections 50.103 also issued under Sec. 108, 68 Stat. 939, as amended (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 and 50.54 and 50.54(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. A new § 50.65 is added to read as follows:

§ 50.65 Requirements to ensure the effectiveness of maintenance programs for nuclear power plants.

(a) *Applicability.* The requirements of this section apply to all nuclear power reactors licensed under § 50.21 b or § 50.22.

(b) *Definitions.* For the purpose of this section, the Commission defines maintenance as the aggregate of those planned and systematic actions required to preserve and promptly restore operability, reliability, and availability of, or to prevent the failure of, plant structures, systems, and components. The Commission intends the scope of the rule to cover all systems, structures and components, including those in the

Balance-of-Plant. Maintenance includes not only activities traditionally associated with identifying and correcting actual or potential degraded condition, i.e., repair, surveillance, diagnostic examinations, and preventive measures; but extends to all supporting functions for the conduct of these activities. Maintenance includes the following activities:

- (1) Technology in the areas of:
 - (i) Corrective maintenance,
 - (ii) Preventive maintenance,
 - (iii) Predictive maintenance, and
 - (iv) Maintenance Surveillance;
- (2) Engineering in support of maintenance;
- (3) Quality assurance and quality control of maintenance activities;
- (4) Incorporation of plant modification into the maintenance program;
- (5) Equipment history and trending;
- (6) Maintenance record keeping;
- (7) Management of parts, tools, and facilities;
- (8) Maintenance procedures;
- (9) Post-Maintenance testing and return-to-service activities;
- (10) Measures of overall maintenance program effectiveness;
- (11) Maintenance management and organization in the areas of:
 - (i) Planning,
 - (ii) Scheduling,
 - (iii) Staffing,
 - (iv) Shift coverage, and
 - (v) Resource allocation;
- (12) Control of contracted maintenance services;
- (13) Radiological exposure control (including ALARA) during maintenance activities;
- (14) Maintenance personnel qualification and training;
- (15) Internal communications between the maintenance organization and plant operations and support groups;
- (16) Communications between plant and corporate management and the maintenance organization; and
- (17) Consideration of maintenance recommendations or requirements of individual vendors.

(c) *Requirements.* Each holder of an operating license subject to this section shall (1) establish, implement, and maintain an effective and documented maintenance program that addresses elements and activities in paragraph (b) of this section, and (2) regularly assess the effectiveness of this maintenance program and, based upon this assessment, make improvements, as appropriate.

(d) *Implementation.* By (insert a date 2 years after the effective date of the amendment) each licensee shall certify, by letter to the Director of the Office of

Nuclear Reactor Regulation, that a comprehensive documented maintenance program is being maintained and implemented, which addresses all elements and activities in paragraph (b) of this section including measures to monitor the effectiveness of the maintenance program and to improve the program where appropriate. In addition, each licensee shall develop (insert a date 3 months after the effective date of the amendment) a timely and expeditious plan and schedule (including Key Milestones) for meeting the requirements of this section.

Dated at Rockville, Maryland, this 21st day of November, 1988.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 88-27331 Filed 11-25-88; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 801, 802 and 803

Proposed Premerger Notification Rules; Extension of Time for Filing Comments

AGENCY: Federal Trade Commission.

ACTION: Proposed rulemaking; extension of time.

SUMMARY: On September 22, 1988 the Federal Trade Commission published proposed changes to its premerger notification rules (53 FR 36831). The Federal Trade Commission requested comments on the proposed changes be submitted on or before November 21, 1988. The Federal Trade Commission believes an extended period for such comments might provide valuable additional information and is therefore extending the deadline for comments on the proposed changes by thirty two days, or until December 23, 1988.

DATE: Comments on the proposed rule changes must now be received on or before December 23, 1988.

ADDRESSES: Written comments should be submitted to both (1) the Secretary, Federal Trade Commission, Room 172, Washington, DC 20580, and (2) the Assistant Attorney General, Antitrust Division, Department of Justice, Room 3214, Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: Roberta S. Baruch, Acting Assistant Director, Bureau of Competition, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326-3300.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 88-27335 Filed 11-25-88; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF LABOR

Employment Standards Administration, Office of Workers' Compensation Programs

20 CFR Part 10

Claims for Compensation Under the Federal Employees' Compensation Act

AGENCY: Office of Workers' Compensation Programs, Employment Standards Administration, Labor.

ACTION: Withdrawal of Proposed rule.

SUMMARY: On April 7, 1988 (53 FR 11596), the Employment Standards Administration issued for comment a proposed change to 20 CFR 10.125(b) and 10.321(a), which would have provided for recoupment of compensation forfeited under 5 U.S.C. 8106 at the rate of 100% of continuing compensation. The proposed rule is withdrawn. After a review of the comments received, which all opposed this rule on the ground that there was no basis for singling out recoupment of forfeited compensation from any other overpayment situation, the Department has decided that the existing rules are most consistent with the Federal Employees' Compensation Act, 5 U.S.C. 8101, *et seq.*

The proposed rule was a republication of a final rule published April 1, 1987. In republishing the rule as a proposal, the Department also reinstated (as an interim final rule) the provisions dealing with recoupment of forfeited compensation which existed before April 1, 1987 (53 FR 11594; April 7, 1988). By withdrawing the proposed rule, therefore, that interim final rule remains in effect.

EFFECTIVE DATE: November 28, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas M. Markey, Associate Director, Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, Employment Standards Administration, U.S. Department of Labor, Room S-3229, Francis Perkins Building, 200 Constitution Avenue, NW., Washington, DC 20210; Telephone (202) 523-7552.

Signed at Washington, DC, this 21st day of November 1988.

Fred W. Alvarez,

Assistant Secretary for Employment Standards.

[FR Doc. 88-27281 Filed 11-25-88; 8:45 am]

BILLING CODE 4510-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

Allowances for Extraordinary Costs, Transportation and Gas Processing

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of request for comments.

SUMMARY: On January 15, 1988, the Minerals Management Service (MMS) published in the Federal Register final rules revising oil and gas royalty valuation regulations (53 FR 1184, Oil; 53 FR 1230, Gas). The gas royalty valuation regulations at 30 CFR 206.158(d)(2)(i) state that an allowance for extraordinary costs of processing may be granted if the lessee can demonstrate that the costs are, by reference to standard industry conditions and practice, extraordinary, unusual, or unconventional. The MMS intends to further develop the criteria for assessing when a project qualifies for an extraordinary cost allowance. The MMS is not only interested in comments on gas regulations but also comments concerning whether extraordinary cost allowance provisions should be developed for its oil, coal, and geothermal product value regulations. In addition, MMS is soliciting comments on its thresholds for transportation and processing allowances of 50 percent and 66 percent, respectively.

DATE: Comments must be received by January 27, 1989.

ADDRESS: Written suggestions may be mailed to Minerals Management Service, Royalty Management Program, Rules and Procedures Branch, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 662, Denver, Colorado 80225, Attention: Dennis C. Whitcomb.

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

SUPPLEMENTARY INFORMATION:

Background

The preamble to the gas valuation regulations published on January 15,

1988, at 53 FR 1267, pertaining to comments received on § 206.158(d) referred to industry commenters expressing their view that certain extraordinary costs should be deductible from royalty. One industry trade group stated that the costs related to the manufacture and sale of separately marketable products are extraordinary and should be allowed. Another industry commenter stated that other off-lease costs and certain "extraordinary" on-lease costs should be deductible. The MMS responded to these comments by stating that costs for the services of gathering, separation, measurement, dehydration, compression, and sweetening are considered to be a requirement to place the lease production into marketable condition, at no cost to the lessor, and cannot, therefore, be included in a processing allowance. The MMS did, however, include in the final regulations a new § 206.158(d)(2) which states:

If the lessee incurs extraordinary costs for processing gas production from a gas production operation, it may apply to MMS for an allowance for those costs which shall be in addition to any other processing allowance to which the lessee is entitled pursuant to this section. Such an allowance may be granted only if the lessee can demonstrate that the costs are, by reference to standard industry conditions and practice, extraordinary, unusual, or unconventional.

This provision was intended to apply to advanced processing technologies or unusual conditions that are outside of normal industry operational standards. To process applications for allowances, under this provision of the regulations, MMS must define the standard industry conditions and practices, and by reference to the standard, develop rationale and criteria for classifying a project and related costs as extraordinary, unusual, or unconventional. These criteria can then be uniformly applied to all extraordinary costs allowance requests. To fully develop the criteria, MMS is soliciting comments from all interested parties. Following the comment process, MMS will evaluate all suggestions received and will develop draft criteria which, in turn, will be submitted to the Royalty Management Advisory Committee for its review and recommendations.

During the oil and gas product valuation rulemaking process, MMS received many comments concerning the allowances for transportation and gas processing. Most of the comments centered upon whether the provisions limiting the allowances should be

eliminated, retained, or changed. Some comments from industry and trade group representatives stated that MMS " * * * should abolish the 50 percent limitation for one or more of the following reasons: * * * " [They then listed five reasons which ranged from [it was arbitrary and unjust] to [it could impose a serious economic deterrent to the development of frontier areas.]] State and Indian comments varied from one State representative saying that the limitation " * * * keep(s) costs under control while allowing some relief for legitimate hardship conditions," to three Indians and one Congressman recommending that the standard for determining whether the allowance should exceed the threshold is whether or not it " * * * is in the best interest of the lessor."

Comments Requested

(a) *Extraordinary Cost—Gas Processing.* The MMS is seeking comments on what factors should comprise the criteria which must be met before any extraordinary cost allowance would be approved. The MMS is receptive to all suggestions but is specifically requesting comments on the following: (1) What conditions, i.e., processes utilized, range of feed gas steam compositions, range of processing costs (\$/mcf throughput), and range of capital costs (\$/mcf per day), are standard for the gas processing industry? (2) What should be the standard for classifying a processing technology and the cost of that technology is extraordinary? (3) Should the extraordinary cost allowance apply only to the costs of processing which exceed normal industry standards or should it apply to all costs of processing? (4) should the extraordinary cost allowance apply only to new projects, or should it apply to existing projects?

(b) *Extraordinary Cost—Other than Gas Processing.* Except for gas processing, MMS's current product value regulations for other minerals, such as oil, coal, and geothermal, do not contain any provision for extraordinary cost allowances. The MMS would like comments as to whether provisions should be available for these or any other minerals where advance technology is used or where other than normal production conditions are encountered. Some examples of these situations might be clean coal technology, tertiary oil recovery, offshore arctic production and offshore deepwater (over 400 meter) production. Comments concerning these products

and situations should address the same general questions cited above, i.e., what conditions are standard in the industry; what conditions or criteria should qualify as extraordinary; what allowances, if any, should be provided; and should the age of the project be a factor?

(c) *Transportation and Processing Allowances—Oil and Gas.* The MMS currently has allowance provisions in its oil and gas product value regulations for transportation and processing costs (30 CFR 206.104, 206.157, 206.158, and 206.159). Allowances are limited to "reasonable, actual costs" with an MMS approval threshold. Allowances for transportation costs may not exceed 50 percent and allowances for processing costs may not exceed 66⅔ percent without MMS approval. These thresholds were established with the intent of keeping a balance between the burden of processing paperwork-administrative oversight, with the risks of claiming excessive allowances without administrative review and intervention.

During its recent rulemaking process, MMS received many comments on these thresholds. With almost 8 months of actual experience using these thresholds, MMS would like to reexamine them to see whether they are appropriate or whether they should be raised, lowered, or abandoned. The MMS is interested in your comments, on this subject, and please provide the rationale or data to support your recommendations.

Date: November 21, 1988.

James E. Cason,

Deputy Assistant Secretary—Land and Minerals Management.

[FR Doc. 88-27356 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-MR-M

POSTAL SERVICE

39 CFR Part 111

Use of International Air Mail Envelopes, Cards, and Postal Stationery for Domestic Mail Service

AGENCY: Postal Service.

ACTION: Withdrawal of proposed rule.

SUMMARY: On the basis of comments received, which are summarized in the Supplementary Information, and for other reasons, the Postal Service is withdrawing the proposed rule that

would prohibit international airmail envelopes, cards, and postal stationery (those having a red-and-blue border), from being used for domestic mail services.

EFFECTIVE DATE: November 28, 1988.

FOR FURTHER INFORMATION CONTACT: Leo F. Raymond, (202) 268-5199.

SUPPLEMENTARY INFORMATION: On October 20, 1987, the Postal Service published for comment a proposed rule that would amend Domestic Mail Manual section 129.4 to prohibit international airmail envelopes, cards, and postal stationery (those having a red-and-blue border), from being used for domestic mail services. (52 FR 38949-50).

Six comments were received in response to the proposed rule. One commenter supported the proposal as a means of deterring use of such a "high priority" signifier on bulk mailings. A majority of the commenters, however, opposed the proposed rule on the general ground, among others, that red-and-blue markings attract the attention of mail recipients because those markings are still generally associated in the public mind with the importance of domestic air mail. Another commenter argued that the proposed requirement that domestic red-and-blue bordered stationery found in the mail be returned to the sender could be read as making such mail nonmailable, and that changes in mailability generally call for a change in the Domestic Mail Classification Schedule.

In view of these comments, as well as the perceived marginal mail processing benefits that would be recoverable if the regulation were adopted, the Postal Service has determined that it will take no further action to implement the proposal at this time and hereby withdraws the proposal.

Fred Eggleston,

Assistant General Counsel Legislative Division.

[FR Doc. 88-27341 Filed 11-25-88; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6943]

Federal Insurance Administration; Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed modified base (100-year) flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the floodplain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program.

DATES: The period for comment will be ninety (90) days following the second publication of the proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Matticks, Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of modified base (100-year) flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 400-4128, and 44 CFR 67.4(a).

These elevations, together with the floodplain management measures

required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed modified flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under Section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the floodplain area. The local community voluntarily adopts floodplain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the floodplain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Floodplains.

PART 67—[AMENDED]

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*, Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed modified base flood elevations for selected locations are:

PROPOSED MODIFIED BASE FLOOD ELEVATIONS

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
Arkansas.....	Fayetteville, City, Washington County.	Hamestring Creek.....	At confluence of North Fork Hamestring Creek...	None	*1,209
			Approximately 0.3 mile upstream of Wedington Drive.	None	*1,255
		South Fork Hamestring Creek ..	At confluence with Hamestring Creek	None	*1,235
			At downstream side of Giles Road.....	None	*1,251

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City Inspection Office, 113 West Mountain, Fayetteville, Arkansas. Send comments to The Honorable Marilyn Johnson, Mayor of the City of Fayetteville, Washington County, 113 West Mountain, Fayetteville, Arkansas 72701.					
California	City of Clearlake, Lake County.	Burns Valley Creek.....	Just downstream of State Highway 53.....	*1,401	*1,401
			Just upstream of State Highway 53.....	*1,406	*1,403
			Approximately 2,040 feet upstream of State Highway 53.	None	*1,410
			Approximately 100 feet downstream of the City Corporate limits.	None	*1,422
		Burns Valley Creek Overflow	Approximately 600 feet downstream of Redwood Street.	*1,348	*1,348
			Just upstream of Redwood Street	*1,349	#1
			Just upstream of Olympia Drive	*1,353	#1
			Approximately 100 feet upstream of Burns Valley Road.	*1,358	*1,358

Maps are available for review at City Hall, 14360 Lakeshore Drive, Clearlake, California.

Send comments to the Honorable Edward Robey, Jr., Mayor, City of Clearlake, P.O. Box 2440, Clearlake, California, 95422.

California	Santa Clara County (unincorporated areas).	Upper Penitencia Creek Overflow.	Approximately 300 feet west of intersection of Western Pacific Railroad and Cornish Lane.	None	*81
			Approximately 200 feet east of intersection of Cornish Lane and Western Pacific Railroad.	*82	#1
			Approximately 700 feet east of intersection of Cornish Lane and Western Pacific Railroad.	None	#1
			Approximately 250 feet north of Upper Penitencia Creek at Jackson Avenue crossing.	None	#1
			Approximately 4,200 feet west of intersection of Mabury Road and Sinclair Freeway.	None	#1
			Approximately 200 feet northeast of intersection of Berryessa Road and Flickinger Avenue.	None	#2
			Approximately 1,150 feet south of intersection of Hostetter Road and Capitol Avenue.	None	#2
			Approximately 1,000 feet west of intersection of Sierra Road and Capitol Avenue.	*121	#2
			Intersection Old Post Way and Capitol Road	None	*121
			Intersection of Berryessa Road and Capitol Road.	*143	#1
			Area between Capitol Road and Sinclair Freeway from 700 feet north of Upper Penitencia Creek to 100 feet north of Upper Penitencia Creek.	*143	#2
			Approximately 2,700 feet north of intersection of McKee Road and Wood Road.	#1	#2
			Approximately 1,300 feet south of intersection of Baton Rouge Drive and Capitol Avenue.	None	#2
			Approximately 800 feet south of intersection of Baton Rouge Drive and Capitol Drive.	None	#1
			Approximately 200 feet west of intersection of Capitol Road and Baton Rouge Drive.	None	#1
			Approximately 400 feet north of intersection of Sinclair Freeway and Mabury Road.	*139	#2
			Approximately 400 feet west of intersection of Mabury Road and Capitol Avenue.	None	#2
			Approximately 200 feet west of Penitencia Creek at Sinclair Freeway crossing.	None	#2
			At Confluence of Guadalupe Slough and Coyote Creek.	*7	*8
			At crossing of Southern Pacific Railroad and Alvisio Slough.	*7	*9
			Approximately 800 feet northwest of San Tomas Aquino Creek from Coffin Road crossing.	None	*9

Maps are available for review at the Santa Clara County Department of Land Use and Development, Central Permit Office, 70 West Hedding Street, San Jose, California.

Send comments to The Honorable Sally Reed, Santa Clara County Executive, 70 West Hedding Street, San Jose, California 95110.

California	City of San Jose, Santa Clara County.	Upper Penitencia Creek Overflow.	Intersection of Cornish Lane and Berryessa Road.	None	*79
			Approximately 400 feet south of intersection of Berryessa Road and Western Pacific Railroad.	*79	*81
			Approximately 900 feet west of confluence of Upper Penitencia Creek with Coyote Creek.	None	*81

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
			Intersection of Cornish Lane and Berryessa Road.	None	*79
			Approximately 800 feet west of the King Road crossing of Upper Penitencia Creek.	*82	#1
			Area bounded by King Road, Mabury Road and Penitencia Creek.	None	#1
			Approximately 200 feet north of westernmost crossing of Mabury Road and Upper Penitencia Creek.	*96	#2
			Approximately 250 feet west of easternmost crossing of Mabury Road and Upper Penitencia Creek.	None	#2
			Approximately 350 feet west of intersection of Mossdale Way and Jackson Avenue.	None	#1
			Approximately 400 feet south of intersection of Berryessa Road and Park Way.	None	#1
			Approximately 500 feet south of intersection of Jackson Avenue and Bluejacket Way.	None	#2
			Approximately 1,450 feet north of intersection of Lava Drive and Jackson Avenue.	None	#1
			Heatherfield Lane extended 150 feet south from intersection with Penitencia Creek Road.	None	#1
		Upper Penitencia Creek Overflow North of Creek Penitencia	Approximately 1,000 feet west of intersection of Trimble Road and Ringwood Avenue.	*35	#1
			Intersection of Lundy Avenue and Trimble Road.	None	#1
			Area north Ramstree Drive to Four Oaks Road.	None	#1
			Intersection of Old Stone Way and Olive-Stone Way.	#2	#1
			Intersection of Old Post Way and Old Park Place.	#2	*121
			Intersection of Old Gate Place and Battaglia Circle.	*127	*129
			Intersection of Old Manor Place and Battaglia Circle.	#1	#2
			Approximately 200 feet west of intersection of Capitol Avenue and Moorbrook Drive.	None	#1
			Approximately 700 feet south of intersection of Capitol Avenue and Moorbrook Drive.	*143	#1
			Approximately 400 feet south of intersection of Capitol Avenue and Moor Brook Drive.	None	#2
			Approximately 1,200 feet south of intersection of Berryessa Road and Capitol Avenue.	*143	#2
			Intersection of Penitencia Creek Road and Capitol Avenue.	#1	#2
		Upper Penitencia Creek Overflow South of Penitencia Creek	Area along Sinclair Freeway from approximately 700 feet south of Alum Rock Avenue north to McKee Road.	*101	*100
			Approximately 1,600 feet north of junction of McKee Road and Sinclair Freeway.	None	#1
			Approximately 1,600 feet south of intersection of Mabury Road and Capitol Avenue.	#1	#2
			Approximately 1,200 feet south of intersection of Mabury Road and Capitol Avenue.	None	#2
			Intersection of Capitol Avenue and Baton Rouge Drive.	None	#1
			Intersection of Williford Road and Gilchrist Drive.	*139	#2
			Area bounded by Gilchrist Drive, Capitol Avenue and Williford Drive.	None	#2
			Approximately 800 feet northwest of intersection of Capitol Avenue and Mabury Road along Capitol Avenue.	#1	#2
			Approximately 200 feet west of intersection of Gilchrist and Capitol Avenue.	None	#2
			Approximately 1,400 feet south of intersection of Penitencia Creek Road and Capitol Avenue.	None	#2
		San Francisco bay	At confluence of Guadalupe Slough and Coyote Creek.	*7	8
			At crossing of Southern Pacific Railroad and Alvisio Slough.	*7	9

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
Maps are available for review at the City of San Jose Engineering Department, 810 North First Street, San Jose, California. Send comments to the Honorable Thomas McEnery, Mayor, City of San Jose, 81 First Street, San Jose, California 95110.					
California	City of Williams, Colusa County.	Salt Creek	Intersection of A Street and 10th Street	None	#1
			Intersection of North Street and 10th Street	None	#2
			Intersection of 5th Street and B Street	None	78
			Intersection of 6th Street and C Street	None	79
Maps are available for review at City Hall, 810 E Street, Williams, California. Send comments to The Honorable Gerald English, Mayor, City of Williams, P.O. Box 922, Williams, California 95987.					
Colorado	Town of Parker, Douglas County.	Sulphur Gulch	Approximately 3,800 feet upstream of confluence with Cherry Creek.	*5,844	*5,844
			Approximately 20 feet downstream of State Highway 83.	*5,848	*5,850
			Approximately 100 feet upstream of State Highway 83.	*5,852	*5,853
			Approximately 100 feet upstream of Pikes Peak Drive.	*5,857	*5,857
Maps are available for review at the Town Hall, 20120 East Main Street, Parker, Colorado. Send comments to The Honorable Ann Waterman, Mayor, Town of Parker, P.O. Box 667, Parker, Colorado 80134.					
Florida	Unincorporated Areas of Hillsborough County.	Cypress Creek	At mouth	*30	*30
			Just downstream of State Route 581	*35	*34
			About 7.4 miles upstream of State Route 581	*52	*51
		Trout Creek	At mouth	*39	*39
			Just upstream of State Route 581	*39	*45
			About 2.6 miles upstream of State Route 581	None	*51
		Delaney Creek	Just upstream of 36th Avenue	*11	*11
			About 660 feet downstream of 70th Street	*15	*18
			Just upstream of Pauls Drive	None	*31
Maps available for inspection at the Department of Development Coordination, Tampa, Florida. Send comments to The Honorable Larry J. Brown, Hillsborough County Administrator, P.O. Box 1110, Tampa, Florida 33601.					
Georgia	City of Kennesaw, Cobb County.	Butler Creek	About 3,350 feet downstream of Pine Mountain Road.	None	*971
			About 170 feet upstream of Woodland Place	None	*1,015
			Just upstream of Summitwood Drive	None	*1,035
Maps available for inspection at the City Hall, Kennesaw, Georgia. Send comments to The Honorable J.O. Stephenson, Mayor, City of Kennesaw, 2529 J.O. Stephenson Avenue, Kennesaw, Georgia 30144.					
Iowa	City of Dubuque, Dubuque County.	Middle Fork Catfish Creek	At mouth	None	*620
			Just downstream of Illinois Central Gulf railroad—about 1.2 miles upstream of mouth.	None	*641
			Just upstream of Illinois Central Gulf railroad—about 1.2 miles upstream of mouth.	None	*646
			Just downstream of Illinois Central Gulf railroad—about 5.3 miles upstream of mouth.	None	*740
			Just upstream of Illinois Central Gulf railroad—about 5.3 miles upstream of mouth.	None	*745
			Just downstream of Illinois Central Gulf railroad—about 6.9 miles upstream of mouth.	None	*767
			Just upstream of Illinois Central Gulf railroad—about 6.9 miles upstream of mouth.	None	*772
			About 1,450 feet upstream of Radford Road	None	*791
		North Fork Catfish Creek	At mouth	None	*686
			Just downstream of Coates Street	None	*696
			Just upstream of Coates Street	None	*701
			Just downstream of U.S. Highway 20	None	*719
			Just upstream of U.S. Highway 20	None	*726
		North Fork Catfish Creek	Just downstream of University Avenue	None	*730
			Just upstream of University Avenue	None	*744
			About 3,600 feet upstream of University Avenue.	None	*761
		Catfish Creek	About 2,000 feet downstream of Kerrigan Road.	None	*613
			About 1 mile upstream of confluence of South Fork Catfish Creek.	None	*637
		South Fork Catfish Creek	At mouth	None	*626
			About .9 miles upstream of North Cascade Road.	None	*678
		Mississippi River	At mile 578.5	*613	*611
			At mile 585.3	*616	*614

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)			
				Existing	Modified		
Maps available for inspection at the City Hall, Development Zoning Service Administration, 13th and Central, Dubuque, Iowa. Send comments to The Honorable W. Kenneth Gearhart, Mayor, City of Dubuque, City Hall, 13th and Central, Dubuque, Iowa 52001.							
Minnesota.....	City of Breckenridge, Wilkin County.	Red River of the North	Just downstream of State Highway 210 APA1 confluence of Bois de Sioux River.	None	*959 AP*961		
		Bois de Sioux River	At confluence with Red River of the North.....	*960	*961		
			About 1.8 miles upstream of Burlington North-ern railroad.	*961	*962		
		Ottertail River	At confluence with River River of the North.....	*960	*961		
About 2,000 feet upstream of C.S.A.H. No. 16.....						*962	*961
Maps available for inspection at the City Hall, 420 Nebraska Avenue, Breckenridge, Minnesota. Send comments to The Honorable Marvin Anderson, Mayor, City of Breckenridge, City Hall, 420 Nebraska Avenue, Breckenridge, Minnesota 56520.							
New York.....	Fredonia, Village, Chautauqua County.	Canadaway Creek.....	Approximately 1,670 feet downstream of Risley Street bridge. Approximately 310 feet downstream of Liberty Street bridge.	*668 *746	*669 *745		
Maps available for inspection at the Building Inspector's Office, Village Hall, Fredonia, New York. Send comments to The Honorable Louis Mancuso, Mayor of the Village of Fredonia, Chautauqua County, P.O. Box 31, New York 14063.							
Oklahoma.....	Tulsa, City, Tulsa, Osage, & Rogers Counties.	Arkansas River.....	Approximately 2,100 feet upstream of 71st Street bridge.	*621	*622		
			Approximately 3,450 feet downstream of 51st Street bridge.	*623	*624		
			Approximately 800 feet downstream of Texas and Pacific Railroad bridge.	*629	*630		
			Approximately 1,950 feet upstream of St. Louis-San Francisco Railway bridge.	*635	*636		
		Little Haikey Creek	Centerline of Mingo Road	*665	*664		
			1,000 feet upstream of 91st Street	*671	*672		
Maps available for inspection at 200 Civic Center, Suite 642, Tulsa, Oklahoma. Send comments to The Honorable Rodger Randle, Mayor of the City of Tulsa, 200 Civic Center, Room 115, Tulsa, Oklahoma 74103.							
Oklahoma.....	Tulsa County, Unincorporated Areas.	Haikey Creek	Approximately 300 feet upstream of 129th East Avenue (Olive Avenue). Upstream side of Garnett Road	*598 *604	*597 *603		
Maps available for inspection at the Tulsa County Administration Building, 500 South Denver, Tulsa, Oklahoma. Send comments to The Honorable Lewis Harris, Chairman of the Board of County Commissioners, Tulsa County Administration Building, 500 South Denver, Tulsa, Oklahoma 74103.							
Oregon.....	City of Oakridge, Lane County.	Salmon Creek.....	Approximately 170 feet upstream of State Highway 58. Approximately 1,500 feet upstream of State Highway 58. Approximately 2,700 feet upstream of State Highway 58. At the intersection of Eastern corporate limit and Southern Pacific Railroad.	*1,166 *1,177 *1,191 *1,198	*1,165 *1,178 *1,190 #1		
		Maps are available for review at City Hall, 48318 East First Street, Oakridge, Oregon. Send comments to the Honorable Richard Culbertson, Mayor, City of Oakridge, P.O. Box 385, Oakridge, Oregon 97463.					
		Pennsylvania.....	West Whiteland, Township, Chester County.	Colebrook Run	Upstream of CONRAIL bridge	*281	*279
					Approximately 0.42 mile upstream of CONRAIL bridge.	*281	*281
Maps available for inspection at the Township Building, 222 N. Pottstown Pike, Exton, Pennsylvania. Send comments to the Honorable Stephen Ross, West Whiteland Township Manager, Chester County, 222 N. Pottstown Pike, P.O. Box 210, Exton, Pennsylvania 19341.							
Tennessee	City of Tullahoma, Coffee and Franklin Counties.	Blue Creek	About 860 feet downstream of Westside Drive....	None	*1,004		
			At confluence of North Fork Blue Creek.....	None	*1,017		
		North Fork Blue Creek	At mouth	None	*1,017		
			About 1,360 feet upstream of Cumberland Springs Road.	None	*1,051		
		North Fork Rock Creek.....	Just upstream of Old Airport Road	*1,052	*1,052		
Approximately 580 feet upstream of Cedar Lane.						*1,059	**105
Just downstream of Ledford Mill Road						*1,067	*1,067

PROPOSED MODIFIED BASE FLOOD ELEVATIONS—Continued

State	City/town/county	Source of flooding	Location	# Depth in feet above ground * Elevation in feet (NGVD)	
				Existing	Modified
Maps available for inspection at the City Hall, Building Department, Tullahoma, Tennessee. Send comments to the Honorable Joseph Ervin, Mayor, City of Tullahoma, City Hall, P.O. Box 807, Tullahoma, Tennessee 37380 **Indicates: Elevation along relocated channel					
Texas	Carrollton, City, Dallas, Denton, and Collin Counties.	Elm Fork of Trinity River	At confluence of Cooks Branch	*436	*438
			At upstream corporate limits	None	*454
		Cooks Branch	At confluence with Elm Fork of Trinity River	*436	*438
		Stream 6D1	Approximately 45 feet upstream of Jackson Road.	*498	*496
		Stream 6D3	At upstream side of 2nd crossing of St. Louis-San Francisco Railway.	*516	*517
			Approximately 360 feet downstream of Marsh Lane.	*608	*607
		Furneaux Creek	At confluence with Elm Fork of Trinity River	*447	*448
		Dudley Branch	50 feet upstream of confluence with Elm Fork of Trinity River.	*451	*452
			At confluence of Stream 6F1	*482	*478
			Approximately 75 feet upstream of Rosemeade Parkway.	*488	*484
			At upstream side of Hebron Parkway	None	*556
		Stream 6F1	At confluence with Dudley Branch	*482	*478
Indian Creek	At confluence with Elm Fork of Trinity River	*452	*453		
	Approximately .77 mile downstream of Denton Road.	*465	*461		
		Approximately 100 feet upstream of Denton Road.	*476	*474	

Maps available for inspection at the Engineering Department, City Hall, 1945 Jackson Road, Carrollton, Texas.

Send comments to The Honorable Milburn Gravely, Mayor of the City of Carrollton, Dallas, Denton, and Collin Counties, P.O. Box 110535, Carrollton, Texas 75011-0535.

Texas	San Antonio, City, Bexar County.	Zarzamora Creek	Downstream side of Callaghan Road	*798	*799
		Tributary D Salado Creek	At corporate limits	*800	*801
			Upstream face of Ira Lee Road	*706	*709
			Approximately 100 feet downstream of Harry Wurzbach Road.	*719	*718

Maps available for inspection at the Department of Public Works, Drainage Engineering, 14 West Commerce Street, 7th Floor, San Antonio, Texas.

Send comments to The Honorable Henry Cisneros, Mayor of the City of San Antonio, Bexar County, P.O. Box 9066, San Antonio, Texas 78285.

Utah	Salt Lake County (unincorporated areas).	Little Cottonwood Creek	Approximately 4,360 feet above Little Creek Road.	*4,763	*4,763
			Approximately 4,780 feet above Little Cottonwood Creek Road.	*4,768	*4,769
			Approximately 5,760 feet above Little Cottonwood Creek Road.	*4,796	*4,794
			Approximately 6,740 feet above Little Cottonwood Creek Road.	*4,823	*4,820
			Approximately 7,700 feet above Little Cottonwood Creek Road.	*4,858	*4,854
			Approximately 9,060 feet above Little Cottonwood Creek Road.	*4,902	*4,902

Maps available for inspection at the Flood Control and Highway Division, 2001 South State Street, #N3300, Salt Lake City, Utah 84190-4600.

Send comments to The Honorable Bart Barker, Chairman, Salt Lake City Board of Commissioners, City and County Building, Salt Lake City, Utah 84111.

Harold T. Duryee,
Administrator, Federal Insurance
Administration.

Issued: November 18, 1988.

[FR Doc. 88-27307 Filed 11-25-88; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Dockets Nos. 78-72, 80-286; FCC 88-364]

Access Charges; Universal Service Fund and Lifeline Assistance Programs

AGENCY: Federal Communications
Commission.

ACTION: Proposed rule.

SUMMARY: This Notice of Proposed Rulemaking (NPRM) proposes to modify the Commission's rules to eliminate the requirement that interexchange carriers (IXCs) with five percent of presubscribed lines in a study area (minimum 1000 lines) be assessed the charges for the Commission's Universal Service Fund (USF) and lifeline assistance (lifeline) programs. It also proposes that the nationwide presubscribed lines threshold be lowered so that only IXCs with .05 percent of these lines would be assessed

the USF and lifeline charges, instead of IXC's with more than one percent of presubscribed lines nationwide.

These charges would modify the current rule which would otherwise result in some very small IXC's being billed for USF and lifeline, while other medium-sized IXC's would not be billed.

DATES: Comment due not later than December 14, 1988 and reply comments due not later than December 29, 1988.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Diane Cornell, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (FCC 88-364), adopted November 7, 1988, and released November 9, 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.

Summary of Notice of Proposed Rulemaking

1. On November 7, 1988, the Commission adopted a Notice of Proposed Rulemaking (NPRM) in CC Docket Nos. 78-72 and 80-286 (released November 9, 1988, FCC 88-364). In this NPRM, the Commission seeks comment on proposed changes in the presubscribed lines formula used to calculate assessment of charges that fund the Commission's Universal Service Fund (USF) and lifeline assistance (lifeline) programs. The USF and lifeline programs are part of the non-traffic-sensitive cost recovery plan proposed by the Federal/State Joint Board in CC Dockets 78-72 and 80-286, and adopted by the Commission. Under the Commission's rules, these programs are funded by a charge assessed on interexchange carriers (IXCs) in proportion to their number of presubscribed lines.

2. The Commission's current rules provide for a per-line charge to be assessed on all IXC's that have at least one percent of all presubscribed lines on a nationwide basis, or at least five percent of the presubscribed lines in any one study area, and a minimum of 1000 presubscribed lines in that study area. Based on preliminary presubscribed

lines data submitted to the Commission by the National Exchange Carrier Association (NECA), the current rule would result in some very small IXC's being billed for USF and lifeline, while other medium-sized IXC's would not be billed. The NPRM notes that this unanticipated result is not consistent with the expectations of the Joint Board and the Commission in formulating these rules.

3. The Commission's proposed rule changes would eliminate the requirement that IXC's with five percent of lines in a study area (minimum 1000 lines) be assessed the charges for the USF and lifeline programs. Based on NECA's data, the Commission tentatively concludes that elimination of the "five percent" rule is appropriate because this rule would produce results that are inequitable and discriminatory. The NPRM also proposes to change the nationwide percentage threshold from one percent to .05 percent of all presubscribed lines. The Commission believes that its proposal represents the best balance between its desire to share the burden of funding the USF and lifeline programs among a reasonable number of IXC's, and the necessity of ensuring that the administrative costs of applying these charges do not become infeasible.

4. All interested persons may file comments on the proposals discussed in the Notice of Proposed Rulemaking not later than December 14, 1988, and that reply comments may be filed not later than December 29, 1988. In accordance with the provisions of § 1.419 of the Commission's Rules, 47 CFR 1.419, an original and five copies of all statements, briefs, comments, or replies shall be filed with the Federal Communications Commission, Washington, DC, 20554, and all such filings will be available for public inspection in the Docket Reference Room at the Commission's Washington, DC office.

5. This is a non-restricted notice and comment rulemaking proceeding. See § 1.1206(a) of the Commission's rules, 47 CFR 1.1206(a) for rules governing permissible *ex parte* contacts.

6. Pursuant to section 605(a) of the Regulatory Flexibility Act, the Commission certifies that the proposals made in the NPRM will not have a significant economic impact on a substantial number of small entities, and accordingly sections 603 and 604 of the Act do not apply to the rules proposed in the NPRM.

List of Subjects in 47 CFR Part 69

Common carrier—access charges, Common carrier—resale, Wide Area Telephone Service (WATS).

Part 69 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 69—ACCESS CHARGES

1. The authority citation for Part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403.

2. Section 69.5 is amended by revising paragraph (d) to read as follows:

§ 69.5 Persons to be assessed.

(d) Beginning on April 1, 1989, Universal Service Fund and Lifeline Assistance charges shall be assessed upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

3. Section 69.116 is amended by revising paragraph (a) to read as follows:

§ 69.116 Universal service fund.

(a) A charge that is expressed in dollar and cents per line per month shall be assessed beginning on April 1, 1989, upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

4. Section 69.117 is amended by revising paragraph (a) to read as follows:

§ 69.117 Lifeline assistance.

(a) A charge that is expressed in dollars and cents per line per month shall be assessed beginning on April 1, 1989, upon all interexchange carriers that use local exchange switching facilities for the provision of interstate or foreign telecommunications services and that have at least .05 percent of the total common lines presubscribed to interexchange carriers in all study areas.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 88-26983 Filed 11-25-88; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 53, No. 228

Monday, November 28, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Special Committee on Financial Services; Public Meeting

Summary: Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92-463), notice is hereby given of a meeting of the Special Committee on Financial Services of the Administrative Conference of the United States. The Committee has scheduled this meeting to develop proposed recommendations dealing with Bank Failures, Risk Monitoring, and the Market for Corporate Control, based upon a report by Professors Jonathan R. Macey of Cornell University Law School and Geoffrey Miller of the University of Chicago Law School. Copies of the Committee's report and draft recommendation may be obtained from the contact person named in this notice.

Date: Thursday, December 8, 1988, at 10:00 a.m.

Location: Administrative Conference of the United States, 2120 L Street, NW, Suite 500, Washington, DC 20037

Public Participation: Committee meetings are open to the interested public, but limited to the space available. Persons wishing to attend should notify the contact person at least two days prior to the meeting. The committee chairman may permit members of the public to present oral statements at the meetings. Any member of the public may file a written statement with the committee before, during, or after the meeting. Minutes of the meeting will be available on request.

For Further Information Contact: Brian C. Murphy, Office of the Chairman, Administrative Conference of the United States, 2120 L Street NW., Suite 500, Washington, DC, 20037. Telephone: (202) 254-7020.

November 23, 1988.

Jeffrey S. Lubbers,

Research Director.

[FR Doc. 88-27465 Filed 11-25-88; 8:45 am]

BILLING CODE 6110-01-M

Plenary Session; Public Meeting of Assembly

Notice is hereby given, pursuant to the Federal Advisory Committee Act (Pub. L. No. 92-463), that the membership of the Administrative Conference of the United States will meet in Plenary Session on Thursday, December 8, 1988, at 1:15 p.m., and Friday, December 9, 1988, at 9:15 a.m., in the Amphitheatre of the Federal Home Loan Bank Board, Second Floor, 1700 G Street NW., Washington, DC. The Conference makes recommendations to administrative agencies, the President, Congress, and the Judicial Conference of the United States regarding the efficiency, adequacy, and fairness of the administrative procedures used by administrative agencies in carrying out their programs.

The Conference expects to consider, not necessarily in the order stated, proposed recommendations on the following subjects:

1. Presidential Management of Agency Rulemaking.
2. Electronic Acquisition and Release of Federal Agency Information.
3. Encouraging Settlements by Protecting Mediator Confidentiality.
4. Administrative Law Issues Involving the Medicare Peer Review Organization Program.
5. Which Agency Interpretations Should Bind the Courts?

Plenary Sessions are open to the public. Further information on the meeting, including copies of proposed recommendations, may be obtained from the Office of the Chairman, 2120 L Street NW., Suite 500, Washington, DC 20037, telephone (202) 254-7020.

Jeffrey S. Lubbers,

Research Director.

November 23, 1988.

[FR Doc. 88-27466 Filed 11-25-88; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Proposed Determinations Regarding Support Prices for Pulled Wool and Mohair for the 1989 Marketing Year

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of proposed determinations.

SUMMARY: This notice sets forth certain proposed determinations concerning the price support levels for pulled wool and mohair for the 1989 marketing year. These determinations are required to be made pursuant to the National Wool Act of 1954, as amended.

EFFECTIVE DATE: Comments must be received on or before January 27, 1989, in order to be assured of consideration.

ADDRESS: Mail comments to Bruce R. Weber, Director, Commodity Analysis Division, Commodity Analysis Division, USDA-ASCS, Room 3741, South Building, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Janise A. Zygmunt, Agricultural Economist, Commodity Analysis Division, USDA-ASCS, Room 3760, South Building, P.O. Box 2415, Washington, DC 20013 or call (202) 475-4645. A Preliminary Regulatory Impact Analysis has been prepared and is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures implementing Executive Order 12291 and Departmental Regulation No. 1512-1 and has been designated as "major." It has been determined that these proposed determinations will result in an annual effect on the economy of \$100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice since there is no requirement that the Commodity Credit Corporation (CCC) publish a notice of proposed rulemaking in accordance with 5 U.S.C. 553 or any other provision of law with respect to the subject matter of this notice.

It has been determined by an environmental evaluation that this action will have no significant impact on

the quality of the human environment. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

The title and number of the Federal assistance program to which this notice applies are: National Wool Act Payments, 10.059, as found in the Catalog of Federal Domestic Assistance.

Section 703(a) of the National Wool Act of 1954, as amended ("Wool Act"), provides that the Secretary of Agriculture shall support the prices of wool and mohair to producers by means of loans, purchases, payments, or other operations. The Secretary of Agriculture has determined that the prices of wool and mohair will be supported for the 1986 to 1990 marketing years by means of payments to producers (51 FR 28852, August 12, 1986).

Section 703(b) of the Wool Act provides that the level of support for shorn wool for each of the marketing years 1982 through 1987 and marketing year 1990 shall be 77.5 percent and, for marketing years 1988 and 1989, 76.4 percent of an amount which is determined by multiplying 62 cents (the support price in 1965) by the ratio of: (1) The average parity index (the index of prices paid by farmers, including commodities and services, interest, taxes, and farm wage rates) for the three calendar years immediately preceding the calendar year in which such support price is being determined and announced to (2) the average parity index for the three calendar years 1958, 1959, and 1960, rounding the result to the nearest full cent.

Based on current reported parity indices, the calculation for the 1989 shorn wool support price (grease basis) is as follows:

- (1) Average parity index, calendar years 1985-1987: 1985-1120; 1986-1096; 1987-1115; total 3331 divided by 3 equals 1110.3
- (2) Average parity index, calendar years 1958-1960-297.3
- (3) Ratio of 1110.3 to 297.3-3.7346
- (4) 3.7346×62 cents per pound (1965 support price)-\$2.3155
- (5) $76.4\% \times \$2.3155$ -\$1.7690
- (6) \$1.7690 rounded to nearest full cent-\$1.77

Section 703(c) of the Wool Act provides that the support prices for pulled wool and for mohair shall be established at such levels, in

relationship to the support price for shorn wool, as the Secretary of Agriculture determines will maintain normal marketing practices for pulled wool, and as the Secretary determines is necessary to maintain approximately the same percentage of parity for mohair as for shorn wool. Section 703(c) further provides that the support price for mohair must be within a range of 15 percent above or below the comparable percentage of parity at which shorn wool is supported.

The Wool Act provides that the Secretary shall establish and announce, to the extent practicable, support price levels for wool and mohair sufficiently in advance of each marketing year, as will permit producers to plan their production for such marketing year. Accordingly, the following methods for calculation the support prices for pulled wool and mohair for the 1989 marketing year are being proposed.

Proposed Determinations

A. Support Price—Pulled Wools

The support price for pulled wool for the 1989 marketing year cannot be determined until the 1989 average market price for shorn wool is calculated, which would occur by April 1990. It is proposed that the method for calculating the support price for pulled wool shall be as follows: Once the average market price for shorn wool is determined, the support price for pulled wool will be determined by taking 80 percent of the difference between the 1989 support price for shorn wool and the 1989 average market price for shorn wool, multiplied by 5 pounds (the amount of wool pulled from the pelt of an average 100-pound unshorn lamb). Historically, this formula has provided equitable support for pulled wool relative to shorn wool and has helped to maintain normal marketing practices for pulled wool.

B. Support Price—Mohair

It is proposed that the support price for mohair for the 1989 marketing year shall be determined based on the October 1988 parity prices for mohair and shorn wool. The following percentages are being considered in the final computation of the mohair support price:

- (1) 85 percent of the percent of parity at which shorn wool is supported.
 - (2) A percentage equal to the percent of parity at which shorn wool is supported.
 - (3) 115 percent of the percent of parity at which shorn wool is supported.
- Interested persons are encouraged to comment on the proposed method of

calculation for payments on pulled wool and the proposed levels of price support for mohair. Consideration will be given to any data, views and recommendations which are submitted with respect to the above items.

The support programs conducted pursuant to the Wool Act are subject to the provisions of the Balanced Budget and Deficit Reduction Act of 1985, as amended. As a result, the program support levels announced in this notice may be recalculated to comply with this Act.

Authority: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714b and c); secs. 702-708, 68 Stat. 910-912, as amended (7 U.S.C. 1781-1787).

Signed at Washington, DC on November 18, 1988.

Milton Hertz,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 88-27316 Filed 11-25-88; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.

Title: Quarterly Summary of Federal, State, and Local Tax Revenue.

Form Number: F-71, F-72, F-73.

Agency Approval Number: 0607-0112.

Type of Request: Extension.

Burden: 5,255 burden hours.

Number of Respondents: 5,204.

Avg Hours Per Response: 15-30 minutes (varies by form).

Needs and Uses: The Census Bureau uses these data to publish benchmark statistics on public sector taxes, to provide data to the Bureau of Economic Analysis for GNP calculations and other economic indicators, and to provide data for economic research and comparative studies of governmental finances.

Affected Public: State or local governments.

Frequency: Quarterly.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Francine Picoult, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room H6622,

14th and Constitution Avenue NW.,
Washington, DC 20230.

Written comments and
recommendations for the proposed
information collection should be sent to
Francine Picoult, OMB Desk Officer,
Room 3208, New Executive Office
Building, Washington, DC. 20503.

Dated: November 22, 1988.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 88-2735 Filed 11-25-88 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.

Title: Shipper's Export Declaration
and Continuation Sheet.

Form Number: 7525-V-Alternate
(intermodal).

Agency Approval Number: 0607-0152.

Type of Request: Revision.

Burden: 346,728 hours.

Number of Respondents: Unknown
(number of exporting firms).

AVG Hours Per Response: 10 minutes
(approximately).

Needs and Uses: Exporters file this
form for shipments of merchandise from
the U.S. Customs territory to foreign
countries. The data is used to compile
the official U.S. export statistics.

Affected Public: Exporters of
merchandise.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult,
395-7340.

Copies of the above information
collection proposal can be obtained by
calling or writing DOC Clearance
Officer, Edward Michals, (202) 377-3271,
Department of Commerce, room H6622,
14th and Constitution Avenue NW.,
Washington, DC 20230.

Written comments and
recommendations for the proposed
information collection should be sent to
Francine Picoult, OMB Desk Officer,
Room 3208, New Executive Office
Building, Washington, DC 20503.

Dated: November 22, 1988.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 88-27359 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.

Title: Shipper's Export Declaration.

Form Number: 7525-M.

Agency Approval Number: 0607-0150.

Type of Request: Revision.

Burden: 4,690 hours.

Number of Respondents: 67.

Avg Hours Per Response: 2 hours.

Needs and Uses: This form is used by
exporters making numerous shipments
of essentially the same commodities
when such use would reduce
substantially the number of individual
Shipper's Export Declarations (SEDs)
filed. These SEDs provide data from
which the Bureau of the Census
compiles the official U.S. export
statistics.

Affected Public: Exporters of
merchandise.

Frequency: Monthly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult,
395-7340.

Copies of the above information
collection proposal can be obtained by
calling or writing DOC Clearance
Officer, Edward Michals, (202) 377-3271,
Department of Commerce, Room H6622,
14th and Constitution Avenue NW.,
Washington, DC 20230.

Written comments and
recommendations for the proposed
information collection should be sent to
Francine Picoult, OMB Desk Officer,
Room 3208, New Executive Office
Building, Washington, DC 20503.

Dated: November 22, 1988.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 88-27360 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-07-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC 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).

Agency: Bureau of the Census.

Title: Shipper's Export Declaration
and Continuation Sheet.

Form Number: 7525-V.

Agency Approval Number: 0607-0018.

Type of Request: Revision.

Burden: 873,507 hours.

Number of Respondents: Unknown
(number of exporting firms).

Avg Hours Per Response: 10 minutes
(approximately).

Needs and Uses: Exporters file this
form for shipments of merchandise
exported from the U.S. Customs territory
to foreign countries. This form provides
data from which the Bureau of the
Census compiles the official U.S. export
statistics.

Affected Public: Exporters of
merchandise.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Francine Picoult,
395-7340.

Copies of the above information
collection proposal can be obtained by
calling or writing DOC Clearance
Officer, Edward Michals, (202) 377-3271,
Department of Commerce, Room H6622,
14th and Constitution Avenue NW.,
Washington, DC 20230.

Written comments and
recommendations for the proposed
information collection should be sent to
Francine Picoult, OMB Desk Officer,
Room 3208, New Executive Office
Building, Washington, DC 20503.

Dated: November 22, 1988.

Edward Michals,
Departmental Clearance Officer, Office of
Management and Organization.

[FR Doc. 88-27361 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-07-M

Bureau of the Census

Announcement of Change in Monthly Merchandise Trade Press Release

AGENCY: Bureau of the Census,
Commerce.

ACTION: Notice.

SUMMARY: On August 23, 1988, the
President signed the "Omnibus Trade
and Competitiveness Act of 1988."
Section 1931 of this Act amends
subsection (e) of section 301 of Title 13,
United States Code by rescinding earlier
legislation requiring that data on
imports valued on a CIF basis (price
paid for merchandise plus insurance and
freight charges incurred in delivering the
merchandise to the United States) be
released at least 48 hours prior to
release of the same data on a Customs
value basis (price paid for merchandise
only). Accordingly, on September 14,
1988 the U.S. Department of Commerce,
Bureau of the Census, announced that
beginning with the September 1988 press
release (July 1988 data) and continuing
through the February 1989 release

(December 1988 data), the Census Bureau will provide a single monthly merchandise trade press release containing import data on both a CIF and a Customs value basis. Effective with the March 1989 release (January 1989 data) the monthly merchandise trade press release will reflect imports on a Customs value basis only. This change will provide a more accurate picture of merchandise trade (insurance and freight charges are considered a service) and will be consistent with the Bureau of Economic Analysis treatment of merchandise trade in the balance of payments and income and product accounts. Monthly CIF import data will continue to be available through the Census Bureau's normal subscription channels.

Public comment on this change should be submitted to Don L. Adams, Chief, Foreign Trade Division, Washington, DC 20233, within 60 days of the date of publication in the *Federal Register*.

Date: November 21, 1988.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 88-27295 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-07-M

Bureau of Export Administration

Foreign Availability Assessment; Initiation of an Assessment on Solvents Containing 95% or More Trichlorotrifluoroethane

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

ACTION: Notice of Initiation of an Assessment.

SUMMARY: Under sections 5 (f) and (h) of the Export Administration Act of 1979, as amended (EAA), the Office of Foreign Availability (OFA) assesses claims of foreign availability. 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.

Pursuant to sections 5(f) (3) and (9) of the EAA, as amended by the Omnibus Trade and Competitiveness Act of 1988, OFA is publishing this notice:

On September 26, 1988, OFA accepted for filing a complete foreign availability submission claiming foreign availability for solvents containing 95% or more trichlorotrifluoroethane. These items are controlled for national security reasons under Export Control Commodity Number (ECCN) 5799C: Solvents, compounds, cutting fluids, or mixtures

containing 95% or more of trichlorotrifluoroethane.

OFA accepted the submission and initiated an assessment of the foreign availability of solvents containing 95% or more trichlorotrifluoroethane. Consistent with the requirements of the EAA, the Department intends to publish the results of the assessment by February 27, 1989.

To assist the Department in assessing the claim, the Department will receive any information regarding the foreign availability of solvents containing 95% or more trichlorotrifluoroethane. A person wishing to submit relevant information relating to this claim may submit it to the Office of Foreign Availability of the Department of Commerce. Such relevant information may include, but is not limited to, foreign manufacturers' catalogues, brochures, or operations or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts. The Office Foreign Availability will carefully and fully consider all information received. The Office will use information received to supplement other information developed to evaluate the claim of foreign availability. Individuals submitting information and requesting confidential treatment of it are required to submit the information separately as described below.

DATES: The period for submission of information will close December 28, 1988.

ADDRESSES: Submit information relating to the allegation of foreign availability 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.

The public record concerning this notice 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: Dr. Jo-Anne A. Jackson, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-5953.

SUPPLEMENTARY INFORMATION:

The Office of Foreign Availability will receive any information relating to this allegation of foreign availability. The Office of Foreign Availability will carefully and fully consider any information submitted during its

analysis of the claim of foreign availability.

The Department will accept comments accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted to the Bureau of Export Administration (BXA) separate from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information". The Bureau of Export Administration will either accept the submission in confidence, or if the submission fails to meet the standards for confidential treatment, will return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information accepted by the Bureau of Export Administration as privileged under section (b) (3) or (4) of the Freedom of Information Act (5 U.S.C. 552(b) (3) and (4)) will be kept confidential and will not be available for public inspection, except as authorized by law.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission of relevant information will close December 28, 1988. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages persons who wish to provide information related to this allegation of foreign availability to do so at the earliest possible time to permit the fullest consideration of their information by the Department.

All public information relating to the notice 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.

The public record of information received on the allegation of foreign availability will be maintained in the Bureau of Export Administration's

Freedom of Information Records Inspection Facility, Room 4886, 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 at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

Dated: November 17, 1988.

Michael E. Zacharia,
Assistant Secretary for Export
Administration.

[FR Doc. 88-27294 Filed 11-25-88; 8:45 am]
BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Order No. 399]

Approval for Expansion of Foreign-Trade Zone No. 9 Honolulu, HI

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the State of Hawaii (Department of Business and Economic Development), Grantee of Foreign-Trade Zone No. 9, has applied to the Board for authority to expand its general-purpose zone in Honolulu, Hawaii, to include a site at the Hawaii Technology Park, Mililani, Oahu, Hawaii, within the Honolulu Customs port of entry;

Whereas, the application was accepted for filing on September 4, 1987, and notice inviting public comment was given in the Federal Register on September 17, 1987 (Docket 16-87, 52 FR 35122);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Honolulu area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed September 4, 1987. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 16th day of November, 1988.

Jan W. Mares,

Assistant Secretary of Commerce for Import
Administration, Chairman, Committee of
Alternates Foreign-Trade Zones Board.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 88-27364 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-602-801]

Preliminary Determination of Sales at Less Than Fair Value; Calcined Bauxite Proppants From Australia

AGENCY: Import Administration,
International Trade Administration,
Department of Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that calcined bauxite proppants from Australia are being, or are likely to be, sold in the United States at less than fair value. We also preliminarily determine that critical circumstances do not exist with respect to imports of the subject merchandise from Australia. We have notified the International Trade Commission of our determination and have directed the Customs Service to suspend liquidation of all entries of the subject merchandise from Australia as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by February 6, 1989.

EFFECTIVE DATE: November 28, 1988.

FOR FURTHER INFORMATION CONTACT:

Contact Alain Letort or Richard Capwell, Office of Agreements Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: 202/

377-3818 (Letort) or 202/377-8668 (Capwell).

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that calcined bauxite proppants from Australia are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margin of sales at less than fair value is 75.00 percent ad valorem, as shown in the "Suspension of Liquidation" section of this notice.

Case History

Since our Notice of Initiation (53 FR 26299—July 12, 1988) the following events have occurred. On July 29, 1988, the International Trade Commission (ITC) determined there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of calcined bauxite proppants (USITC Publication 2100—July 1988).

On August 12, 1988, we presented a questionnaire to Comalco Aluminium Limited (Comalco), which accounted for virtually all the exports to the United States from Australia during the period of investigation. We requested that Comalco answer the questionnaire by September 12, 1988. On August 23, 1988, Comalco informed us that it did not intend to respond to the questionnaire. We have received no response from Comalco since that date.

On October 21, 1988, we initialed a suspension agreement proposed by Comalco pursuant to section 734(b)(1) of the Act on the basis of cessation of exports, with the caveat that the Department would re-examine its position with respect to the administrative convenience of entering into such a suspension agreement prior to the preliminary determination. We have concluded that the suspension of this investigation would not be in the public interest, nor would effective monitoring of the proposed suspension agreement be practicable, within the meaning of section 734(d) of the Act.

Scope of Investigation

The products covered by this investigation are calcined bauxite proppants, which are currently provided for under item number 521.1720 of the *Tariff Schedules of the United States, Annotated* and are currently classifiable under item number 2606.00.0060 of the *Harmonized Tariff Schedule*.

Period of Investigation

The period of investigation for calcined bauxite proppants from Australia extends from January 1, 1988 through June 30, 1988.

Fair Value Comparisons

To determine whether the sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price, based on the best information available, with the foreign market value, also based on the best information available. We used the best information available, as required by section 776(c) of the Act, because Comalco failed to submit an appropriate response.

United States Price

Since we did not have specific data as to the quantities and prices of the subject merchandise sold in the United States, we used the price information provided in the petition as the best information available, pursuant to section 776(c) of the Act. We used the packed United States price estimated by petitioner minus deductions for foreign inland freight, ocean freight, marine insurance, and brokerage and handling charges.

Foreign Market Value

Since we did not have specific data with respect to the quantities and prices of the subject merchandise sold in Australia or third countries, we used the constructed value of the subject merchandise provided in the petition as the best information available, pursuant to section 776(c) of the Act. The constructed value calculated in the petition was based on the petitioner's manufacturing costs plus petitioner's general expenses, which were higher than the statutorily required minimum of 10 percent. To this cost of production we made the statutorily mandated addition of 8 percent for profit.

Verification

If timely and complete submissions are provided in accordance with section 776(b) of the Act, we will verify this information for use in our final determination in this investigation.

Critical Circumstances

The petitioner alleges that "critical circumstances" exist with respect to imports of calcined bauxite proppants from Australia. Under section 733(e)(1) of the Act, critical circumstances exist if we determine that there is a reasonable basis to believe or suspect that:

(A)(i) there is a history of dumping in the

United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 733(e)(1)(B), we generally consider the following factors in determining whether imports have been massive over a relatively short period of time: (1) The volume and value of imports; (2) seasonal trends (if applicable); and (3) the share of domestic consumption accounted for by imports.

Based on our analysis of Bureau of the Census import data, we find that imports of calcined bauxite proppants from Australia have not been massive over a relatively short period of time. Therefore, we need not address the issues of whether importers knew, or should have known, that the exporters were selling the subject merchandise at less than its fair value, or whether there is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of this investigation.

In light of the above, we preliminarily determine that critical circumstances, within the meaning of section 733(e)(1) of the Act, do not exist with respect to imports of calcined bauxite proppants from Australia.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of calcined bauxite proppants from Australia, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, which is 75.00 percent ad valorem. This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all

nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Assistant Secretary for Import Administration.

If our final determination is affirmative, then the ITC will determine no later than 120 days after the date of this preliminary determination or 45 days after the final determination, whichever is later, whether these imports are materially injuring, or threaten material injury to, an industry in the United States.

Public Comment

In accordance with 19 CFR 353.47, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on January 11, 1989, at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230.

Individuals who wish to participate in the hearing must submit a request to the Assistant Secretary for Import Administration, Room B-099, at the above address within ten days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed.

In addition, pre-hearing briefs in at least ten copies, both public and non-public versions, must be submitted to the Assistant Secretary by January 4, 1988. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, at the above address, in at least ten copies, not less than 30 days before the date of the final determination, or, if a hearing is held, within seven days after the hearing transcript is available.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Jan W. Mares,

Assistant Secretary for Import Administration.

November 21, 1988.

[FR Doc. 88-27363 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-803]

Final Determination of Sales at Less Than Fair Value; Digital Readout Systems and Subassemblies Thereof From Japan

ACTION: Notice.

SUMMARY: We have determined that digital readout (DRO) systems from Japan are being, or are likely to be, sold in the United States at less than fair value. The U.S. International Trade Commission (ITC) will determine, within 45 days of the publication of this notice, whether these imports are materially injuring, or are threatening material injury to, a United States industry.

EFFECTIVE DATE: November 28, 1988.

FOR FURTHER INFORMATION CONTACT: Contact Raymond Busen or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 377-3464 or 377-1769.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that DRO systems from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(a)) (the Act), the estimated weighted-average margins are shown in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On September 2, 1988, we made an affirmative preliminary determination (53 FR 35222, September 12, 1988). The following events have occurred since the publication of that notice.

The questionnaire responses from Mitutoyo Manufacturing Co. Ltd. (Mitutoyo) were verified in Japan between September 12 and September 21, and in the United States from September 21 to September 23, 1988.

The questionnaire responses from Sony Magnescale, Inc. (Magnescale) were verified in Japan from September 12 to September 20, 1988.

On October 17, 1988 the Department held a public hearing. Interested parties also submitted comments for the record in their pre-hearing briefs of October 7 and 11, 1988, and in their post-hearing briefs of October 24 and 25, 1988.

Scope of Investigation

The United States has developed a system of tariff classification based on

the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to the *Harmonized Tariff Schedule* (HTS) and all merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the HTS item number(s). Until that time, however, the Department will be providing both the appropriate *Tariff Schedule of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions. As with the TSUSA, the HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all petitions filed with the Department through the end of this year. A reference copy of the HTS is available for consultation in the Central Records Unit, Room B-099, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Additionally, all U.S. Customs offices have reference copies, and petitioners may contact the import specialist at their local customs office to consult the schedule.

The products are currently provided for in item 710.8080 of the TSUSA and are classifiable under subheading 9031.80.0080 of the HTS.

The products covered by this investigation are digital readout (DRO) systems, whether assembled or unassembled. An unassembled DRO system is a console and a transducer (glass scale, magnetic, rotary encoder, but not laser), and parts thereof, that can be used in DRO systems, which are imported into the United States either together or separately.

Computerized numeric control (CNC) systems and consoles and transducers specifically designed for use in CNC systems are not included in the scope of this investigation.

Fair Value Comparisons

To determine whether sales of DRO systems from Japan in the United States were made at less than fair value, we compared the United States price with the foreign market value. In accordance with section 776(c) of the Act, for those sales by Mitutoyo that involve further manufacturing in the United States, we used the best information available because Mitutoyo failed to respond to section D of our questionnaire (cost of production information). In such cases it is our policy to assign to the non-

replying company the higher of (1) the highest margin indicated in the petition; or, (2) the highest weighted-average margin found for any company that did respond to the questionnaire. Following this policy, for this final determination, we have assigned Mitutoyo the highest margin indicated in the petition for sales that involve further manufacture in the United States.

Virtually all of the respondents' sales to the United States were used for such or similar comparisons.

The period of investigation for DRO systems and subassemblies from Japan was September 21, 1987 through March 20, 1988 for Mitutoyo and October 1, 1987 through March 31, 1988 for Magnescale.

United States Price

Except as noted above for sales that involve further manufacture in the United States, we based United States price for Mitutoyo on exporter's sales price (ESP), in accordance with section 772(c) of the Act, since the first sale to an unrelated customer was made after importation. We calculated ESP based on packed, ex-warehouse or delivered prices to unrelated purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. duty, U.S. brokerage and handling charges, U.S. inland freight, discounts, credit, technical, warranty, and advertising expenses, and other U.S. selling expenses pursuant to section 772(e)(2) of the Act.

For all sales by Magnescale, we based United States price on purchase price because the merchandise was sold to an unrelated U.S. purchaser prior to its importation. We calculated purchase price based on CIF, packed prices. We made deductions for foreign inland freight and insurance, foreign brokerage and handling, ocean or air freight, and insurance.

Foreign Market Value

Except as noted above for sales that involve further manufacture in the United States, we calculated foreign market value for Mitutoyo based on packed, delivered prices to unrelated purchasers in Japan. We made deductions, where appropriate, for inland freight and insurance, installation charges, discounts and rebates, and credit, technical, warranty and advertising expenses. We deducted indirect selling expenses incurred on home market sales up to the amount of

indirect selling expenses incurred on sales in the U.S. market, in accordance with § 353.15(c) of our regulations. In accordance with § 353.16 of our regulations, where there was no identical product in the home market with which to compare a product in the United States, we made adjustments to the foreign market value of similar merchandise to account for differences in the physical characteristics of the merchandise.

For sales by Magnescale, we calculated foreign market value based on packed, delivered prices to unrelated purchasers in Japan. We made deductions, where appropriate, for foreign inland freight and insurance, discounts, and rebates. In accordance with § 353.15 of our regulations, we made adjustments for differences in circumstances of sale for credit, warranty, and advertising expenses. In accordance with § 353.16 of our regulations, where there was no identical product in the home market with which to compare a product in the United States, we made adjustments to the foreign market value of similar merchandise to account for differences in the physical characteristics of the merchandise.

For both respondents, in order to adjust for differences in packing between the two markets, we deducted home market packing costs from foreign market value and added U.S. packing costs.

Currency Conversion

For comparisons involving purchase price transactions, we used the official exchange rates in effect on the dates of sale, in accordance with § 353.56(a)(1) of the Commerce Regulations. For comparisons involving exporter's sales price transactions, we used the official exchange rates in effect on the dates of the sale, in accordance with section 773(a)(1) of the Act, as amended by section 615 of the Trade and Tariff Act of 1984. All currency conversions were made at the rates certified by the Federal Reserve Bank of New York.

Verification

As provided in section 776(b) of the Act, we verified all information used in reaching the final determination in this investigation. We used standard verification procedures, including examination of relevant accounting records and original source documents provided by the respondents.

Interested Party Comments

General Comments

Comment 1

Anilam argues that it has standing to file a petition that includes transducers because: (1) It is a wholesaler of U.S.-made rotary encoders used in some types of transducers; (2) it produces and sells parts for rack and pinion transducers; (3) it is a wholesaler of U.S. and foreign-made transducers; (4) it assembled transducers in the United States either exclusively from U.S. components or from foreign components that have been designed by Anilam; and (5) it holds patents on linear tape transducers.

Mitutoyo argues that Anilam lacks standing regarding transducers because it has not shown sufficient evidence that it produces transducers or that it is a wholesaler of U.S.-made transducers.

Mitutoyo notes that although Anilam may sell U.S.-made rotary encoders, these encoders are merely components of transducers; they are not a like product. Even if rotary encoders were a like product, they are not used in the types of transducers covered by this investigation.

Mitutoyo also argues that Anilam's assertion that it has standing because it is a wholesaler of transducers is without merit. Mitutoyo claims that Anilam has shown no evidence that it is a wholesaler of U.S.-made transducers. Rather it sells imported transducers, and the antidumping law is not designed to protect one importer from injury by another importer.

Concerning those transducers that Anilam claims it assembled, Mitutoyo argues that Anilam has provided no evidence on the record concerning the quantities assembled and sold. Anilam might be assembling only one or two transducers per year. Nor has Anilam shown it does anything more than "snap together" foreign components with little U.S. value added. Finally, Mitutoyo argues that holding patents or proprietary rights on certain products only shows that Anilam has designed and engineered a product; it does not show that it is a manufacturer or wholesaler of the product.

DOC Position

Although Anilam imports a significant proportion of the transducers it sells, it also operates as a wholesaler of some U.S.-made transducers. Section 771(9)(C) of the Act includes wholesalers of a like product in the definition of an interested party.

Other than Mitutoyo, which produces a small number of transducers in the

United States, no manufacturer or wholesaler of U.S.-made transducers has questioned Anilam's standing to file this petition on behalf of the U.S. industry. In fact, one U.S. producer submitted a letter in support of the petition.

Based on these factors, we conclude Anilam has standing to file an antidumping duty petition on DRO systems, including transducers and consoles that can be used in DRO systems.

Comment 2

Anilam argues that the scope of the investigation as it was described in the Department's preliminary determination properly defines what products are covered by this investigation. It points out that the products facing unfair competition from the Japanese are DRO systems. Focusing on only the sales of the separate components in DRO systems ignores the reality of the DRO market. Respondents' claims that they do not sell DRO systems are simply false. Anilam argues that the respondents clearly import transducers and consoles, and these two products almost always end up as DRO systems in the hands of the final purchaser. To claim that these components do not make up DRO systems simply because they are imported or invoiced as separate components is disingenuous. The ITC has already preliminarily determined that imports of DRO systems are injuring a U.S. industry, so there must be sales of DRO systems. In addition, Anilam notes that almost all systems consist of components made by the same company. It is difficult and expensive to use one company's transducers with another company's consoles. Because it is difficult to mix components from various companies, it makes sense to consider these components together as a DRO system.

Anilam contends that its DRO systems compete with imported DRO systems. Therefore, unless an importer can demonstrate that the components it imports do not end up in a DRO system, they must be covered by this investigation. Otherwise the Department's determination will do little to offset the unfair competition Anilam faces. Anilam argues that even the respondents agree all consoles end up in DRO systems. With regard to transducers, despite the claims of the respondents, almost all transducers end up in DRO systems. If a transducer is used for some other purpose, the importers can certify this to Customs. Anilam argues that Customs could easily implement a program that would

exempt from dumping duties those transducers that importers certify are not destined for use in DRO systems.

Magnescale argues that its transducers can be used for CNC systems and other applications as well as for DRO systems. Therefore, it has no way of knowing whether they are destined for use in a DRO system. It certainly does not import them as DRO systems. They are imported and sold, at least initially, as separate components. In addition, Magnescale does not produce mounting brackets, which are an essential part of DRO systems. Finally, although its advertisements may mention DRO systems, they in fact describe components that are sold separately, even though they may eventually be used in a DRO system. Based on this information, Magnescale argues it is clear that its transducers are not "destined for use in a DRO system and imported into the U.S. for assembly and sale as a DRO system." Therefore, they are clearly not covered by the scope of this investigation.

Mitutoyo also argues that it does not import or sell DRO systems. In addition, it argues that this investigation did not look at systems, in part because it did not investigate brackets, an integral part of DRO systems. Further, Mitutoyo argues that it competes with Anilam at a level of trade where components, rather than systems, are sold.

Futaba Corporation Inc. (Futaba) argues that since there are transducers that may be used for purposes other than in DRO systems, the scope should be limited specifically to those transducers assembled into a DRO system. Futaba argues that the Department should make this explicit in its scope description. In particular, it argues that the scope should specifically state that CNC systems and CNC transducers are not covered by this investigation.

DOC Position

Although some transducers may be used in both CNC systems and DRO systems, CNC transducers are almost always specialized instruments that would not be used in DRO systems. With the exception of transducers used in CNC systems, the respondents have not shown any other significant use for the transducers or consoles covered by this investigation except in DRO systems. Therefore, whether or not the importer of transducers or consoles knows with absolute certainty that these components will end up in DRO systems, in fact, they almost certainly will.

We are including all transducers or consoles that can be used in DRO

systems in the scope of this investigation. Only transducers designed specifically for use in CNC systems are excluded.

Magnescale Comment 1

Magnescale argues that the Department ignored differences in level of trade by including in its calculation of foreign market value Magnescale's home market sales to all levels of trade, including retailers and end-users. Magnescale states that its U.S. sales are all to a pre-wholesaler and should only be compared to home market sales to machine tool builders and possibly to its sales to wholesalers.

DOC Position

Further analysis of Magnescale's home market sales practices indicates that price distinctions exist between the various home market purchasers. The vast majority of sales to retailers and end-users were at a higher price than were sales to machine tool builders and wholesalers. Therefore, in accordance with § 353.19 of Commerce's regulations, we have included in our calculation of foreign market value only those sales to machine tool builders and wholesalers.

Magnescale Comment 2

Magnescale argues that the Department erred in its calculation of U.S. credit expenses when it used, as best information available, Mitutoyo's U.S. borrowing rate to calculate Magnescale's post-shipment credit expenses. Magnescale states that it did not provide financing information for U.S. sales because it did not borrow in the United States during the period of investigation. The proper rate for imputed credit expenses to account for the time between shipment date and payment date should be computed using Magnescale's home market borrowing rate because financing charges on sales to the United States were incurred in Japan.

DOC Position

We have recalculated U.S. credit costs using Magnescale's verified home market borrowing rate during the period of investigation.

Magnescale Comment 3

Magnescale argues that the Department should not have included replacement parts sales in its analysis because parts for repair or replacement purposes are not subject to this investigation. Magnescale states that it has no reason to import parts other than for replacement purposes because it does not manufacture DRO consoles in the United States.

DOC Position

The Scope of this investigation has, from the beginning, specifically included parts of DRO systems and their subassemblies. No exception has been made for replacement parts. Therefore, we have used sales of replacement parts in calculating dumping margins.

Magnescale Comment 4

Magnescale argues that the Department erred when it disallowed certain variable home market selling expenses such as salesmen's traveling, meeting and entertainment expenses which were related to post-sale servicing activities. Magnescale argues that an adjustment should be allowed for variable selling and post-sale servicing expenses which have a direct correlation or bear a direct relationship to, and fluctuate with, the level of selling activity and/or volume of sales.

DOC Position

Respondent has claimed that the expenses fluctuated with sales activity, but has not actually established this in its submissions. Mere fluctuations of certain expenses do not indicate conclusively that such expenses were incurred for a certain amount of increase in sales volume. We cannot regard as a direct selling expense an increase in certain expenses that may not bear a direct relationship to the sales in question. Magnescale has submitted no information showing such direct relationship.

Mitutoyo Comment 1

Mitutoyo objects to the Department's inclusion of costs incurred by Mitutoyo's Japanese export division for exporting merchandise to the United States on the grounds that there is no statutory basis for deducting these expenses when calculating Mitutoyo's exporter's sales price. If Commerce decides that it has the authority to make the deduction, Mitutoyo argues that the Department should disregard the deduction because of its insignificant size.

DOC Position

The costs Mitutoyo describes are clearly related to its sales to the United States. As such, the Department has authority to deduct these costs from the exporter's sales price under section 772(d)(2)(A) of the Act.

Although the Department may disregard insignificant adjustments, in this case, where these costs were already included in the computer data which were submitted by Mitutoyo which were used to calculate dumping

margins, the Department has included these deductions in its calculations.

Mitutoyo Comment 2

Mitutoyo objects to the deduction of imputed inventory carrying costs for U.S. sales on the basis that such costs are imputed, or hypothetical, rather than actual costs. Mitutoyo argues that section 772(e)(2) of the Act explicitly requires the deductible expenses to be one which is "incurred." Therefore, the Department has no authority to deduct imputed inventory carrying costs in its exporter's sales price calculation. Mitutoyo further argues that if the Department continues to treat imputed carrying costs as an expense, it should be treated as an indirect expense in the exporter's sales price calculation and included in the exporter's sales price offset adjustment cap as prescribed by Commerce regulation 353.15(c).

DOC Position

In accordance with section 353.15(c) of Commerce's regulations, we consider inventory carrying costs to be an indirect selling expense and included it in the exporter's sales price offset adjustment cap. This practice has been approved by the Court of International Trade. See *Silver Reed et al. v. United States et al.*, Slip Op. 88-5 (January 12, 1988).

Mitutoyo Comment 3

Mitutoyo argues that the parts it imports to be assembled into transducers at its Plymouth, Michigan plant should not be included in the scope of the investigation. It contends that Anilam does not manufacture parts and, therefore, does not have standing to file a petition on parts. Secondly, the Department has only included parts in the scope of an investigation where parts are so far advanced in production that they really constitute an unfinished version of the finished product. This is not the case here, where there is very significant value added by Mitutoyo to the imported parts in the process of making a finished transducer.

DOC Position

Mitutoyo did not respond to our questionnaire concerning transducer parts it imports into the United States. Without this information, we have no way of knowing the nature or value of these parts and, thus, cannot determine whether they are simply unassembled transducers needing little further processing or are instead relatively minor parts in what is essentially a U.S.-manufactured product. Until we can resolve this issue in an administrative review, we intend to cover all

transducer parts imported by Mitutoyo in the scope of this investigation.

Mitutoyo Comment 4

Mitutoyo objects to the Department accepting new information submitted in Anilam's post-hearing brief. Mitutoyo claims that accepting this information at this late date violates the Department's practice and deprives Mitutoyo of the opportunity to refute the information contained therein.

DOC Position

We did not consider the new information submitted in the petitioner's post-hearing brief in making this final determination.

Continuation of Suspension of Liquidation

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of DRO systems from Japan that are entered or withdrawn from warehouse, for consumption, on or after September 12, 1988, the date of publication of the preliminary determination in the Federal Register. The Customs Service shall continue to require a cash deposit or posting of bond equal to the estimated amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price, as shown below. This suspension of liquidation will remain in effect until further notice.

The weighted-average margins are as follows:

Manufacturer/producer/exporter	Weighted-average margin percentage
Mitutoyo Manufacturing Co., Ltd.....	55.50
Sony Magnescale, Inc.....	38.53
All Others.....	51.03

ITC Notification

In accordance with section 735(d) of the Act, we have notified the ITC of our determination. If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of suspension of liquidation will be refunded. However, if the ITC determines that such an injury does exist, the Department will issue an antidumping duty order directing Customs officers to assess an antidumping duty on DRO systems from Japan as defined in the "Scope of Investigation" section of this notice, entered or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by

which the foreign market value exceeds the U.S. price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Jan W. Mares,

Assistant Secretary for Import Administration.

November 18, 1988.

[FR Doc. 88-27362 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Business Development Center Applications; Mayaguez, Puerto Rico

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) program to operate an MBDC for approximately a 3 year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at \$184,260 in Federal funds and a minimum of \$31,516 in non-Federal contributions for the budget period May 1, 1989 to April 30, 1990. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Mayaguez, Puerto Rico SMSA geographic service area.

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, state and local governments, American Indian tribes and education institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms; offer a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50

points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDCs shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of \$50 per hour, MBDCs will charge client fees of 20% of the total cost for firms with gross sales of \$500,000 or less and 35% of the total cost for firms with gross sales of over \$500,000.

The MBDC may continue to operate, after the initial competitive year, for up to 2 additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

DATES: The closing date for applications is December 30, 1988. Applications must be postmarked on or before December 30, 1988.

ADDRESS: New York Regional office, Minority Business Development Agency Jacob K. Javits Federal Building, Room 3720, New York, New York 10278. Area Code/Telephone Number (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina A. Sanchez, Regional Director, New York Regional Office, (212) 264-3262.

SUPPLEMENTARY INFORMATION:

Anticipated processing time of this award is 120 days. Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance).
Gina A. Sanchez,
Regional Director, New York Regional Office.

Date: November 21, 1988.

[FR Doc. 88-27291 Filed 11-25-88; 6:45 am]

BILLING CODE 3510-21-M

The National Technical Information Service

Intent To Grant Exclusive Patent License; Eli Lilly & Co.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Eli Lilly and Company, having a place of business in Indianapolis IN, an exclusive license in the United States and certain foreign countries to practice the invention embodied in U.S. Patent Application Serial Number 7-165,173. "New Water Soluble Antineoplastic Derivatives of Taxol". The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The intended exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The intended license may be granted unless, within sixty days from the date of this published notice, NTIS receives written evidence and argument which establishes that the grant of the intended license would not serve the interest.

Inquiries, comments, and other materials relating to the proposed license must be submitted to Papan Devnani, Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

A copy of the instant patent application may be purchased from the NTIS Sales Desk by telephoning (703) 487-4650 or by writing to the Order Department, NTIS, 5285 Port Royal Road, Springfield, VA 22161.

Douglas J. Campion,
Associate Director, Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

[FR Doc. 88-27370 Filed 11-25-88; 6:45 am]

BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment and Amendment of Import Limits for Certain Cotton and Man-Made Fiber, Textile Products Produced or Manufactured in Pakistan

November 22, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing and increasing limits.

EFFECTIVE DATE: November 30, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854)

FOR FURTHER INFORMATION CONTACT:

Anne Novak, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6498. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The Governments of the United States and Pakistan agreed to convert the current minimum consultation level for Category 229 to a designated consultation level. CITA is establishing a limit at the designated level. In addition, the limit for Category 350 is being increased for the 1988 agreement year only.

A description of the textile and apparel categories in terms of T.S.U.S.A. numbers is available in the **CORRELATION:** Textile and Apparel Categories with Tariff Schedules of the United States Annotated (see Federal Register notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 51, published on January 4, 1988.

The letter of the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,
Chairman, Committee for the Implementation of Textile Agreements.

November 22, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 30, 1987 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Pakistan and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on November 30, 1988, the directive of December 30, 1987 is being amended further to establish a limit of 675,676 pounds for Category 229 in Group III. The current limit for Category 350 in Group II is being increased to 30,000 dozen.

Textile products in Category 229 which have been exported to the United States prior to January 1, 1988 shall not be subject to this directive.

Textile products in Category 229 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

You are directed to charge 377,429 pounds to the limit established in this directive for Category 229. These charges are for goods imported during the period January 1, 1988 through September 18, 1988.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 88-27318 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Taiwan

November 22, 1988.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: November 30, 1988.

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

FOR FURTHER INFORMATION CONTACT:

Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-8791. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION: The current limits for Groups I, II and III, and certain sublevels within the groups, are being increased, variously, for carryover and swing.

A description of the textile categories in terms of T.S.U.S.A. numbers is available in the **CORRELATION: Textile and Apparel Categories with Tariff Schedules of the United States Annotated** (see **Federal Register** notice 52 FR 47745, published on December 16, 1987). Also see 53 FR 62, published on January 4, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant

to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

November 22, 1988.

Commissioner of Customs,
Department of the Treasury, Washington, DC, 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 30, 1987 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Taiwan and exported during the period which began on January 1, 1988 and extends through December 31, 1988.

Effective on November 30, 1988, the directive of December 30, 1987 is being amended to adjust the limits for cotton and man-made fiber textile products in the following categories, as provided under the terms of the current bilateral agreement of November 18, 1982, as amended and extended:

Category	Adjusted 12-month limit ¹
Group I: 200-227, 229, 300-317, 326, 360-369, 400, 410, 414, 464-469, 600-629 and 665-670, as a group.	661,470,547 square yards equivalent.
Sublevels in Group I:	
200	1,258,320 pounds.
219	20,466,573 square yards.
229-F ²	1,137,463 pounds.
301	484,998 pounds.
313	71,940,768 square yards.
315	25,947,673 square yards.
360	858,800 numbers.
361	1,157,255 numbers.
363	12,857,802 numbers.
369-L ³	2,571,485 pounds.
604	505,000 pounds.
619/620	10,997,289 square yards.
625/626/627/628/629	16,085,099 square yards.
669-P ⁴	571,362 pounds.
669-T ⁵	1,857,045 pounds.
670-H ⁶	34,024,250 pounds.
670-F ⁷	4,034,384 pounds.
Group II: 239, 330-354, 359, 431-448, 459, 630-654 and 659, as a group.	971,840,385 square yards equivalent.
Sublevels in Group II:	
239	5,435,565 pounds.
336	89,681 dozen.
337	149,796 dozen.
350	102,974 dozen.
351	355,895 dozen.
352	985,220 dozen.
353/354/653/654	238,728 dozen.
359-H ⁸	4,350,839 pounds.
433	13,614 dozen.
434	9,578 dozen.
435	21,841 dozen.
436	4,528 dozen.
438	36,642 dozen.

Category	Adjusted 12-month limit ¹
440	10,406 dozen.
442	40,517 dozen.
443	50,918 numbers.
444	191,881 numbers.
445/446	130,771 dozen.
447/448	17,858 dozen.
631	4,399,020 dozen pairs.
632	4,768,473 dozen pairs.
633/634/635	1,582,349 dozen of which not more than 1,056,576 dozen shall be in Categories 633/634 and not more than 763,126 dozen shall be in Category 635.
636	360,467 dozen.
637	376,576 dozen.
640	3,436,902 dozen of which not more than 1,751,493 dozen shall be in Category 640-Y ⁹ .
641	763,420 dozen of which not more than 267,199 dozen shall be in Category 641-Y ¹⁰ .
643	581,881 numbers.
644	2,211,639 numbers.
645/646	4,106,025 dozen.
649	699,365 dozen.
650	51,276 dozen.
651	446,319 dozen.
652	1,544,796 dozen.
659-B ¹¹	1,614,575 pounds.
659-C ¹²	1,189,927 pounds.
659-H ¹³	5,361,150 pounds.
659-S ¹⁴	4,559,141 pounds.
Group III: 831-844 and 846-859, as a group.	9,339,104 square yards equivalent.
Levels not in a group:	
845	854,425 dozen.
870	5,415,896 pounds.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1987.

² In Category 229-F, only TSUSA numbers 355,3500, 355,4520 and 355,4530.

³ In Category 369-L, only TSUSA numbers 706,3210, 706,3650 and 706,4111.

⁴ In Category 669-P, only TSUSA numbers 385,5300.

⁵ In Category 669-T, only TSUSA numbers 386,1105 and 389,6210.

⁶ In Category 670-H, only TSUSA numbers 706,3405 and 706,4125.

⁷ In Category 670-F, only TSUSA numbers 706,3425 and 708,3900.

⁸ In Category 359-H, only TSUSA numbers 702,0600 and 702,1200.

⁹ In Category 640-Y, only TSUSA numbers 381,3132, 381,3142, 381,3152, 381,9535, 381,9547, 381,9550 and 384,2306.

¹⁰ In Category 641-Y, only TSUSA numbers 384,2302, 384,2304, 384,2307, 384,9110 and 384,9120.

¹¹ In Category 659-B, only TSUSA numbers 384,1815 and 384,8022.

¹² In Category 659-C, only TSUSA numbers 381,3325, 381,9805, 384,2205, 384,2530, 384,8506, 384,8607 and 384,9310.

¹³ In Category 659-H, only TSUSA numbers 703,0510, 703,0520, 703,0530, 703,0540, 703,0550, 703,0560, 703,1000, 703,1610, 703,1620, 703,1630, 703,1640 and 703,1650.

¹⁴ In Category 659-S, only TSUSA numbers 381,2340, 381,3170, 381,9100, 381,9570, 384,1700, 384,2339, 384,8300, 384,8400 and 384,9353.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
James H. Babb,
Chairman, Committee for the Implementation
of Textile Agreements.
[FR Doc. 88-27319 Filed 11-25-88; 8:45 am]
BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Additions

AGENCY: Committee for Purchase from
the Blind and Other Severely
Handicapped.

ACTION: Additions to procurement list.

SUMMARY: This action adds to
Procurement List 1989 commodities to be
produced and services to be provided by
workshops for the blind or other
severely handicapped.

EFFECTIVE DATE: December 26, 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:
Beverly Milkman, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On
August 19, September 2 and September
16, 1988, the Committee for Purchase
from the Blind and Other Severely
Handicapped published notices (53 FR
31735, 34140 and 36091) of proposed
additions to Procurement List 1989,
November 15, 1988 (53 FR 46018).

No comments were received
concerning the proposed additions to the
Procurement List. After consideration of
the material presented to it concerning
capability of qualified workshops to
produce the commodities and provide
the services at a fair market price and
impact of the additions on the current or
most recent contractors, the Committee
has determined that the commodities
and 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 for this certification
were:

- The actions will not result in any additional reporting, recordkeeping or other compliance requirements.
- The actions will not have a serious economic impact on any contractors for the commodities and services listed.
- The actions will result in authorizing small entities to produce the commodities and provide the services procured by the Government.

Accordingly, the following
commodities and services are hereby
added to Procurement List 1989:

Commodities

Frame, Picture

7105-01-282-0630	71105-01-282-0631
7105-01-282-0632	7105-01-282-0633

Slacks, Women's

8410-01-029-6690	8410-00-591-1165
8410-00-591-1181	8410-00-591-1182
8410-00-591-1185	8410-00-591-1186
8410-00-591-1188	8410-00-591-1189
8410-00-591-1191	8410-00-591-1196
8410-00-591-1197	8410-00-591-1201
8410-00-591-1202	8410-00-591-1203
8410-00-591-1204	8410-00-591-1205
8410-00-591-1206	8410-00-591-1215
8410-00-591-1217	8410-00-591-1228
8410-00-591-1232	8410-00-591-1233
8410-00-591-1234	8410-00-591-1235
8410-00-591-1236	8410-00-591-1237
8410-00-591-1238	8410-00-591-1239
8410-00-591-1248	8410-00-591-1251
8410-00-591-1261	8410-00-591-1263
8410-00-591-1290	8410-00-591-1292
8410-00-591-1293	8410-00-591-1300
8410-00-591-1311	8410-00-591-1320
8410-00-591-1337	8410-00-591-1352
8410-00-591-1357	8410-00-591-1358

Services

File Maintenance, U.S. Department of
the Treasury, Bureau of Public Debt,
Parkersburg, West Virginia
Janitorial/Custodial, U.S. Courthouse,
300 Ala Moana Boulevard, Honolulu,
Hawaii
Janitorial/Custodial, Lexington Blue
Grass Army Depot at the following
locations: Lexington Activity, Avon,
Kentucky, Blue Grass Activity,
Richmond, Kentucky

Beverly L. Milkman,
Executive Director.

[FR Doc. 88-27314 Filed 11-25-88; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1989; Proposed Additions

AGENCY: Committee for Purchase from
the Blind and Other Severely
Handicapped.

ACTION: Proposed additions to
procurement list.

SUMMARY: The Committee has received
proposals to add to Procurement List
1989 commodities to be produced and
services to be provided by workshops
for the blind and other severely
handicapped.

DATE: Comments must be received on or
before December 27, 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:
Beverly Milkman, (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 persons an
opportunity to submit comments on the
possible impact of the proposed actions.

If the Committee approves the
proposed additions, all entities of the
Federal Government will be required to
procure the commodities and services
listed below from workshops for the
blind or other severely handicapped.

It is proposed to add the following
commodities and services to
Procurement List 1989, November 15,
1988 (53 FR 46018).

Commodities

Inking Pad

7510-00-224-7676	7510-00-526-1741
7510-00-526-1742	

Services

Grounds Maintenance, Air Route Traffic
Control Center, Auburn, Washington
Grounds Maintenance and Sprinkler
System Maintenance, Building 6459,
Edwards Air Force Base, California
Janitorial/Custodial, Commissary Store,
Naval Air Station, Pensacola, Florida
Janitorial/Custodial, Social Security
Administration, Operations Building,
Third and Fourth Floors, 6401 Security
Boulevard, Baltimore, Maryland
Janitorial/Custodial, Naval Amphibious
Base, Little Creek, Except Building
3504, Norfolk, Virginia

Beverly L. Milkman,
Executive Director.

[FR Doc. 88-27315 Filed 11-25-88; 8:45 am]
BILLING CODE 6820-33-M

Procurement List 1989; Establishment; Correction

In FR Doc. 88-26212 beginning at page
46018 in the issue for Tuesday,
November 15, 1988, make the following
corrections:

- On page 46018, second column,
under CLASS 1005, Firing Attachment,
Blank should read Firing Attachment,
Blank.
- On page 46018, second column,
under CLASS 1005, Sling, Adjustable,
Small Arms, the first four-digit number
reading "1003" should read "1005".
- On page 46018, third column, under
CLASS 1680, Wire Bundle Assemblies
should read Wire Bundle Assemblies.

4. On page 46019, third column, under CLASS 5350, Cloth, Abrasive, in the twenty-fifth and twenty-sixth lines the three-digit number reading "-299" should read "-229".

5. On page 46020, second column, under CLASS 6515, Surgical Pack, Disposable (IBA) should read Surgical Pack, Disposable (IB).

6. On page 46020, third column, under CLASS 6530, the second entry for Strap, Webbing Patient Securing should read Strap, Webbing, Litter Securing.

7. On page 46021, first column, under CLASS 6532, FGown, Hospital, Patient's Bedshirt should read Gown, Hospital, Patient's Bedshirt.

8. On page 46021, second column, under CLASS 6532, Trousers, Operating, Surgical, in the third and fourth lines the three-digit number reading "-229" should read "-299".

9. On page 46022, third column, under CLASS 7210, Mattress Foam should read Mattress, Foam.

10. On page 46024, first column, under CLASS 7510, Paperweight, Shortfilled should read Paperweight, Shotfilled.

11. On page 46024, second column, under CLASS 7520, Ballpoint, Pen, with Imprinting should read Ballpoint Pen, with Imprinting.

12. On page 46025, third column, under CLASS 7530, Paper, Teletypewriter Roll, in the sixth line the two-digit number reading "-00" should read "-01".

13. On page 46027, first column, under CLASS 7930, Detergent, General Purpose, in the fourth line the two-digit number reading "-00" should read "-01".

14. On page 46027, first column, under CLASS 7930, Detergent, General Purpose, after the fifth line, insert the following:

7930-00-985-6945
7930-00-985-6946
7930-00-530-8067
7930-00-527-1207
7930-00-527-1237
7930-01-055-6121
7930-00-282-9700
7930-00-282-9699
7930-00-985-6911

Detergent, General-Purpose (IB)

7930-00-531-9715
7930-00-531-9715

Detergent, Laundry (IB)

7930-01-045-3515
7930-01-045-3517

Dishwashing Compound, Hand (IB)

7930-00-880-4454
7930-01-055-6136
7930-00-899-9534

Glass Cleaner (IB)

7930-00-664-6910

Rinse Additive, Dishwashing (IB)

7930-00-619-9573
7930-00-619-9575

Class 8010

Aerosol Paint, Lacquer (IB)

8010-00-721-9742
8010-00-079-2754
8010-00-141-2952
8010-00-721-9743
8010-00-584-3148
8010-00-721-9479
8010-00-141-2950

15. On page 46027, second column, under CLASS 8010, Enamel, in the nineteenth line the two-digit number reading "-00" should read "-01".

16. On page 46033, first column, under Commissary Warehousing Service, the third line should read Mountain Home Air Force Base, Idaho.

17. On page 46034, first column, under Janitorial/Custodial, the last line should read Pittsburgh, Pennsylvania (SH).

18. On page 46034, second column, under Department of Army, the sixth line reading Fort Gillem, Georgia should appear after the eleventh line under that heading.

19. On page 46034, second column, under Department of Army, the forty-third and forty-fourth lines should read U.S. Army Reserve Facility, Salem, Oregon.

20. On page 46034, third column, Department of Energy, in the tenth line, the number reading "5840" should read "5804".

21. On page 46034, third column, under Department of Health and Human Services, in the second line Administrataion should read Administration.

22. On page 46035, third column, under General Services Administration, in the fifty-first line "Popular" should read "Poplar".

23. On page 46036, first column, under General Services Administration, the thirty-first line should read 203-209 Centre Street, New York, New York (SH).

24. On page 46036, third column, the first and second lines should appear after the third and fourth line.

Beverly L. Milkman,
Executive Director.

[FR Doc. 88-27313 Filed 11-25-88; 8:45 am]

BILLING CODE 8820-33-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Strategic Force Modernization Program; Changed Meeting

ACTION: Change in Date and Location of Advisory Committee meeting notice.

SUMMARY: The meeting of the Defense Science Board Task Force on Strategic Force Modernization Program scheduled for January 18-19, 1989 at Science Applications International Corporation, Falls Church, Virginia as published in the *Federal Register* (Vol. 53, No. 213, Page 44512-44513, Thursday, November 3, 1988, FR Doc. 88-25483) will be held on January 24-25, 1989 at Science Applications International Corporation, LaJolla, California.

November 22, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 88-27378 Filed 11-25-88; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Meetings

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board will meet in closed session on February 8-9, May 10-11, and October 18-19, 1989 at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Defense Science Board will discuss interim findings and tentative recommendations resulting from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

November 22, 1988.

Linda M. Bynum,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

[FR Doc. 88-27377 Filed 11-25-88; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force**Environmental Research and
Development, Inc.; Intent To Grant
Exclusive Patent License**

Pursuant to the provisions of Part 101-4 of Title 41, Code of Federal Regulations, which implements Pub. L. 96-517, the Department of the Air Force announces its intention to grant to Environmental Research and Development, Inc., Coben Plaza, 255 "B" Street, Idaho Falls, Idaho, a corporation of Idaho, an exclusive royalty-bearing license under United States Patent Application Serial 07/263,161 filed October 26, 1988 in the names of Dan F. Suciu, Penny M. Wikoff, John M. Beller and Charles J. Carpenter for "Process For Sodium Sulfide/Ferrous Sulfate Treatment of Hexavalent Chromium and Other Heavy Metals".

The license will be granted unless any objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below within 60 days from the publication of this notice. Copies of the patent application may be obtained from the same addressee.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Office of The Judge Advocate General, HQ USAF/JACP, 1900 Half Street, SW., Washington, DC 20324-1000, Telephone No. (202) 475-1386.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 88-27385 Filed 11-25-88; 8:45 am]

BILLING CODE 3910-10-M

**Corps of Engineers, Department of
the Army****Intention to Prepare a Draft
Environmental Impact Statement
(DEIS) for the American River
Watershed Investigation, California**AGENCY: U.S. Army Corps of Engineers,
DOD.ACTION: Notice of Intent to prepare a
DEIS.

SUMMARY: The action being taken is a feasibility study for flood control measures in the Sacramento metropolitan area. The reason for the

action is to reduce potential flood damages caused by high flows during major storm events. The study will formulate and recommend for construction appropriate works to reduce flood damages along the lower American River and in the Natomas area. Because of the significant threat of major flooding to large areas of metropolitan Sacramento the study will concentrate on alternatives to provide high levels of flood protection (i.e., greater than about 200 years).

Accordingly, although all potential applicable methods of flood protection will be reviewed and reported, emphasis will be placed on certain solutions capable of providing the high levels of protection. Along the mainstem of the American River, the study will consider: (1) A flood control only dam at or near the existing Auburn Dam site, (2) a flood control only dam with provisions not to preclude future expansion into a larger multipurpose reservoir (flood control, water supply, hydropower, and recreation), and (3) a flood control only dam with a minimum pool reservoir to provide non-firm water supplies to adjacent counties. For the Natomas area, the study will primarily examine measures of enlarging levees and the possible construction of Natomas cross levees. The feasibility study was authorized in 1988.

FOR FURTHER INFORMATION CONTACT:

Suggestions on the scope of coverage for environmental impact evaluations and related information should be provided in writing to the Sacramento District, Corps of Engineers, 650 Capitol Mall, Sacramento, California, 95814-4794. Questions concerning the DEIS should be addressed to Mr. Richard Meredith at (916) 551-1855.

SUPPLEMENTARY INFORMATION:**1. Proposed Action**

The Corps of Engineers completed a reconnaissance study entitled, "American River Watershed Investigation, California", in January 1988. It was accomplished under the authority of the Flood Control Act of 1962 (PL 87-874) and amended by a 1967 Appropriations Act. The study was accomplished primarily in response to the near disastrous flooding in the Sacramento area during the severe storms in February 1986. The study reported that the area had significantly less flood protection than previously believed (only 63-year versus 120-year level of protection). The reconnaissance study concluded that there is a serious flood threat in Sacramento

(approximately 350,000 people and over \$15 billion of damageable property exist within the revised 200-year flood plain) and detailed feasibility scope studies are warranted. The flexibility study was initiated in July 1988. The study will examine alternative flood control measures with emphasis on those that can provide the affected area with high levels (200-year or greater) of flood protection. The State of California Reclamation Board and the Department of Water Resources are sharing equally with the Federal Government in the cost of the study.

2. Alternatives

A. American River—Alternatives will be examined during the feasibility study to address potential flooding along the lower American River. In addition, various alternatives previously assessed along the lower river capable of providing relatively low levels of protection will be presented. The three primary alternatives include the following:

i. **Flood Control Only Dam.** This alternative is a flood control only dam to be constructed on the North Fork of the American River below its confluence with the Middle Fork of the American River and above Folsom Reservoir at or near the existing uncompleted Auburn Dam site. The facility would be designed to act in conjunction with seasonal flood control storage in Folsom Reservoir to maintain the current maximum objective release of 115,000 cfs from Folsom Reservoir into the lower American River during large flood events. The dam would have an ungated outlet allowing the river to flow unimpeded into Folsom Reservoir most of the time. During high flows, however, the dam would temporarily (1 to 12 days) store between 600,000 and 700,000 acre-feet to permit optimum operation of the downstream flood control works.

ii. **Expandable Dam.** The second alternative is a flood control only dam as described above, but designed not to preclude future expansion into a larger multipurpose reservoir for flood control, water supply, hydropower, and recreation. Such a facility may include additional foundation work, construction of facilities to more easily allow future outlet work modifications, alternative siting, purchase of lands which may be required in the future, etc.

iii. **Minimum Pool.** The third alternative is a flood control dam with a minimum pool. The facility would be designed to store and divert a yet-to-be-determined, non-firm water supply to

the local area. Unlike the first two alternative, this alternative would require a gated outlet structure and permanent inundation.

iv. *Others.* Other alternatives that will be considered are non-dam options which are capable of providing levels of flood protection significantly less than 200-year. One such option includes enlargement of the levees along the lower American River and below Folsom Reservoir to accommodate increased objective discharges from Folsom Dam. A maximum increased release of approximately 180,000 cfs would be considered. This option would provide protection against approximately a 100-year flood event.

B. *Natomas Area.* Alternatives designed to protect the Natomas area of Sacramento will be examined during the feasibility study. Each of the alternatives will likely require some modification to levees in areas adjacent to Natomas to avert adverse hydraulic impacts in those areas. These areas may include Dry and Arcade Creeks, the Sacramento River, and the Yolo Bypass.

i. *Full Natomas Protection.* This alternative would protect the entire 53,000 acre Natomas area through the use of pump stations, flood gates, and levee enlargement. Modifications of the Fremont Weir to lessen the need for a gate/pump station will also be examined.

ii. *Partial Natomas Protection.* Two alternatives will be examined, including various cross levee alignments designed to protect various proportions of the total Natomas area. In addition to the construction of a cross levee, existing levees along the Sacramento and American Rivers, the Natomas East Main Drainage Canal, and the Natomas Cross Canal would be enlarged.

3. Scoping Process

a. Close coordination is being maintained with Federal, state and local agencies; environmental organizations; and concerned individuals and groups. This is being accomplished through study management team meetings and other inter-agency coordination, which have already been initiated. Through this Notice of Intent all segments of the affected public and agencies are invited to participate in the planning process. DEIS scoping meeting notices will be distributed.

b. Significant issues that will be discussed in the DEIS include impacts on fish and wildlife resources, recreation, endangered species, vegetation (riparian and upland), esthetics, wild and scenic rivers, cumulative impacts, and other investigation requirements.

c. The U.S. Fish and Wildlife Service will provide a Fish and Wildlife Coordination Act Report to accompany the DEIS.

d. A 45-day review period will be allowed for all interested agencies and individuals to review and comment on the DEIS. All interested persons are encouraged to respond to this notice and provide a current address if you wish to be contacted about the DEIS.

4. Meeting Schedule

Public meetings, workshops, and scoping sessions will be scheduled in the future.

5. Availability

The DEIS is scheduled to be available for public review and comment in early 1990.

Date: November 4, 1988.

Jack A. Le Cuyer,

Colonel, Corps of Engineers District Engineers.

[FR Doc. 88-27338 Filed 11-25-88; 8:45 am]

BILLING CODE 3710-GH-M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before December 28, 1988.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 732-3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget

(OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: November 22, 1988.

George Sotos,

Acting Director for Office of Information Resources Management.

Office of Educational Research and Improvement

Type of Review: Revision

Title: Integrated Postsecondary Education Data Systems (IPEDS)

Frequency: Annually

Affected Public: State or Local Governments, Businesses or other for-profit, Non-profit institutions

Reporting Burden:

Responses: 37,000

Burden Hours: 65,200

Recordkeeping:

Recordkeepers: 0

Burden Hours: 0

Abstract: The information collected for the IPEDS is used to report statistics on the condition of postsecondary education. IPEDS provides data on a broad range of topics including postsecondary students, faculty and staff, programs, institutions and finances.

Office of Planning, Budget and Evaluation

Type of Review: NEW

Title: Survey of Personnel Shortages and Training Needs in Vocational Rehabilitation

Frequency: Biennially

Affected Public: State or local governments; Non-profit institutions; Small businesses or organizations

Reporting Burden:

Responses: 533

Burden Hours: 422

Recordkeeping:

Recordkeepers: 0

Burden Hours: 0

Abstract: The purpose of this survey is to evaluate the personnel shortages and training needs of organizations providing vocational rehabilitation services. Directors of all State agencies and a sample of private facilities will provide the information. The results will be used by the Department in establishing training priorities in rehabilitation.

[FR Doc. 88-27378 Filed 11-25-88; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.170]

**Jacob K. Javits Fellows Program;
Applications for New Awards for Fiscal
Year 1989**

Purpose: Provide grants to eligible postsecondary students for graduate fellowships in the arts, humanities, and social sciences.

Deadline for Transmittal of

Applications: February 3, 1989

Applications Available: December 20, 1988

Available Funds: \$7,904,000, of which approximately \$1,200,000 may be available for new fellowships in FY 1989 after funds for continuing fellowships have been allocated.

Estimated Range of Awards: Stipends are determined by the fellow's financial need and can range from zero to \$10,000 per academic year. Additionally, the institution attended by a fellow will receive a \$6,000 cost of instruction payment, in lieu of tuition and fees.

Estimated Average Size of Awards: \$15,000, including the cost of instruction payment.

Estimated Number of New Awards: 80
Note: The Department is not bound by any estimates in this notice.

Project Period: 1 academic year (with possibility of continuation for a total of 48 months of support)

Applicable Regulations: Regulations governing the Jacob K. Javits Fellows Program in 34 CFR Part 650. Amendments to these regulations were published in the **Federal Register** on August 6, 1987 (52 FR 29356).

Priorities: The Fellowship Board has determined that eligible applicants for this competition will be limited to individuals with 20 or fewer graduate credit hours. Individuals completing their undergraduate degrees are eligible to apply.

**For Applications or Information
Contact:** Dr. Allen Cissell, Director,

Jacob K. Javits Fellows Program, U.S. Department of Education, 400 Maryland Avenue, SW, ROB-3, Room 3022, Washington, DC 20202-5251. Telephone: (202) 732-4415.

Program Authority: 20 U.S.C. 1134h-k.

Dated: November 21, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88-27379 Filed 11-25-88; 8:45 am]

BILLING CODE 4000-01-M

**National Advisory Committee on
Accreditation and Institutional
Eligibility; Public Meeting**

AGENCY: National Advisory Committee on Accreditation and Institutional Eligibility.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Committee on Accreditation and Institutional Eligibility. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of its opportunity to attend.

DATES: December 12, 8:00 a.m. until 5:30 p.m.

December 13, 8:30 a.m. until 12:00 noon.

Location: The Savoy Hotel, 2505 Wisconsin Avenue, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Steven G. Pappas, Chief, Accrediting Agency Evaluation, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202-5245, (202) 732-3417.

SUPPLEMENTARY INFORMATION: The National Advisory Committee on Accreditation and Institutional Eligibility is authorized under section 1205 of the Higher Education Act as amended by Pub. L. 96-374 (20 U.S.C. 1145). The Committee advises the Secretary of Education regarding his responsibility to publish a list of nationally recognized accrediting agencies and associations, State agencies recognized for the approval of public postsecondary vocational education, and State agencies recognized for the approval of nurse education.

The Committee also advises the Secretary of Education regarding policy concerning recognition of accrediting and State approval bodies, and concerning institutional eligibility for

participation in Federal funding programs.

The Committee meeting on December 12 and 13 will be open to the public.

Agenda

The agenda will include (1) Oath of office ceremonies for new and reappointed members; (2) coverage of the code of ethics for Federal employees; (3) review of petitions and interim reports by accrediting and State approval bodies relative to initial or continued recognition by the Secretary of Education; and (4) review of request from the United States Military Academy. The Committee also will hear presentations by representatives of these petitioning agencies and any interested third parties. The following petitions, interim reports, and requests will be reviewed.

*Petitions for Recognition as Nationally
Recognized Accrediting Agencies and
Associations*

A. Petitions for Initial Recognition
National Association for Industrial
Technology
Transnational Association of Christian
Schools

B. Petitions for Renewal of Recognition
American Council on Pharmaceutical
Education
Council on Naturopathic Medical
Education
Western Association of Schools and
Colleges, Accrediting Commission for
Senior Colleges and Universities

C. Interim Reports
Accreditation Board for Engineering and
Technology, Inc.
Accrediting Council on Education in
Journalism and Mass Communications
American Association of Bible Colleges
American Association of Nurse
Anesthetists
American Medical Association,
Committee on Allied Health
Education and Accreditation in
cooperation with review committee
for—Diagnostic Medical Sonography
American Osteopathic Association
Association for Clinical Pastoral
Education
Association of Advanced Rabbinical
and Talmudic Schools
Association of Independent Colleges
and Schools
Council on Chiropractic Education
Council on Social Work Education
National Accreditation Council for
Agencies Serving the Blind and
Visually Handicapped
National Accrediting Commission of
Cosmetology Arts and Sciences
National Architectural Accrediting
Board

North Central Association of Colleges and Schools, Commission for Schools

Petitions for Recognition as State Agencies for the Approval of Public Postsecondary Vocational Education

A. Petitions for Renewal Recognition

Oklahoma Board of Vocational and Technical Education

Oklahoma State Regents for Higher Education

B. Interim Reports

Kansas State Board of Education
Minnesota State Board of Vocational—
Technical Education

Request for Program Review

A. Request for a recommendation from the U.S. Department of Education by the United States Military Academy, West Point, New York to award the Masters Degree in Leader Development.

Third Parties

The Department urges third parties interested in commenting on any of the scheduled agencies and associations to submit their comments in writing by December 5, 1988, to Steven G. Pappas, Chief, Accrediting Agency Evaluation (address above). While the Committee will receive any written materials up through the date of its meeting, submission of written comments by December 5 will facilitate the work of the Committee by providing for its advance review and analysis of third party positions. All petitions, interim reports and third party comments received in advance of the meeting will be available for public inspection in the Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3036, ROB-3) Washington, DC between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday.

Requests for oral presentations before the advisory Committee should be submitted in writing to Mr. Pappas (address above), by December 5, 1988. Requests should include the names of all persons seeking an appearance, the organization they represent, and the purpose for which the presentation is requested. Time constraints may limit oral presentations.

The acceptance of written and oral third party comments is limited to issues relevant to an accrediting or State agency's compliance with the Secretary's recognition regulations (Criteria for Recognition).

A record will be made of the proceedings of the meeting and will be available for public inspection at the Office of Postsecondary Education, U.S. Department of Education, 400 Maryland

Avenue, SW. (Room 3036, ROB-3) Washington, DC from the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

Signed in Washington, DC on November 21, 1988.

Kenneth D. Whitehead,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 88-27285 Filed 11-25-88; 8:45 am]

BILLING CODE 4000-01-M

Privacy Act of 1974, System of Records

AGENCY: Department of Education.

ACTION: Notice of a New System of Records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education publishes this notice of a new system of records known as the Debarment and Suspension Proceedings Under Executive Order 12549. The new system will be used to provide to the General Services Administration, Federal agencies, and participants in nonprocurement programs, information on persons debarred or suspended under Executive Order (E.O.) 12549. The Department seeks comments on the proposed routine uses contained in this notice.

DATES: The Department filed a report on the new system of records with the President of the Senate, the Speaker of the House of Representatives, and the Director, Office of Management and Budget (OMB) on November 22, 1988. The Department has requested that OMB grant a waiver of the usual requirement that a system of records not be put into effect until 60 days after the report is sent to OMB and Congress. In no event will this system of records become effective before the minimum period for comment on the proposed routine uses expires on December 28, 1988. The Department will publish any changes to the routine uses that are required as a result of the comments.

ADDRESSES: Comments on the proposed routine uses should be addressed to the Privacy Act Officer, Office of Planning, Budget, and Evaluation, Public Affairs Service, U.S. Department of Education, 400 Maryland Avenue, SW (Room 2089, Federal Office Building No. 6) Washington, D.C. 20202-4135. All comments submitted in response to this notice will be available for public inspection, during and after the comment period, in Room 2089 between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Mary Jane Kane, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, SW (Room 3122, GSA Regional Office Building No. 3), Washington, DC 20202-4700. Telephone: (202) 732-7400.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (see 5 U.S.C. 552a(e)(4)) requires the Department to publish in the *Federal Register* this notice of a new system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) at 34 CFR Part 5b.

E.O. 12549, Debarment and Suspension, dated February 18, 1986, and 34 CFR Part 85, published in the *Federal Register* on May 26, 1988 (53 FR 19204) require Federal agencies, including the Department, to establish procedures for debarment and suspension from programs and activities involving Federal financial and nonfinancial assistance and benefits.

To carryout debarment and suspension procedures, the Secretary's designated debarment/suspending officials will need to maintain and use case files. Each case file will include written referrals, communications between ED and the respondent, intra-agency and interagency communications, and a record of and findings from the debarment or suspension proceedings.

While most cases will be against businesses, organizations, institutions, or natural persons acting in an entrepreneurial capacity, some cases may be against natural persons acting in their individual capacity. In those rare instances, such as a student who engages in fraud to obtain a scholarship, suspension or debarment action may be taken against persons acting in their individual capacity. OMB guidance to agencies indicates that natural persons who act in an entrepreneurial capacity are not covered by the Privacy Act of 1974 but that natural persons who act in an individual capacity are "individuals" protected by the Act. Although this notice only covers individuals, in the interest of economy, case files on businesses, organizations, institutions, and natural persons acting in their entrepreneurial capacity will not be kept separate from case files on individuals. Because the information in each case will be indexed by the name of the organization or individual against whom the action is taken, the case files against individuals are considered a system of records under the Privacy Act of 1974.

Information on individuals debarred or suspended will be provided to the

General Services Administration for inclusion on the governmentwide list required by E.O. 12549 and the regulations. The list must be checked by Federal agencies prior to entering into covered nonprocurement transactions to determine whether a participant is debarred, suspended, ineligible or voluntarily excluded. A participant is any person who submits a proposal for, enters into, or reasonably may be expected to enter into a covered transaction. A covered transaction is described in the Department's regulations at 34 CFR 85.110(a)(1). Participants may use the list to meet the regulatory requirement to determine if any person who may act as a principal for the participant is debarred, suspended, ineligible, or voluntarily excluded.

Dated: November 22, 1988.

Patrick Pizzella,

Acting Deputy Under Secretary for Management.

The Secretary publishes notice of a new system of records to read as follows:

18-11-0026

SYSTEM NAME:

Debarment or Suspension Proceedings Under Executive Order 12549. OM/OC/GCS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Grants Division, Grants and Contracts Service, U.S. Department of Education, Washington, DC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Principals undergoing debarment or suspension proceedings and principals that have been debarred or suspended. Principals are officers, directors, owners, partners, key employees, or other persons with primary management or supervisory responsibilities, or persons who have a critical influence on or substantive control over a covered transaction, whether or not employed by a participant. A participant is any person who submits a proposal for, enters into, or reasonably may be expected to enter into a covered transaction. A covered transaction is described in the Department's regulations at 34 CFR 85.110(a)(1).

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains documents including written referrals, communications between ED and the respondent, intraagency and interagency communications regarding proposed or completed debarments or

suspensions, and a record of and findings from debarment or suspension proceedings against individuals under E.O. 12549.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12549, Debarment and Suspension.

PURPOSES:

Information contained in this system of records is used to protect the Federal Government from the actions prohibited under the Department's debarment and suspension regulations, make decisions regarding debarments and suspension, and ensure that other Federal agencies give effect to debarment or suspension decisions rendered by this Department.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose a record for the following purposes:

(1) *Disclosure as part of a Debarment or Suspension Action.* The Secretary's designated debarment/suspending official may disclose information concerning an individual who has been suspended or proposed for debarment to other persons involved in or affected by the suspension or debarment action, including participants, principals, affiliates, witnesses, or any other person or individual who has information, documents, or knowledge relevant to the suspension or proposed debarment action.

(2) *Disclosure to the General Services Administration.* The Secretary's designated debarment/suspending official makes information contained in this system of records available to the General Services Administration for inclusion in the *Lists of Parties Excluded from Federal Procurement or Nonprocurement Programs*.

(3) *Enforcement Disclosure.* In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute, particular program statute, or executive order, or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether foreign, Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(4) *Subpoena Disclosure.* Where Federal agencies having the power to subpoena other Federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Department for records in this system of records, the Department will make such records available.

(5) *Litigation Disclosure.*

(a) *Disclosure to the Department of Justice.* If the Department determines that disclosure of certain records to the Department of Justice is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the Department of Justice. Such a disclosure may be made in the event that one of the parties listed below is involved in the litigation, or has an interest in the litigation:

(i) The Department, or any component of the Department;

(ii) Any employee of the Department in his or her official capacity;

(iii) Any Department employee in his or her individual capacity where the Justice Department has agreed to represent the employee; or

(iv) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to a Court or Adjudicative Body.* If the Department determines that disclosure of certain records to a court of adjudicative body before which this Department is authorized to appear is relevant and necessary to litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the court or adjudicative body. Such disclosure may be made in the event that one of the parties listed below is a party to litigation, or has an interest in such litigation:

(i) The Department or any component thereof; or

(ii) Any employee of the Department in his or her official capacity; or

(iii) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(iv) The United States, where the Department determines that litigation is likely to affect the Department or any of its components.

(6) *FOIA Advice Disclosure.* In the event the Department deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be

made to the Department of Justice for the purpose of obtaining its advice.

(7) *FOIA Disclosure.* Where the appropriate official of the Department, pursuant to the Department's Freedom of Information Regulations, determines that it is in the public interest to disclose a record which is otherwise exempt from mandatory disclosure, disclosure may be made from this system of records if the disclosure is also consistent with the purpose for which the record was collected.

(8) *Contract Disclosure.* When the Department contemplates that it will contract with a private firm for the purpose of collating, analyzing, aggregating, or otherwise refining records in this system, relevant records will be disclosed to such a contractor. The contractor shall be required to maintain Privacy Act safeguards with respect to such records.

(9) *Research Disclosure.* Where the appropriate official of the Department determines that an individual or organization is qualified to carry out specific research, that official may disclose information from this system of records to that researcher solely for the purpose of carrying out that research. The researcher shall be required to maintain Privacy Act safeguards with respect to such records.

(10) *Congressional Member Disclosure.* Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Each record is kept in a separate file folder and stored in file cabinets in a locked room.

RETRIEVABILITY:

The records are indexed by the names of the individuals.

SAFEGUARDS:

Immediate access to these records is only by authorized staff.

RETENTION AND DISPOSAL:

Records are disposed in accordance with the requirements of the Federal Records Disposal Act and the Department's record retention schedule. Pending disposal, the records are retained either at the system location or at the Federal Records Center where files are sent on a regular, predetermined schedule.

SYSTEM MANAGER AND ADDRESS:

Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue SW. (Room 3124, ROB-3) Washington, DC 20202-4571.

NOTIFICATION PROCEDURE:

Contact system manager. Requests for notification about whether the system of records contains information about an individual must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

Contact system manager. Requests by an individual for access to a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

Contact system manager. Requests to amend a record must meet the requirements of 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Department employees involved in the management of grants and other organizations or persons that may have relevant information regarding participants and their principals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 88-27380 Filed 11-25-88; 8:45 am]

BILLING CODE 4000-0-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88-63-NG]

Vector Energy (U.S.A.) Inc.; Application to Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

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 October 5, 1988, of an application filed by Vector Energy (U.S.A.) Inc. (Vector) for authorization to import up to 15 Bcf per year of Canadian natural gas over a term beginning December 1, 1989, through November 30, 2000. In addition, on October 17, 1988, Vector filed a supplemental clarification with ERA indicating that no new facilities are required to accommodate the imported volumes.

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 December 28, 1988.

FOR FURTHER INFORMATION:

Robert Groner, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room 3H-087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-1657.

Michael T. Skinner, 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: Vector, a Delaware corporation, is a wholly-owned subsidiary of Vector Energy, Inc. with its principal place of business in Calgary, Alberta. The principal business of Vector is that of an oil and gas producer and marketer with markets in the U.S. and Canada. The applicant requests authority to import Canadian gas for seven Alberta producers for sale on both a firm and an interruptible basis under long-term gas purchase contracts negotiated with Altresco Pittsfield Incorporated (Altresco) on June 24, and June 29, 1988. Altresco, a Colorado corporation located in Denver, will own and operate a cogeneration facility located on the General Electric plant located in Pittsfield, Massachusetts. This is a 162 megawatt gas cogeneration facility and is designed to provide electrical power to the New England Power Company. Under the terms of a June 24, 1988, gas sales agreement between six Alberta producers (Westmin Resources Limited, Total Petroleum Canada Ltd., Ulster Petroleum Ltd., Canadian Pioneer Energy Inc., Trans-Canada Resources Ltd., and Opinac Exploration Limited) and Altresco and Vector Energy, Vector Energy is designated as the sellers' agent for the six Alberta producers in their agreement with Altresco. An unsigned agency agreement form reconfirms this agency and includes the seventh Alberta producer (Wainoco Oil Corporation) which as a separate gas sales agreement with Altresco.

Vector states in its request that long-term deliveries to Altresco are scheduled to commence on December 1, 1989, for a term of 20 years. The contracts call for maximum daily quantities of firm gas deliveries of up to 31,500 MMBtu based on a 75 percent

load factor over the life of the agreement. In addition to these firm supplies, the contracts call for additional interruptible Canadian gas volumes of up to 4,500 MMBtu per day over the same 20 year contract period. In lieu of a minimum purchase obligation, the contracts contain provisions which allow the sellers to reduce the daily contract quantities (DCQ) by up to 20 percent if during the preceding two years the buyer did not buy at least 75 percent on average of the DCQ then in effect during such period. The buyer then can either accept the reduction of the DCQ or maintain the existing DCQ and pay a prospective reservation fee.

Both firm and interruptible gas supplies would be sold to Altresco in accordance with a two-part, commodity and transportation costs rate structure. The initial base price of the gas would be \$1.12 (U.S.) per MMBtu and the transportation costs would be the cost to transport gas from either its point of first delivery into the natural gas pipeline system of Nova Corporation of Alberta, or any other pipeline system as may be mutually agreed between Altresco and Vector, to the delivery point. The price for the gas volumes sold to Altresco would vary from month to month depending on the competitiveness of alternate supply sources.

The contracts accompanying Vector's application indicate that Altresco's base price can be renegotiated upon 180 days notice by either party of dissatisfaction with the gas price then in effect. The price will be reviewed so as to achieve a gas price that, including cost of transportation, is competitive with and comparable to the prices paid for long-term, firm baseload supplies of gas delivered at the city-gate to local distribution companies in Connecticut, Massachusetts, and Rhode Island. Alternatively, the review will achieve a gas price that will allow Altresco to run as a baseload fossil fuel electric generating plant operating at a 75 percent capacity factor. In the event that these two methods of review are in conflict, the latter method shall prevail.

In addition to copies of the gas purchase agreements with Altresco, Vector's application includes a form of agency agreement, producer list, reserves summary, and project summary. Vector's application supplement of October 14, 1988, further indicates that the pipeline facilities needed to transport the gas from the U.S./Canadian border are currently in place. Tennessee Gas Pipeline Company and Berkshire Gas Company will transport the gas in the U.S.

In support of its application, Vector states that approval of its long-term import request is in the public interest because of the market sensitive pricing of the import. Thus, the import is competitive. Vector avers that, because competitively priced term gas is not available from U.S. producers, there is a need for this imported gas. Last, Vector has submitted a list of producers and reserves summary indicating a total gross gas-in-place of 925.51 Bcf as a demonstration of security and source of supply.

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). In accordance with the National Environmental Policy Act of 1969, no final decision will be issued in this proceeding until DOE has considered the environmental effects of any such decision. The need for the gas and security of the long-term supply are further criteria for reviewing a proposed import. Parties that may oppose this application should comment in their responses on the issues of competitiveness, need for the natural gas, and security of supply as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive, needed, and secure. Parties opposing the arrangement bear the burden of overcoming these assertions.

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 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.s.t., December 28, 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 Vector's application is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056 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, November 10, 1988.

Constance L. Buckley,

*Acting Director, Office of Fuels Programs,
Economic Regulatory Administration.*

[FR Doc. 88-27389 Filed 11-25-88; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA C&E 89-02; Certification Notice—27]

Filing of Certification of Compliance; Coal Capability of New Electric Powerplants

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of filing.

SUMMARY: Title II of the Powerplant and Industrial Fuel Use Act of 1978, as amended ("FUA" or "the Act") (42 U.S.C. 8301 *et seq.*), provides that no new electric powerplant may be constructed or operated as a base load

powerplant without the capability to use coal or another alternate fuel as a primary energy source (section 201(a), 42 U.S.C. 8311(a), Supp. V, 1987). In order to meet the requirement of coal capability, the owner or operator of any new electric powerplant to be operated as a base load powerplant proposing to use natural gas or petroleum as its primary energy source may certify, pursuant to section 201(d), to the Secretary of Energy prior to construction, or prior to operation as a base load powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes

compliance with section 201(a) as of the date it is filed with the Secretary. The Secretary is required to publish in the **Federal Register** a notice reciting that the certification has been filed. One owner and operator of a proposed new electric base load powerplant has filed a self certification in accordance with section 201(d). Further information is provided in the **SUPPLEMENTARY INFORMATION** section below.

SUPPLEMENTARY INFORMATION: The following company has filed a self certification:

Name	Date received	Type of facility	Megawatt capacity	Location
Watsonville Cogeneration Partnership, San Mateo, CA	11-10-88.....	Combined cycle.....	27.8	Watsonville, CA.

Amendments to the FUA on May 21, 1987 (Pub. L. 100-42), altered the general prohibitions to include only new electric baseload powerplants and to provide for the self certification procedure.

Issued in Washington, DC, on November 18, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs,
Economic Regulatory Administration.

[FR Doc. 88-27391 Filed 11-25-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER89-66-000 et al.]

Canal Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

November 21, 1988.

Take notice that the following filings have been made with the Commission:

1. Canal Electric Company

[Docket No. ER89-66-000]

Take notice that on November 15, 1988, Canal Electric Company ("Canal") filed a Power Contract which implements the terms of the Capacity Acquisition Agreement (FERC Rate Schedule No. 21) and the Capacity Acquisition Commitment for Seabrook Station (Supplement No. 1 to Canal's Rate Schedule FERC No. 21). Such Power Contract provides the terms and conditions pursuant to which Canal will sell and its customers Cambridge Electric Light Company and Commonwealth Electric Company will purchase and pay for 100% of Canal's share of the output of Seabrook Unit No.

1 plus the transmission costs associated therewith.

Pursuant to the proposed Power Contract, Canal will sell to Cambridge and Commonwealth and test power produced by Seabrook Unit No. 1 during precommercial operation and the capacity and energy associated with Canal's ownership in the Unit during its commercial lifespan. By its instant filing, Canal also proposes to begin recovering from Cambridge and Commonwealth certain costs and expenses associated with the construction work in progress. The rate impact associated with test power produced by Seabrook Unit No. 1 is expected to be extremely small. The rate impact associated with CWIP during period I is projected to be 4.1%. The rate impact associated with full commercial operation of Seabrook Unit No. 1 is projected to be 11.4%.

Canal proposes an effective date of the earlier of January 16, 1988 or the date on which test power is first generated and requests that its filing be suspended for no more than one day.

Comment date: December 6, 1988, in accordance with Standard Paragraph E at the end of this notice.

2. Citizens Energy Corporation

[Docket No. ER89-65-000]

Take notice that Citizens Energy Corporation (Citizens) on November 15, 1988, tendered for filing pursuant to § 35.12 of the Commission's rules under the Federal Power Act, a Power Sales Agreement (Agreement) with the City of Pasadena (Pasadena) as a rate schedule. The Agreement provides that Citizens shall sell energy to Pasadena on an interruptible basis. Service under the Agreement commenced on October 1, 1988 and will terminate on March 31,

1989 unless the period of delivery is extended or abbreviated by mutual agreement.

Pasadena has been served with a copy of this filing.

Citizens requests that the 60-day notice requirements of 18 CFR 35.3 be waived and that October 1, 1988 be allowed as the effective date of the filing.

Comment date: December 6, 1988, in accordance with Standard Paragraph E at the end of this notice.

3. New York State Electric & Gas Corporation

[Docket No. ER89-64-000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on November 15, 1988, tendered for filing pursuant to § 35.12 of the regulations under the Federal Power Act, as a rate schedule, an agreement with New England Power Company (NEP). The short term agreement provides that NYSEG shall sell surplus capability and associated energy to NEP. Service under this agreement will commence on November 1, 1988 and shall terminate on April 30, 1989 unless extended in writing by mutual agreement.

NYSEG has filed a copy of this filing with New England Power Company and with the Public Service Commission of the State of New York.

NYSEG requests that the 60-day filing requirement be waived and that November 1, 1988 be allowed as the effective date of the filing.

Comment date: December 6, 1988, in accordance with Standard Paragraph E at the end of this notice.

4. Delmarva Power & Light Company

[Docket No. ER89-20-000]

Take notice that Delmarva Power & Light Company ("Delmarva") on October 24, 1988, tendered for filing proposed Supplement No. 7 to its FERC Rate Schedule No. 63. Under the Supplement, Delmarva would provide partial requirements service at 69 kV instead of 25 kV when the Town of Berlin, Maryland ("Berlin"), completes its new 69 kV substation. Completion of the 69 kV substation is expected to take place on or about December 1, 1988. Copies of the filing were served upon Berlin and the Maryland Public Service Commission.

Comment date: December 5, 1988, in accordance with Standard Paragraph E at the end of this document.

5. Otter Tail Power Company

[Docket No. EC89-3-000]

Take notice that on November 15, 1988, Otter Tail Power Company ("Otter Tail") tendered for filing an application for an Order authorizing the sale of approximately 10.96 miles of 230 KV transmission line to the Western Minnesota Municipal Power Agency ("Western Minnesota").

Otter Tail states that the proposed sale is that of a portion of the Fergus Falls-Henning transmission line located in Minnesota. The line is intended to become part of Western Minnesota's contribution to the Integrated Transmission System operated pursuant to the Integrated Transmission Agreement among Otter Tail, Western Minnesota and Missouri Basin Municipal Power Agency ("Missouri Basin"), to enable Western Minnesota to provide transmission service to its member municipalities through Missouri Basin. This portion of the Fergus Falls-Henning transmission line is to enable Western Minnesota to service the City of Breckenridge, Minnesota.

Comment date: December 5, 1988, in accordance with Standard Paragraph E at the end of this notice.

6. Boston Edison Company

[Docket No. ES89-6-000]

Take notice that on November 10, 1988, Boston Edison Company (Applicant) of Boston Massachusetts, filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the Company to issue short-term debt securities not exceeding in the aggregate \$350,000,000, from time to time on or before December 31, 1990, with a maturity date no later than December 31, 1991.

Comment date: December 9, 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,

Secretary.

[FR Doc. 88-27344 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-157-000 et al.]

Williams Natural Gas Co. et al.; Natural Gas Certificate Filings

November 21, 1988.

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP89-157-000]

Take notice that on November 9, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-157-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Clinton Gas Transmission, Inc. (Clinton) under its blanket certificate issued in Docket No. CP86-631-000 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.

WNG states that the total volumes of natural gas to be transported for Clinton, on an interruptible basis, on a peak day would be 20,000 MMBtu from various receipt points in Kansas, Oklahoma and Wyoming to various delivery points on WNG's pipeline system in Kansas and Missouri. WNG further states that it anticipates transporting 20,000 MMBtu on an average day and 7,300,000 MMBtu on an annual basis.

WNG indicates that it commenced the transportation of natural gas for Clinton on September 1, 1988, at Docket No. ST89-38-000, for a 120-day period pursuant to § 284.223(a)(1) of the Regulations (18 CFR 284.223(a)(1)).

Comment date: January 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. ANR Pipeline Company

[Docket No. CP89-133-000]

Take notice that on November 4, 1988, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP89-133-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for ANR Gathering Company (ANR Gathering), a marketing affiliate of ANR, under the blanket certificate issued in Docket No. CP88-532-000 on July 25, 1988, 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.

ANR states that it proposes to transport up to 5,000 dt per day on an interruptible basis, on behalf of ANR Gathering pursuant to a transportation agreement dated August 11, 1988 between ANR Gathering (Transportation Agreement). ANR also states that it would receive the gas at existing points of receipt in onshore and offshore Louisiana and redeliver the gas for the account of ANR Gathering at an existing interconnection located offshore Louisiana.

ANR further states that it commenced this service September 1, 1988, as reported in Docket No. ST89-49.

Comment date: January 3, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 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,

Secretary.

[FR Doc. 88-27345 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 7589-001 et al.]

American Hydro Power Company et al.; Surrender of Preliminary Permits and Exemptions

November 21, 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. American Hydro Power Company

[Project No. 7589-001]

Take notice that American Hydro Power Company, permittee for the proposed Lyalhanna Dam Water Power Project No. 7586, has requested that its preliminary permit be terminated. The permit was issued on April 17, 1987, and would have expired March 31, 1990. The project would have been located on Loyalhanna Creek in Westmoreland County, Pennsylvania. The permittee states that the proposed project is not economically feasible as the basis for the surrender request.

The permittee filed its request on May 16, 1988.

2. Mac Hydro Power Company, Inc.

[Project No. 4739-004; California]

Take notice that Mac Hydro Power Company, Inc., exemptee for the East Fork of Stuart Fork Creek Hydroelectric Project No. 4739, has requested that its exemption be terminated. The exemption was issued on September 27, 1985, and the project would have been located on the East Fork of Stuart Fork Creek, within the Shasta-Trinity National Forest in Trinity County, California. No construction of the hydroelectric project works has been initiated.

The exemptee filed the request on August 4, 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 filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 88-27346 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-45-009]

Arkla Energy Resources; Proposed Changes in FERC Gas Tariff

November 21, 1988.

Take notice that on November 14, 1988, Arkla Energy Resources (AER) tendered for filing the following sheets to its FERC Gas Tariff:

First Revised Volume No. 1

First Revised Sheet No. 4C

Original Volume No. 1-A

First Revised Sheet Nos. 9 through 9E

Original Volume No. 3

First Revised Sheet No. 188B

AER submits that the above listed sheets are filed in compliance with the Commission's order of October 28, 1988 in this docket. Ordering paragraph A of that order required AER to file certain sheets to delete references to the amortization period for refunds associated with excess deferred income taxes and the properly reference a footnote.

AER states that copies of the filing were mailed to all of AER's jurisdictional customers, and interested state commissions, as well as the parties listed on the Commission's official service list compiled in this proceeding.

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 the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before November 28, 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,

Secretary.

[FR Doc. 88-27343 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP84-34-001]

Midwestern Gas Transmission Co.; Compliance Filing Pursuant to Tariff Rate Adjustment Provisions

November 22, 1988

Take notice that on November 14, 1988, Midwestern Gas Transmission Company (Midwestern) filed Forty-Third Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff, to be effective November 3, 1988.

Midwestern states that the purpose of the filing is to reflect modifications to the rate for sales under the I-1 Rate Schedule required by the Commission's Order of November 3, 1988 in the referenced docket. Pursuant to this order, the I-1 Rate has been computed as 100% load factor rate derived from the DC-1 Rate, including purchased gas demand costs.

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 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 29, 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,

Secretary.

[FR Doc. 88-27347 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-25-000]

Northwest Alaskan Pipeline Co.; Tariff Changes

November 22, 1988.

Take notice that on November 15, 1988, Northwest Alaskan Pipeline Company ("Northwest Alaskan"), 295 Chipeta Way, Salt Lake City, Utah 84108-0899, tendered for filing in Docket No. RP89-25-000 Twenty-Third Revised

Sheet No. 5 to its FERC Gas Tariff Original Volume No. 2.

Northwest Alaskan states that it is submitting Twenty-Third Revised Sheet No. 5 reflecting an increase in total demand charges for Canadian gas purchased by Northwest Alaskan from Pan-Alberta Gas Ltd. and resold to Northwest Alaskan's four U.S. purchasers, Northern Natural Gas Company ("Northern"), Panhandle Eastern Pipe Line Company ("Panhandle"), United Gas Pipe Line Company ("United") and Pacific Interstate Transmission Company ("PIT"), under Rate Schedules X-1, X-2, X-3 and X-4, respectively. The increase in total demand charges for Northwest Alaskan's customers results primarily from foreign exchange rate fluctuations and the collection of FERC Annual Charges paid in August 1988 by Northwest Alaskan.

Northwest Alaskan states that it is submitting Twenty-Third Revised Sheet No. 5 pursuant to the provisions of the amended purchase agreements between Northwest Alaskan and Northern, Panhandle, United and PIT, and pursuant to Rate Schedules X-1, X-2, X-3, and X-4, which provide for Northwest Alaskan to file 45 days prior to the commencement of the next demand charge period (January 1, 1989 through June 30, 1989) the demand charges and demand charge adjustments which Northwest Alaskan will charge during that period.

Northwest Alaskan requests that Twenty-Third Revised Sheet No. 5 become effective January 1, 1989.

Northwest Alaskan states that a copy of this filing has been served on Northwest Alaskan's customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before Dec. 1, 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,
Secretary.

[FR Doc. 88-27348 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-259-003]

Northern Natural Gas Co., Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

November 22, 1988

Take notice that Northern Natural Gas Company, Division of Enron Corp., (Northern) on November 14, 1988, tendered for filing revised changes in its F.E.R.C. Gas Tariff in compliance with the Commission's Order dated October 26, 1988 in this proceeding. Northern states that the filing reflects a further decrease in rates of \$3.8 million per year below the reduced rates originally filed by Northern in this proceeding. Northern has requested that the proposed tariff changes be made effective October 27, 1988.

The Company states that copies of the filing have been mailed to each of its customers purchasing gas and receiving transportation and gathering services under its F.E.R.C. Gas Tariff and to interested State 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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211). All such motions or protests must be filed on or before November 29, 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,
Secretary.

[FR Doc. 88-27349 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-41-002]

Paiute Pipeline Co.; Filing

November 21, 1988.

Take notice that on November 10, 1988, Paiute Pipeline Company (Paiute) filed Second Substitute Third Revised Sheet No. 10 to its FERC Gas Tariff, Volume No. 1, to be effective November 1, 1988.

Paiute states that this tariff sheet is filed in compliance with the Commission's order of October 31, 1988.

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 November 28, 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,
Secretary.

[FR Doc. 88-27342 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-17-018]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 22, 1988.

Take notice that on November 15, 1988, Southern Natural Gas Company (Southern) tendered for filing the following tariff sheets to its FERC Gas Tariff, Sixth Revised Volume No. 1, to be effective November 1, 1988:

Third Revised Sheet No. 300
Third Revised Sheet No. 30GG
Second Revised Sheet No. 30II
Third Revised Sheet No. 45R.13
Original Sheet No. 45R.13a

Southern states that on October 31, 1988, the Commission issued its Order Accepting Compliance Filing Subject to Condition (Order) in which the Commission accepted revised tariff sheets to Southern's Tariff coordinating the curtailment of transportation and sales services and setting forth curtailment priorities for interruptible services in accordance with the discussion in the Commission's May 27, 1988, and July 27, 1988, orders issued in this proceeding. The October 31st Order also directed Southern to file revised tariff sheets within 15 days of the October 31st Order to include scheduling procedures in accordance with the Commission's discussions in the May 27th and July 27th orders. Southern has submitted the aforementioned revised tariff sheets to be effective November 1, 1988, to clarify its scheduling procedures accordingly.

Southern states that copies of the filing were mailed to all of Southern's jurisdictional purchasers, shippers, and interested state commissions, as well as the parties listed on the Commission's official service list compiled in this proceeding.

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 the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such motions or protests should be filed on or before November 29, 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,

Secretary.

[FR Doc. 88-27350 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-221-002]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

November 22, 1988.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on November 15, 1988, tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, six copies each of the following tariff sheets:

Second Revised Sheet No. 104
Second Revised Sheet No. 112
Second Revised Sheet No. 119
Second Revised Sheet No. 126
Second Revised Sheet No. 130
Fourth Revised Sheet No. 133
Second Revised Sheet No. 138
Fifth Revised Sheet No. 489
First Revised Sheet No. 489A

The purpose of this filing is to file tariff sheets providing for an authorized overrun rate as required by Ordering Paragraph (B) of the Commission's October 31, 1988 Order in Docket Nos. RP88-221-001, RP88-67-009 and RP88-81-004.

On August 31, 1988, the Commission issued an order in Docket Nos. RP88-221-000, RP88-67-000 and RP88-81-000 which accepted, subject to refund, tariff sheets filed by Texas Eastern on July 22, 1988 to establish an annual unauthorized overrun provision under its sales rate schedules DCQ, GS, SGS, ACQ and WS for unauthorized takes in excess of a customer's D-2 nominations. The order set for hearing the proposed penalties and consolidated this proceeding into Texas Eastern's general rate case proceeding in Docket Nos. RP88-67-000 and RP88-81-000. Subsequently, the Municipal Defense

Group and Consolidated Edison Company of New York, Inc. (ConEd) requested rehearing of the August 31, 1988 Order. On October 31, 1988 the Commission issued an order denying rehearing of its August 31, 1988 order and directed Texas Eastern to file revised tariff sheets, within 15 days of the issuance of its order, to establish an authorized D-2 overrun service. In purported compliance with the October 31 Order, Texas Eastern has included an authorized D-2 overrun provision in its sales Rate Schedules DCQ, GS, CD-1, CD-2, SGS, ACQ and WS as reflected in the tariff sheets listed above.

The proposed effective date of the tariff sheets listed above is December 1, 1988.

Texas Eastern is also filing tariff sheets to correct supersession problems. Third Revised Sheet Nos. 133 and 137 are being filed to replace Revised First Revised Sheet Nos. 133 and 137 which were approved to be effective September 1, 1988 by the Commission on August 31, 1988 in Docket Nos. RP88-221-000 *et al.* Third Revised Sheet Nos. 133 and 137 supersede Second Revised Sheet Nos. 133 and 137 which were approved to be effective July 1, 1988 by the Commission on August 29, 1988 in Docket Nos. PR85-177-055 *et al.*, and are proposed to be effective September 1, 1988.

Texas Eastern has before the Commission for approval, tariff sheets filed October 26, 1988 in Docket Nos. RP85-177-056, RP88-67-011, and CP88-136-001. In the event the tariff sheets filed October 26, 1988 are not approved or are altered in any way by the Commission's decision, Texas Eastern will refile the above listed tariff sheets to reflect the Commission's decision.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state 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 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before December 1, 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,

Secretary.

[FR Doc. 88-27351 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-139-003]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

November 22, 1988

Take notice that Williams Natural Gas Company (WNG) on November 14, 1988, tendered for filing Substitute Second Revised First Revised Sheet No. 75 and Substitute Second Revised Second Revised Sheet No. 78 to its FERC Gas Tariff, Original Volume No. 1.

These tariff sheets are being filed as an amendment to WNG's compliance filing in Docket No. RP88-139-001 filed July 27, 1988. WNG was advised by Commission Staff that it should delete references to account numbers in these tariff sheets and include account names instead. The effective date of these tariff sheets is June 1, 1988.

WNG states that copies of its filings were served on all jurisdictional customers and interested state 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 §§ 385.211, 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before December 1, 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 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,

Secretary.

[FR Doc. 88-27352 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-26-000]

Williston Basin Interstate Pipeline Co.; Petition for Tariff Waiver

November 22, 1988.

Take notice that on November 16, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200,

304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. RP88-26-000 a Petition for Waiver of Tariff Provisions pursuant to Rule 207 of the Federal Regulatory Commission (Commission) Regulations.

Williston Basin seeks waiver of §§ 27.6 and 24.6 of the General Terms and Conditions of Williston Basin's FERC Gas Tariff, First Revised Volume No. 1 and Original Volume Nos. 1-A and 1-B, respectively. As set forth more fully in the petition, grant of the petition will allow Williston Basin to waive the requirement that filings to change the Gas Research Institute (GRI) Funding Unit Adjustment be made at least 30 days prior to the proposed effective date. Williston Basin states this waiver is necessary due to the timing of the Commission's action in Docket No. RP88-182-000 where the Commission has stated that it intends to establish the level of GRI funding on or before November 30, 1988.

Copies of this filing have been served on all of Williston Basin's jurisdictional sales customers and interstate 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. All such motions or protests should be filed on or before December 1, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the 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,

Secretary.

[FR Doc. 88-27355 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP88-263-001 and RP88-92-005]

United Gas Pipe Line Co.; Proposed Changes in FERC Gas Tariff

November 22, 1988.

Take notice that United Gas Pipe Line Company (United) on November 14, 1988, tendered for filing the following tariff sheets as part of its FERC 1st Revised Volume No. 1 Gas Tariff:

To Be Effective October 1, 1988

First Revised Sheet No. 39-A

First Revised Sheet No. 39-B
First Revised Sheet No. 39-C
Substitute Original Sheet No. 74-X1

To Be Effective November 1, 1988

Twentieth Revised Sheet No. 99-A
First Revised Sheet No. 99-B.6

United states that this filing is being made pursuant to Ordering Paragraph (B) of the Commission October 28, 1988 Order issued in Docket No. RP88-263 requiring United to refile tariff sheets to include rates or penalties for authorized overruns in excess of annual D2's. The order also directed United to include rates for both authorized and unauthorized overruns between 100 percent and 102 percent of annual D-2 nominations at rates at least as high as 100 percent load factor. Accordingly, United states the rates reflected in this filing have been designed to reflect such rates.

United states that no rate change is necessary in the AOS Rate Schedule. However, it states, tariff sheets 39-A, B and C are being submitted for expansion of the application of the AOS Rate Schedule consistent with the October 28, 1988 Order. United submits Substitute Original Sheet No. 74-X1 to clarify the UOS rates/penalties of (i) a rate/penalty per Mcf of the 100% load factor non-gas rate up to 102% of D2, (ii) a rate/penalty per Mcf of the applicable D2, rate plus \$5.00 per Mcf above 102% of D2 up to and including 104% of D2, and (iii) the applicable D2 rate plus \$10.00 per Mcf above 104% of D2. In addition, United states there will be a "CEQ Waiver" of the UOS Rate/Penalty if the annual CEQ exceeds 102% of D2.

United states that Tariff sheets 99-A and 99-B.6 have been submitted to be effective November 1, 1988 to reflect the changes to the Maximum Daily Quantities (MDQ) and new D2 nominations for Mississippi River Transmission Corporation (MRT). These new sheets reflect an increased D2 nomination and the current MDQ provided for in the new sales service agreement between United and MRT. United and MRT abandoned service as necessary to reduce the service obligation under Order No. 490, *et al.* United states that it has requested a waiver of all necessary Commission rules and regulations to permit these tariff sheets to become effective on November 1, 1988.

United states that copies of this filing were served on United's Docket No. RP88-92 serve list with which Docket No. RP88-263 was consolidated.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Secretary, Federal Energy Regulatory Commission,

825 North Capitol Street, NE., Washington, DC 20426, on or before December 1, 1988, and in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Such motion 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 desiring to become a party must petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-27353 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA87-63-001]

Virginia Electric and Power Co.; Filing

November 22, 1988

Take notice that on November 3, 1988, Virginia Electric and Power Company (VEPCO) tendered for filing its compliance refund report in accordance with the Commission's Order issued April 20, 1988. The report reflects a calculation of the interim storage components of the fuel factor, plus interest, for the period April 1984 through the date of refund.

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 December 5, 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 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,

Secretary.

[FR Doc. 88-27354 Filed 11-25-88; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Proposed Rate Adjustment, Public Forum, and Opportunities for Public Review and Comment

AGENCY: Southeastern Power Administration (Southeastern), DOE.

ACTION: Notice of proposed rate adjustment for Georgia-Alabama System of Projects, notice of public forums and opportunity for review and comment.

SUMMARY: Southeastern proposes to revise existing schedules of rates and charges applicable to the sale of power from the Georgia-Alabama System of Projects effective for a sixteen month period, June 1, 1989, through September 30, 1990. In order to accomplish the rate adjustment an amendment to the contracts applicable to preference customers is necessary.

Opportunities will be available for interested persons to review the present rates, the proposed rates and supporting studies, to participate in a forum and to submit written comments. Southeastern will evaluate all comments received in this process.

DATES: Written comments are due on or before March 3, 1989. A public information and comment forum will be held in East Point, Georgia, on January 5, 1989. Also, a public information and comment forum will be held in Columbia, South Carolina, on January 10, 1989. Persons desiring to speak at either forum should notify Southeastern at least 3 days before the forum is scheduled, so that a list of forum participants can be prepared. Others may speak if time permits.

ADDRESSES: Five copies of written comments should be submitted to: Administrator, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635. The public information and comment forums for the Georgia-Alabama System of Projects will begin at 10 a.m. on January 5, 1989, in the Lotus Room at the Holiday Inn, Atlanta Airport, North 1380 Virginia Avenue, East Point, Georgia 30344, and at 10 a.m. on January 10, 1989, in Room 871 of the Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Leon Jourlmon, Jr., Director, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635, (404) 283-9911.

SUPPLEMENTARY INFORMATION:

The Federal Energy Regulatory Commission (FERC) by order issued July 22, 1988, in Docket No. EF88-3011, confirmed and approved Wholesale Power Rate Schedules GA-1-A, GA-2-A, GU-1-A, GAMF-2-E, ALA-1-E, ALA-3-A, MISS-1-E, MISS-2-A, SC-1-E, SC-2-E, CAR-1-F and SCE-1-A applicable to Georgia-Alabama System

of Projects' power for a period ending September 30, 1990. Since the rate filing there has been a period of extreme drought conditions of more than three years causing the purchase of replacement energy, reduction of revenues, and increased interest costs. Therefore, Southeastern has experienced unpaid annual expenses for fiscal years 1986, 1987, and 1988. Current drought conditions have not improved.

Southeastern is proposing to establish short-term rates which will partially recoup these unpaid annual expenses.

Discussion

Existing rate schedules are predicated upon a July 1985 repayment study and other supporting data all of which are contained in FERC Docket No. EF86-3011. The current repayment study prepared in November of 1988 shows that existing rates are not adequate to recover all costs required by present repayment criteria.

A revised repayment study with revenue increases of \$12,757,000 in FY 1990 and future years over the current repayment study demonstrates that all costs are paid within their repayment life. Therefore, Southeastern is proposing to revise existing rates so as to recover these additional revenues for the sixteen month evaluation period. The increase is primarily due to continuing droughts. Southeastern is proposing to recover the additional revenues by increasing the current energy charge of 4.88 mills per kwh to 8.50 mills per kwh (an increase of 3.62 mills per kwh). It is proposed that revised rate schedules applicable to Customers purchasing power from the Georgia-Alabama System of Projects contain the following unit rates:

Proposed Unit Rates

Capacity charge per kilowatt per month—no change

Energy charge mills/kwh—8.50

Integration charge per kilowatt per month—no change

The referenced November 1988 current repayment study along with a revised repayment study dated November 1988 and previous system repayment studies are available for examination at the Samuel Elbert Building, Elberton, Georgia 30635. Proposed Rate Schedules GA-1-B, GA-2-B, ALA-3-B, MISS-2-B, GU-1-B, ALA-1-F, MISS-1-F, SC-1-F, SC-2-F, CAR-1-G, and SCE-1-B are also available.

Issued at Elberton, Georgia, November 15, 1988.

Harry C. Geisinger,
Administrator.

[FR Doc. 88-27390 Filed 11-25-88; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-36166; FRL-3482-7]

Pesticide Registration Standards; Schedule and Availability of Docket Indices; Pesticide Special Reviews; Availability of Docket Indices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice lists pesticide Registration Standards which are scheduled to be issued or under development during FY 89 and early FY 90. The Agency requests the submission of comments and information on the pesticides scheduled for Registration Standard development in FY 89. This notice also announces the availability of docket indices for pesticide Registration Standards under development and pesticide Special Reviews, and provides information on how interested persons may request inclusion on an Agency mailing list to receive such indices.

DATE: Written comments on scheduled pesticides should be submitted on or before January 27, 1989. Persons may request to be included on the mailing list for docket indices at any time.

ADDRESSES: Comments on scheduled Registration Standard pesticides should be identified with the docket number listed with each pesticide chemical and should be submitted to the address below. Persons wishing to be included on a mailing list to receive docket indices should also direct their requests to this address.

Public Information Branch, Field Operations Division (TS-787C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm. 244, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of a comment that does not contain

CBI must be submitted for inclusion in the public docket. Information not designated "confidential" may be disclosed publicly by EPA without prior notice to the submitter. The public docket will be available for public inspection and copying in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

For information on Reregistration Standard schedules, contact, by mail: Jean Frane, Special Review and Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 1114, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 557-0944.

For information on public dockets, their availability, and docket indices, contact Elizabeth Blevins (703-557-2805) of the Public Information Branch, in Rm. 244 at the above address.

SUPPLEMENTARY INFORMATION: The Registration Standards program is EPA's approach to the reassessment and reregistration of pesticides as mandated by Congress in section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pesticide products currently registered by EPA contain more than 600 distinct active ingredients. Under this program the scientific data base underlying each active ingredient is thoroughly reviewed, and essential but missing scientific studies are identified.

The reassessment may result in requirements for submission of data needed to evaluate fully the safety of the compound according to contemporary scientific standards. The results of the review are reflected in a Registration Standard, which states the Agency's regulatory positions regarding the products containing an active ingredient and the rationale for each position, as well as requirements for submission of additional data needed to complete the assessment, and label warnings or other regulatory restrictions needed to protect health and the environment. After the data required under the initial Registration Standard have been submitted, the Agency reassesses the pesticide and issues a revised Registration Standard (termed a Second Round Review).

On October 25, 1988, the President signed a new law, the FIFRA Amendments of 1988, which, among other things, makes significant changes in the way EPA will carry out its responsibility to reregister currently

registered pesticides. Within the next 60 days, EPA will publish a notice in the **Federal Register** explaining its plans for implementing the new legislation. In the meantime, however, this notice lists the Registration Standards that the Agency plans to issue during the current fiscal year. The Agency currently intends to continue to issue updated Registration Standards (Second Round Reviews) during the implementation period of the new FIFRA amendments.

Specifically, the purpose of this notice is to inform the public of Registration Standards currently under development. It also serves to provide the public with an opportunity to submit additional data pertinent to these reviews. EPA encourages the public to provide information relevant to the review of individual active ingredients for which Registration Standards are scheduled in FY 89. The Agency is particularly interested in receiving the following types of information: human toxicology, residue chemistry, product chemistry, environmental fate, human exposure, or ecological effects. The first 17 Registration Standards listed in this notice either have been issued, or will have been issued by the close of the comment period for this notice. EPA will consider any comments submitted concerning those chemicals when it reexamines them at a future point in the reregistration process.

Registration Standards for the pesticides listed below will be under development in FY 89. An asterisk after the name indicates that the Agency has previously issued an initial Registration Standard and is reassessing the chemical for issuance of a Second Round Review Registration Standard.

Name of pesticide	Docket number (CAS #)	Approximate date of issuance
Tetrachlorvinphos.....	961-11-5.....	¹ 10/88
Rotenone.....	83-79-4.....	¹ 10/88
Metiram.....	9006-42-2.....	¹ 10/88
Maneb.....	12427-38-2.....	¹ 10/88
4-(2,4-Dichlorophenoxy) butyric acid (2,4-DB).	94-82-6.....	¹ 10/88
2-(2,4-Dichlorophenoxy) propionic acid (2,4-DP).	120-36-5.....	¹ 10/88
Picloram*.....	1918-02-1.....	¹ 10/88
Difencquat.....	43222-48-6.....	11/88
Phorate*.....	298-02-2.....	11/88
Oxytetracycline.....	2058-46-0.....	12/88
Diazinon.....	333-41-5.....	12/88
Propazine.....	139-40-2.....	12/88
Resmethrin.....	10453-86-8.....	12/88
Mecoprop.....	7085-19-0.....	12/88
Warfarin*.....	81-81-2.....	12/88
Methoxychlor.....	72-43-5.....	12/88
Metaaldehyde.....	108-62-3.....	12/88

Name of pesticide	Docket number (CAS #)	Approximate date of issuance
2-Methyl-4-chlorophenoxyacetic acid (MCPA)*.....	94-74-6.....	1/89
Butylate*.....	2008-41-5.....	3/89
Chlorpyrifos*.....	2921-88-2.....	3/89
Atrazine*.....	1912-24-9.....	3/89
Carbaryl*.....	63-25-2.....	3/89
Chlorobenzilate*.....	510-15-6.....	4/89
Chloroneb*.....	2675-77-6.....	6/89
Ethion*.....	563-12-2.....	6/89
Simazine*.....	122-34-9.....	6/89
Terbacil*.....	5902-51-2.....	7/89
Coumaphos*.....	56-72-4.....	7/89
Norflurazon*.....	27314-13-2.....	8/89
Terrazole*.....	2593-15-9.....	9/89
Formetanate HCl*.....	23422-53-9.....	9/89
Dimethoate*.....	60-51-5.....	9/89
Chloramben*.....	133-90-4.....	9/89
Bifenox*.....	42576-02-3.....	10/89
Dicamba*.....	1918-00-9.....	11/89
Ammonium sulfamate*.....	7773-06-0.....	11/89
Eptam*.....	759-94-4.....	12/89
Bromacil*.....	314-40-9.....	12/89

¹ Issued.

Current regulations on Registration Standards and Special Review provide for the establishment of a public docket for Registration Standards under development and Special Review actions, the maintenance of docket indices, and the establishment of a mailing list of persons wishing to receive the docket indices on a regular basis. Special Review and Registration Standard dockets contain, among other things, materials submitted to the Agency by parties outside of government, Agency documents made available to persons outside of government, and memoranda of meetings with persons outside of government concerning pending Special Reviews and Registration Standards under development.

In accordance with § 155.32(d)(2) of the Registration Standard regulations and § 154.15(f)(3) of the Special Review regulations, the Agency has established a mailing list for docket indices. Persons on the mailing list will receive automatically the docket indices (or updates to previous indices) for Registration Standards and Special Reviews. These will be distributed on a monthly or quarterly basis, as required by the regulations. Persons on the mailing list will receive docket indices for all open dockets. Persons will be required to renew their requests for inclusion on the mailing list annually.

Any person wishing to be included on the mailing list should submit his or her name, affiliation (if any), and mailing address to the address given earlier in this notice. Organizations, groups and companies are requested not to submit multiple requests under different names.

but to designate a primary recipient within the organization. This will reduce mailing costs and Agency time in administering the mailing list.

Persons currently on the Agency mailing list for Registration Standard and Special Review indices must resubmit requests for continued inclusion on the mailing list at this time.

Dated: November 15, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 88-27326 Filed 11-25-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-44519; FRL-3483-2]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on hydroquinone (CAS No. 123-31-9) submitted pursuant to a final test rule under the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires EPA to publish a notice in the *Federal Register* reporting the receipt of test data submitted pursuant to test rules promulgated under section 4(a) within 15 days after it is received.

I. Test Data Submission

Test data for hydroquinone was submitted by the Chemical Manufacturers Association Hydroquinone Program Panel pursuant to a test rule at 40 CFR 799.2200. It was received by EPA on November 8, 1988. The submission describes a subchronic oral toxicity study of hydroquinone in rats utilizing a functional observational battery and neuropathology to detect neurotoxicity. Health effects testing is required by this test rule.

Hydroquinone is produced in a photographic grade for use as a developing agent and in a technical grade which is primarily used as a chemical intermediate in the production of rubber chemicals.

EPA has initiated its review and evaluation process for this data submission. At this time, the Agency is

unable to provide any determination as to its completeness.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44519). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the TSCA Public Docket Office, Rm. NE-G004, 401 M St., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: November 15, 1988.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 88-27327 Filed 11-25-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140108; FRL-3482-9]

Access to Confidential Business Information by Booz-Allen & Hamilton

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Booz-Allen & Hamilton (BAH), of Bethesda, MD, for access to information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than December 8, 1988.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. EB-44, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551.

SUPPLEMENTARY INFORMATION: In accordance with 40 CFR 2.306(j), EPA has determined that, under contract No. 68-01-7282, BAH will require access to CBI submitted to EPA under TSCA to perform successfully the duties specified under the contract. BAH personnel will be given access to information submitted under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

Under contract no. 68-01-7282, contractor BAH, 4330 East West Highway, Bethesda, MD, will assist the Office of Toxic Substances' Information Management Division in providing analysis of the information access and management trends of the scientific staff

reviewers for the TSCA section 5 notice review process, which in turn may lead to the implementation of an optical disk information management system.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide BAH access to these CBI materials on a need-to-know basis. All access to TSCA CBI under this contract will take place at EPA Headquarters.

Clearance for access to TSCA CBI under this contract is scheduled to expire on June 30, 1989.

BAH personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: November 19, 1988.

Charles L. Elkins,

Director, Office of Toxic Substances.

[FR Doc. 88-27328 Filed 11-25-88; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59266; FRL-3483-1]

Toxic and Hazardous Substances; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discussed in EPA's final rule published in the *Federal Register* of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

Written comments by:

T 89-3, 89-4—November 30, 1988.

T 89-5—December 3, 1988.

ADDRESS: Written comments, identified by the document control number "[OPTS-59266]" and the specific TME number should be sent to: Document Control Office (TS-790), Office of Toxic Substances, Environmental Protection Agency, Room 201 East Tower, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT:

Lawrence Culleen, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW., Washington, DC 20460 (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the TME received by EPA. The complete nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 89-3

Close of Review Period. December 14, 1988.

Manufacturer. Confidential.

Chemical. (G) Trialkylalkenyl-heterocyclazolium derivative of copper-heterocyclamine mixed salt.

Use/Production. (S) Fiber dye. Prod. range: Confidential.

T 89-4

Close of Review Period. December 14, 1988.

Importer. Confidential.

Chemical. (G) Alkylalkylene-heterocyclazolium derivative of copper-heterocyclamine mixed salt.

Use/Import. (S) Paper dye. Import range: Confidential.

T 89-5

Close of Review Period. December 17, 1988.

Manufacturer. Confidential.

Chemical. (G) Salt of a modified rosin acid. Copper-heterocyclamine mixed salt.

Use/Production. (S) Sizing agent in paper and paperboard. Prod. Range: Confidential.

Date: November 21, 1988.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 88-27329 Filed 11-25-88; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy Regarding Independent External Auditing Programs of State Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Statement of policy.

SUMMARY: The FDIC is adopting a Statement of Policy which is intended to provide more explicit guidance to banks on the position of the Federal Deposit Insurance Corporation regarding independent external auditing programs of state nonmember banks. The statement of policy strongly encourages each state nonmember bank to have an annual external auditing program performed by an independent auditor, and states that, although not required, a bank with an annual audit of its financial statements by an independent public accountant would generally be considered to have a satisfactory external auditing program. Alternatives for an acceptable annual external auditing program are also explained. Newly insured banks will usually be expected to commit to obtain an audit of their financial statements by an independent public accountant annually for at least the first three years after deposit insurance is granted. In troubled bank situations, the administrative orders issued by the FDIC may require that an audit of the financial statements or specified auditing work be performed where certain conditions exist. In addition, banks are requested to submit copies of the external auditor's reports to the appropriate FDIC regional office as soon as possible upon their receipt by the bank.

EFFECTIVE DATE: December 28, 1988.

FOR FURTHER INFORMATION CONTACT:

Doris L. Marsh, Examination Specialist, Division of Bank Supervision, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, telephone (202) 898-8914.

SUPPLEMENTARY INFORMATION: On April 13, 1988, the Board of Directors of the FDIC approved the issuance of a proposed statement of policy regarding Independent External Audits of State Nonmember Banks for a sixty-day comment period. (53 FR 12817, April 19, 1988). The proposed statement of policy encouraged each state nonmember bank to have an annual external audit of its financial statements by an independent certified public accounting firm. Newly insured banks would generally be expected to commit to obtain such an audit by an independent public accountant annually for at least the first three years after deposit insurance is granted. In troubled bank situations, the administrative orders issued by the FDIC might require that an audit of the bank's financial statements be performed where certain conditions exist. Banks were also requested to submit copies of the auditor's reports to the appropriate FDIC regional office as soon as possible upon their receipt by

the bank. The proposed statement of policy was similar in many respects to the present policy of the Office of the Comptroller of the Currency for national banks (Banking Circular-190, March 18, 1985).

In proposing a statement of policy on external auditing, the FDIC stated that it sought to improve bankers' awareness of the importance of an independent external auditing program for the financial soundness of banks. In the FDIC's view, a strong internal auditing function combined with an annual external auditing program performed by an independent auditor substantially lessens the risk that a bank will not detect potentially serious problems. The large number of financial institutions experiencing financial difficulties as a result of fraud, insider abuse and mismanagement in recent years has made an external auditing program even more important.

The FDIC's examination staff has been criticizing banks that lack an adequate internal auditing function for many years, and has long encouraged independent external auditing programs. Many banks now supplement their internal auditing programs by engaging independent public accountants to perform external audits of their financial statements. In addition, many banks whose financial statements are not audited have established other types of external auditing programs either on their own or to comply with the requirements of their state chartering authority.

Comments

The FDIC's received 109 comment letters on its proposed statement of policy. Nine were from national banks, seven were from banking/thrift or accounting/auditing trade groups, one was from a state banking department, five were from bank holding companies, nine were from firms that perform auditing work, and one was from an attorney with a banking practice. The remaining 77 written comments primarily came from smaller state-chartered banks, and 64 of these were from banks in Wisconsin, Nebraska, and Florida. Since the letters from these three states were quite similar, it appears that a nonaccounting firm that performs auditing work in each state may have encouraged its client banks to comment to the FDIC.

Of the 109 comments received, 17 were supportive of the statement of policy largely as proposed, and 15 could be characterized as generally opposed. In addition, 33 objected to what they perceived to be a strong and exclusive

emphasis on audits of financial statements by independent certified public accountants (CPAs), but they seemed to be generally supportive of a policy where external auditing programs conducted by independent auditors would be acceptable. The remaining 44 commented on specific points of the proposal without indicating a view on the statement of policy as a whole.

Giving due consideration to the comments received, the FDIC has decided to proceed with the implementation of the statement of policy after making certain revisions to the policy as it was originally proposed.

Changes From the Proposal

Many of the commenters appeared to misunderstand the intent of the statement of policy and expressed concern that the FDIC was in reality requiring all state nonmember banks to obtain annual external audits of their financial statements by independent certified public accountants. To alleviate this misunderstanding and the resulting apprehension, the FDIC has adjusted the title and rearranged the text of the statement of policy to more clearly reflect its objective of having all state nonmember banks establish annual external auditing programs whether it be by CPAs or other qualified independent parties. Nevertheless, since auditing work performed by nonaccounting firms does not have to satisfy any nationally recognized auditing standards nor is there any universally recognized method of enforcing ethical conduct by nonaccounting firms, the FDIC continues to encourage an audit of a bank's financial statements by a public accountant to provide a recognized product which the bank and the FDIC may generally assume meets minimum professional standards. External auditing work performed by nonaccounting firms may provide excellent reviews for a bank, but when using these firms, a bank must be very cognizant of the auditing work it is getting, the cost, and whether the work fully meets the bank's needs.

Some commenters appear to have had difficulty with the format and clarity of the proposed statement of policy. For that reason, captions have been added throughout the policy to assist in finding the provisions of particular interest and several paragraphs have been reworded for improved reader understanding. As requested by numerous commenters, we have added Appendix A consisting of definitions of the terms used in the statement of policy.

Several commenters expressed the view that banks with strong internal

auditing procedures should be relieved of the responsibility of maintaining an external auditing program. However, the FDIC believes that both an internal auditing function and an external auditing program complement one another and both should be maintained to assist a bank in operating in a safe and sound manner. Paragraph 2 of the statement has been revised to indicate that regardless of the strength of a bank's internal auditing procedures, the FDIC considers an external auditing program to be an important and necessary addition to a bank's control environment.

Several comments were made that an audit by an independent public accountant primarily focuses on the fairness of the financial statement presentation. Respondents suggested that an audit of a bank's financial statements should not relieve the bank's audit committee or board of directors of the responsibility of reviewing whether the audit provided sufficient coverage of the bank's risk areas. Accordingly, paragraph 3 has been revised to encourage the committee or board to review their bank's particular needs annually to determine if auditing procedures beyond those included in the scope of the planned external auditing program for the year are necessary for that specific year or several years to cover especially high-risk areas of the bank. In addition, since several letters mentioned the role of the audit committee, paragraph 3 also encourages all state nonmember banks to establish an audit committee consisting, if possible, entirely of outside directors. This recommendation was also made for all public companies in the October 1987 Report of the National Commission on Fraudulent Financial Reporting ("Treadway Commission"), and Appendix A provides a description of the duties and responsibilities of this committee.

Many respondents expressed their concern that FDIC field examiners would enforce this policy as though it were a regulation. For this reason, we have specifically added a new paragraph 5 stating that examiners will not automatically comment negatively on a bank that does not have an annual audit of its financial statements by an independent public accountant. Nonetheless, examiners will review a bank's external auditing program as part of their regular examination of the bank and, using their judgment and discretion, determine whether it adequately covers the risk areas of that particular bank.

One commenter discussed the similarities between "licensed public accountants" and "certified public

accountants," and suggested that work by both be equally acceptable. Approximately 39 jurisdictions recognize and license "public accountants" to examine financial statements on the same basis as CPAs, and these jurisdictions hold them to identical standards of technical competence and independence as CPAs. Thus, the policy has been revised to encourage each bank to adopt an annual audit of its financial statements by an independent public accountant without specifying that the accountant must be "certified."

As a result of the revision of the statement of policy to emphasize external auditing programs, paragraph 6 has been revised to include a statement that a bank with an annual audit of its financial statements by an independent public accountant would generally be considered to have a satisfactory external auditing program.

Several commenters indicated that the preparation of a bank's Reports of Condition and Income (Call Reports) by a public accountant would not generally be performed as part of an audit of its financial statements and to do so would involve additional auditing costs. For that reason, paragraph 7 has been revised to explain that the bank may, but does not have to, make use of the audited financial statements in its preparation of those reports.

The alternatives to an audit of a bank's financial statements by a public accountant were not sufficiently outlined in the proposal according to many respondents. For that reason, a separate section on acceptable alternatives to an audit of a bank's financial statements is included beginning with paragraph 8.

Many bankers mentioned that the "directors' examination" and the so-called "engagement audit" or "operational audit" performed by nonaccounting firms provided good external auditing coverage for their bank, and suggested that the FDIC should permit these external auditing programs under the proposed statement of policy. As previously mentioned, it was not the FDIC's intention to preclude banks from making use of such audits. Hence, paragraph 9 clarifies the FDIC's position that external auditing programs may be carried out by nonaccounting firms as well as independent public accountants. In addition, paragraph 8 of the statement of policy describing alternatives to an audit of a bank's financial statement by a public accountant has been revised to include the directors' examination. An "engagement audit" or an "operational

audit" may also be acceptable under the definition of "directors' examination" in Appendix A. Nevertheless, there are so widely accepted national standards for the specific procedures that must be performed in a director's examination or in the "audits" mentioned. The audit committee or board of directors of any bank that uses one of these alternative programs must carefully review the procedures that will be performed to assure that the bank's high risk areas have been adequately tested.

Due to another commenter's suggestion, the report on the balance sheet has also been added as an alternative in paragraph 8. The procedures involved, while limited, are performed under generally accepted auditing standards and are generally less costly than an audit of financial statements.

Paragraph 14 has been substantially revised as a result of several comments to clarify that the scope of a subsidiary bank's external auditing program may be explained in terms of its relationship to the consolidated group. Where the group has an audit of its consolidated financial statements by an independent public accountant (i.e., the financial statements of the subsidiary banks are consolidated with the financial statements of the parent company), the subsidiary banks would not be expected to have individual audits of their financial statements as well under this statement of policy.

In response to a comment letter, paragraph 15 on troubled banks has been expanded to indicate that an FDIC administrative order may require a bank to notify the regional office of the time and date of any meeting between management and the auditor at which auditing findings are to be presented so that a representative of the FDIC may be present if the regional office so desires.

Other Comments

In addition to comments on the policy statement that resulted in changes, the FDIC received and considered other comments on the April proposal.

The vast majority of the respondents discussed the cost burden of an audit of a bank's financial statements by a public accountant as the primary reason for their opposition to the statement of policy. The comments seemed to mistakenly assume that the statement of policy was requiring all banks to have audits of their financial statements and that these audits must be performed by a large national CPA firm, which is not correct. The FDIC realizes that an external auditing program represents a cost to a bank, but auditors with banking experience that may have a

local or regional business are available, and the benefits derived from their suggestions may ultimately exceed the cost of the auditing services performed. Each bank is urged to consider proposals from more than one auditor and to select the one that will provide the services desired at the most reasonable cost.

Many respondents indicated that they did not believe that the audit committee or board of directors should be required to generate a list of the reasons why they chose not to engage an independent auditor, and one commenter stated that the committee or board should not be expected to record in its minutes an item on which no action was taken. This latter argument has no basis since the minutes should reflect all items considered by the committee or board, whether or not specific action was authorized. The FDIC does not expect each bank to record a list of all possible benefits from an audit of its financial statements in its minutes. On the other hand, the FDIC does not expect a bank to make a perfunctory statement annually that the cost of an audit of the bank's financial statements is prohibitive without investigating and weighing the possible benefits to that particular bank in view of its circumstances that year. When the issue being considered by the audit committee or board is the scope of the external auditing program, some action should always be recorded. After evaluating the costs and benefits of the alternatives, the bank should decide what form of external auditing program is most suitable for adoption and note this decision in its minutes.

Some commenters pointed out that audits of financial statements do not prevent bank failures, and that some troubled banks have had a history of annual audits. Statistics from the June 1988 Report of Condition reveal that the 1987 financial statements of approximately 65 percent of all banks had been subject to an audit; however, a review of failed bank records shows that little more than one-third of failed banks had audits of their financial statements within two years prior to failure. Auditors are not responsible for predicting future conditions or events, but they should evaluate whether there is substantial doubt about a bank's ability to continue as a going concern for a reasonable period of time. In addition, the audit should be designed to provide reasonable assurance of detecting material errors and irregularities even though the characteristics of irregularities often make them difficult to detect.

Some respondents complained that accounting firms sometimes send largely inexperienced personnel to audit bank clients. As with any other product or service that a bank buys, it should select the best available auditing services at the best cost. The policy does not suggest that only large national firms should be engaged. Regional or local firms should be considered because they may provide a better service at a lower cost for the bank.

Several comment letters stated that an audit requirement would create another bank regulator, the Financial Accounting Standards Board (FASB), and that banks should not be controlled by this private rule-making body. Although FASB has no authority over the setting of auditing standards, these commenters fail to realize that banks are already subject to FASB pronouncements whether or not the FDIC adopts a statement of policy regarding external auditing programs. All banks must submit quarterly Call Reports to the federal banking agencies and generally accepted accounting principles as established by FASB (and its predecessors) form the foundation for the Call Report instructions.

The suggestion was made by several commenters that this policy should have some threshold by size or examination rating in order to exempt very small banks or those with good ratings. Since most of the banks that have already established external auditing programs are larger institutions, an exemption based on size would defeat the purpose of the statement of policy. As for banks with good ratings, an adequate external auditing program helps to ensure that such banks remain fundamentally sound.

The fear that submitting external auditors' reports to the FDIC will be a disincentive to the regular examination of banks was suggested by certain respondents. The FDIC has no plans to change its current policy on examination frequency as a result of information obtained from external auditing programs, but plans to use the information obtained from the reports by bank external auditors to assist in the maintenance of the safety and soundness of banks.

Other comments that were evaluated and not adopted include: FDIC examiners should review all audit workpapers to see if the external auditing work was adequate; the policy statement should require (rather than request) that all reports by external auditors be submitted to the FDIC; and external auditors' reports should remain at the bank for review during the next examination rather than being sent to

the FDIC for immediate review. Other comments were made but were not within the scope of this statement of policy.

The text of the statement of policy follows:

1. In view of its interest in the financial soundness of banks and the banking system, the FDIC believes that a strong internal auditing function combined with a well-planned *external auditing program*¹ substantially lessens the risk that a bank will not detect potentially serious problems. An external auditing program is a set of procedures designed to test and evaluate high *risk areas* of a bank's business which are performed by an *independent auditor* who may or may not be a *public accountant*. The failure to detect and correct potentially serious problems increases the risk a bank poses to the FDIC's insurance fund. A strong internal auditing function establishes the proper control environment and promotes accuracy and efficiency in a bank's operations. An external auditing program complements this function by providing an objective outside the view of the bank's operations.

2. Regardless of the strength of a bank's internal auditing procedures, the FDIC believes that an external auditing program should be considered by a bank's board of directors as part of the cost of operating a bank in a safe and sound manner. An external auditing program assists the bank's board of directors in safeguarding assets and identifying risks inherent in its operation. In addition, an external auditing program may tend to assist directors in the event of litigation on whether an institution's board has exercised reasonable care in protecting the assets of the bank. Thus, the FDIC urges all state nonmember banks to establish and maintain a sound external auditing program.

3. The FDIC strongly encourages the board of directors of each state nonmember bank to establish an *audit committee* consisting, if possible, entirely of *outside directors*. The audit committee or board of directors of each state nonmember bank generally should analyze the extent of the external auditing coverage needed by the bank annually. They should determine whether the bank's needs will best be met by an *audit of its financial statements* or by an acceptable alternative (described in paragraphs 8 and 9 below). When selecting the scope of the planned external auditing

program for the year, the committee or board should ensure that the program will provide sufficient substantive external coverage of the bank's risk areas and any other areas of potential concern, such as compliance with applicable laws and regulations.

If not, additional external auditing procedures conducted by an independent auditor may be appropriate for a specific year or several years to cover particularly high risk areas of the bank. The decisions resulting from these deliberations should be recorded in the committee's or board's minutes.

4. If the audit committee or board of directors of a bank, after due consideration, determines not to engage an independent public accountant to conduct an annual audit of the bank's financial statements (or whose parent holding company's consolidated financial statements are not audited), the reasons for the committee's or board's conclusion to use one of the acceptable alternatives or to have no external auditing program should be documented in its minutes. In the evaluation, the committee or board generally should consider not only the cost of an annual audit of the bank's financial statements, but also the potential benefits.

5. A review of both a bank's internal and external auditing programs has been and will continue to be a part of the FDIC's examination procedures. FDIC examiners will review the nature of each bank's external auditing program in conjunction with the risk areas perceived in that particular bank's business and operations, and they will exercise their judgment and discretion in evaluating the adequacy of a bank's external auditing program. Examiners will not automatically comment negatively to the board of directors of a bank with an otherwise satisfactory external auditing program merely because it does not engage an independent public accountant to perform an audit of its financial statements.

Audit by an Independent Public Accountant

6. The FDIC strongly encourages each state nonmember bank to adopt an external auditing program that includes an annual audit of its financial statements by an independent public accountant. A bank that does so would generally be considered to have a satisfactory external auditing program. An external audit of a bank's financial statements benefits management by assisting in the establishment of the accounting and operating policies, internal controls, internal auditing

programs, and management information systems necessary to ensure the fair presentation of these statements. An audit also assists boards of directors in fulfilling their fiduciary responsibilities and provides them greater assurance that financial reports are accurate and provide adequate disclosure.

7. An audit of a bank's financial statements performed by the independent public accountant as of a quarter-end date when the Reports of Condition and Income are prepared is preferable and would permit the bank to use the audited financial statements in the preparation and/or subsequent review of those reports. A bank may also find it more cost effective to be audited during accounting firms' less busy periods. The independent public accountant chosen should be experienced in auditing banks and knowledgeable about banking regulations in order to provide the bank with the most effective service.

Alternatives to an Audit by a Public Accountant

8. The FDIC recognizes that a bank's audit committee or board of directors may determine that the external auditing program that will best meet its individual needs for that particular year will be other than an *audit* of its financial statements by an independent public accountant. The committee or board, after a full review of alternative and/or supplemental approaches for an adequate independent external auditing program, may decide on a well-planned *directors' examination*, an independent analysis of internal controls or other areas, a *report on the balance sheet*, or specified auditing procedures by an independent auditor. If the bank has an outside auditing firm that is simply obtaining confirmations of deposits and loans, for example, the committee or board should normally expand the scope of the auditing work performed to include additional procedures to test the bank's high risk areas.

9. Nonaccounting firms with bank auditing experience and expertise that are independent of the bank are available in some geographic locations. They may provide acceptable directors' examinations, analyses, or specified auditing work at a reasonable cost. In some instances, these firms' services include nonauditing work which enables them to provide suggestions on compliance issues and operational efficiencies. Depending upon the expertise of the firm and the scope of the engagement, these nonaccounting firms may be an appropriate choice for an external auditing program.

¹ Terms defined in Appendix A are italicized the first time they appear in this statement of policy.

Newly Insured Banks

10. The FDIC believes that an adequate external auditing program performed by an independent auditor should be an integral part of the safe and sound management of a bank. Thus, applicants for deposit insurance coverage after the effective date of this statement of policy will generally be expected to commit their bank to obtain an audit of their financial statements by an independent public accountant annually for at least the first three years after deposit insurance coverage is granted.² The FDIC may determine on a case-by-case basis that an independent audit of financial statements is unnecessary where an applicant can demonstrate that the benefits derived from such an external audit will be substantially provided by other outside sources, or where the applicant is owned by another company and will undergo an audit performed by an independent public accounting firm as part of an audit of the consolidated financial statements of its parent company.

Notification and Submission of Reports

11. Whether currently or newly insured, the FDIC requests each state nonmember bank that undergoes any external auditing work, regardless of the scope of the work, to furnish a copy of any reports by the public accountant or other external auditor, including any management letters, to the appropriate FDIC regional office as soon as possible after their receipt by the bank.

12. In addition, the FDIC requests each bank to promptly notify the appropriate FDIC regional office when any public accountant or other external auditor is initially engaged to perform external auditing procedures and when a change in its accountant or auditor occurs.

Holding Company Subsidiaries

13. When the audit committee or board of directors of any state nonmember bank owned by another company (such as a bank holding company) considers its external auditing program, it may find it appropriate to express the scope of its program in

terms of the bank's relationship to the consolidated group. No section of this statement of policy is intended to imply that any state nonmember bank owned by another company is expected to obtain a separate audit of the financial statements of the individual bank. Where the state nonmember bank is directly or indirectly included in the audit of the consolidated financial statements of its parent company performed by an independent public accounting firm, the state nonmember bank may send one copy of the comparable reports by the public accountant or notification of the change in the accountants for the consolidated company to the appropriate regional director. If several banks supervised by the same FDIC regional office are owned by one parent company, a single copy of each report applicable to the consolidated company may be submitted to the regional office on behalf of all of the affiliated banks.

Troubled Banks

14. An annual independent external auditing program complements both the FDIC's supervisory process and bank internal auditing programs by further identifying or clarifying issues of potential concern or exposure. It can also greatly aid management in taking corrective action, particularly when weaknesses are detected in internal control or management information systems. For these reasons, an annual audit of bank financial statements performed by an independent public accounting firm or, if more appropriate, specified auditing procedures will be a condition of future enforcement actions, when deemed necessary, or if it appears that any of the following conditions may exist:

- (a) Internal controls and internal auditing procedures are inadequate;
- (b) The directorate is generally uniformed in the area of internal controls;
- (c) There is evidence of insider abuse;
- (d) There are known or suspected defalcations;
- (e) There is known or suspected criminal activity;
- (f) It is probable that director liability for losses exists;
- (g) Direct verification is warranted; and/or
- (h) Questionable transactions with affiliates have occurred.

15. Such an enforcement action may also require that (a) the bank provide to the appropriate FDIC regional office a copy of the auditor's report and any management letter received from the auditor promptly after the completion of

any auditing work and that (b) the bank notify the regional office in advance of the time and date of any meeting between management and the auditor at which any auditing findings are to be presented so that a representative of the FDIC may be present if the FDIC so chooses.

By order of the Board of Directors. Dated at Washington, DC this 16th day of November, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

Appendix A—Definitions

Audit. An examination of the financial statements, accounting records, and other supporting evidence of a bank performed by an independent certified or licensed public accountant in accordance with generally accepted auditing standards and of sufficient scope to enable the auditor to express an opinion on the bank's financial statements as to their presentation in accordance with generally accepted accounting principles (GAAP).

Audit Committee. A committee of the board of directors, consisting, if possible, entirely of outside directors. To the extent possible, members of the committee should be knowledgeable about accounting and auditing. They should be responsible for reviewing and approving the bank's internal and external auditing programs or recommending adoption of these programs to the full board. Both the internal auditor and the external auditor should have unrestricted access to the audit committee without the need for any prior management knowledge or approval. Other duties of the audit committee should include reviewing the independence of the external auditor annually, being consulted by management when it seeks a second opinion on an accounting issue, overseeing the quarterly regulatory reporting process, and reporting its findings periodically to the full board of directors.

Directors' Examination. A review by an independent third party that has been authorized by the bank's board of directors and is performed in accordance with the board's analysis of potential risk areas. Certain procedures may also be required as a result of state law. A directors' examination consisting solely of such procedures as cash counts and confirmations of loans and deposits would not normally be considered a well-planned director's examination. (Sometimes directors' examinations are similar to so-called "engagement audits" or "operational audits." Nevertheless, no widely accepted national standards exist for the specific procedures that must be performed in directors' examinations or these "audits.")

External Auditing Program. The performance of procedures to test and evaluate high risk areas of a bank's business by an independent auditor, who may or may not be a public accountant, sufficient for the auditor to be able to express an opinion on the financial statements or to report on the results of the procedures performed.

² Operating non-FDIC insured institutions should also note that the FDIC expects, unless waived in writing by the FDIC, any applicant for insurance with more than \$50 million in assets to have an audit of its financial statements prior to submitting an application, and requests that a copy of the auditor's report be included as part of the application. The FDIC may require such an audit, on a case-by-case basis, for applicants with assets of \$50 million or less. Refer to the June 9, 1987 Statement of Policy Regarding Applications for Federal Deposit Insurance by Operating Non-FDIC Insured Institutions, as amended June 24, 1987.

Financial statements. The statements of financial position, income, cash flows (changes in financial position), and changes in shareholders equity together with related notes.

Independent. No certified public accountant, public accountant, or other auditor will be recognized as independent who is not in fact independent. (Reference is made to § 335.804 of the FDI Rules and Regulations for the complete definition of the term "independent.")

Outside Directors. Members of a bank's board of directors who are not officers, employees, or principal stockholders of the bank, its subsidiaries, or its affiliates, and do not have any material business dealings, with the bank, its subsidiaries, or its affiliates.

Public Accountant. A certified public accountant or licensed public accountant who is duly registered and in good standing as such under the laws of the place of his/her residence or principal office, who is licensed by the accounting regulatory authority of his/her state, and who possesses a permit to practice public accountancy.

Report on the Balance Sheet. An examination of the balance sheet, accounting records, and other supporting evidence performed by an independent certified or licensed public accountant in accordance with generally accepted auditing standards.

Risk Areas. The risk areas are those particular activities of a specific bank that expose the bank to potential losses if problems were to exist and go undetected. The highest risk areas in banks generally include, but are not necessarily limited to, the valuation of collectibility of loans (including the reasonableness of the allowance for loan losses), investments, and repossessed and foreclosed collateral; internal controls; and insider transactions.

[FR Doc. 88-27357 Filed 11-25-88; 8:45 am]

BILLING CODE 6714-01-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.: 224-003914-003

Title: Port of Oakland Terminal Agreement

Parties: Port of Oakland Sea-Land Service, Inc.

Synopsis: The agreement adjusts the rental for the land and improvements on Parcel "A" of the premises leased under the basic agreement.

Agreement No.: 224-200179

Title: City of Los Angeles Terminal Agreement

Parties: City of Los Angeles California Cartage Company, Inc. (Tenant)

Synopsis: The agreement establishes the terms and conditions under which Tenant will use certain designated premises at the Los Angeles Harbor for the operation and maintenance of public warehouses, container freight stations, and Customs bonded warehouses, cargo, merchandise and pipe storage and purposes incidental thereto.

Agreement No.: 224-200178

Title: New York and New Jersey Terminal Agreement

Parties: The Port Authority of NY/NJ (Port Authority) Carco, Inc. (Carco)

Synopsis: The proposed agreement provides for Carco's lease of Port Authority property in the Cities of Jersey City and Bayonne, including a New Jersey marine terminal and the following areas; two open area sites located on the Port Jersey Site; three (3) open area sites located on the Greenville Site; a wharf area and water area adjacent thereto together with buildings, structures, fixtures, improvements located, or to be constructed, and other property of the Port Authority on the Port Jersey Site; four (4) areas containing land and buildings, structures, fixtures, improvements and other property on the Port Jersey Site; and several berthing areas on the Port Jersey Site.

By Order of the Federal Maritime Commission.

Dated: November 22, 1988.

Joseph C. Polking,

Secretary.

[FR Doc. 88-27339 Filed 11-25-88; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPO-80-N]

Medicare Program; Meeting of the Supplemental Health Insurance Panel

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a meeting of the Supplemental Health

Insurance Panel for the purpose of reviewing State Medicare supplemental health insurance programs. The Panel will determine whether such programs meet the minimum standards contained in Section 1882 of the Social Security Act, as amended by the Omnibus Budget Reconciliation Act of 1987 and the Medicare Catastrophic Coverage Act of 1988. The meeting will be open to the public. Due to room size, however, seating is limited. Attendees will be seated on a first come, first served basis.

DATE: The meeting will be held on December 13, 1988 from 1:00 to 5:00 p.m. c.s.t.

ADDRESS: The meeting will be held at the New Orleans Hilton, New Orleans, Louisiana. Room location will be posted at the hotel.

FOR FURTHER INFORMATION CONTACT: Theresa DeGrange, (301) 966-7449.

SUPPLEMENTARY INFORMATION:

I. Purpose

The Supplemental Health Insurance Panel (Panel) was established in 1980 by section 507 of the Social Security Disability Amendments of 1980, Pub. L. 96-265, which added section 1882 to Title XVIII of the Social Security Act (the Act). This law established minimum standards for Medicare supplemental health insurance or "Medigap" policies in order to protect Medicare beneficiaries from abuses found to be prevalent in the marketing of such policies. The Panel is comprised of four State Insurance Commissioners and a chairperson. The chairperson is the Director, Bureau of Program Operations, HCFA (by delegation of authority from the Secretary of the Department of Health and Human Services). Panel meetings are open to the public. Initially, under section 1882(b)(2)(A) of the Act, State Commissioners were appointed to the Panel by the President. However, section 221(f) of the Medicare Catastrophic Coverage Act of 1988 (MCCA), Pub. L. 100-360, authorizes the Secretary to make these appointments.

The primary responsibility of the Panel is to review the States' legislative and regulatory requirements for Medicare supplemental health insurance policies to determine whether the individual State standards are equal to or more stringent than certain Federal requirements described in section 1882(b)(1) of the Act. States with Panel-approved programs are not subject to the Federal Voluntary Certification Program (VCP) for Medigap policies. There are at present 49 jurisdictions, including 46 States, that are not subject to VCP for Medigap policies. Also as

specified in section 1882 of the Act, the VCP allows individual insurers in States with programs not approved by the Panel to submit Medicare supplemental policies to the Secretary for review. Those policies found to meet or exceed the Federal minimum standards can be certified as such and bear a Federal emblem when marketed in a nonapproved State.

The initial identification of complying and noncomplying State programs was completed in 1982. Since that time the Panel's principal legal responsibility has been to assure that approved States continue to maintain programs meeting Federal standards and to review changes made by States.

Section 1882 of the Act requires the Panel to review all State Medicare supplemental health insurance regulatory programs to determine whether they meet the minimum standards contained in section 1882 of the Act as amended. The States have been asked to submit to the Panel: a description of the State's plan to incorporate the revised minimum standards under section 1882 of the Act, including timetables for both OBRA 87 and MCCA provisions; a copy of the State statute(s) to regulate health insurance policies designed to supplement Medicare; a copy of any State regulations that implement the statute(s); a copy of any material that interprets the State's statute(s) and regulations governing such policies; a copy of any pending legislation that affects such policies; and a copy of any draft State regulations that would affect this area together with an indication of the expected date of final publication of such regulation. The Panel will compare the States' submitted materials with the Federal law and the National Association of Insurance Commissioners (NAIC) Model Regulation for Medicare Supplements, formally adopted on September 20, 1988.

At this meeting, the Panel will begin making its determinations as to the status of individual State programs. Section 1882(1)(6) of the Act also requires that the Secretary report to Congress in March 1989, on actions the States have taken to adopt standards equal to or more stringent than the NAIC Model Regulation.

II. Agenda

Agenda items for the meeting are discussion of HCFA implementation plans for OBRA 1987 and MCCA provisions and a review of State programs. Agenda items are subject to change as priorities dictate.

(Catalog of Federal Domestic Assistance Program No. 13.774; Medicare-Supplementary Medicare Insurance)

Dated: November 14, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 88-27497 Filed 11-25-88; 8:45 am]

BILLING CODE 4120-03-M

Office of Human Development Services

[Program Announcement 13655.891]

Grants to Indian Tribes for Supportive and Nutritional Services for Older Indians

AGENCY: Administration on Aging (AoA), Office of Human Development Services, HHS.

ACTION: Amendment to notice of September 21, 1988.

Subject: Extension of deadlines for filing properly postmarked Notice of Intent to apply, and applications for Fiscal Year 1989 grants, under the Older Americans Act, Title VI, Grants for Native Americans, Part A, Indian Program.

SUMMARY: The Administration on Aging will extend from October 21, 1988, to ten days after this announcement, the deadline for sending properly postmarked Notices of Intent to apply for Fiscal Year 1989 Title VI grants, and will extend from January 13, 1989 to February 1, 1989 the deadline for filing applications.

FOR FURTHER INFORMATION CONTACT: Dr. M. Yvonne Jackson, Special Advisor for Native American Elders, Administration on Aging, Department of Health and Human Services, Wilbur J. Cohen Federal Building, Room 4748, 330 Independence Avenue, SW., Washington, DC 20201, (202) 245-2957.

DATE: Notices of Intent must be postmarked by ten days after this announcement; applications must be postmarked by February 1, 1989.

Background

On September 21, 1988, we published an announcement of the availability of funds under Title VI, Part A of the Older Americans Act (53 FR 36642). That announcement required Indian Tribes interested in receiving such funds to submit a Notice of Intent within 30 days, and thereafter an application for assistance. The Notices of Intent from current and new applicants were to be sent to the Administrator on Aging, and postmarked by 30 days after the date of that announcement (that is, by October

21, 1988). The Notices were required to have a legibly dated U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. The announcement said: "Private metered postmarks are not acceptable as proof of timely mailing." We received some Notices of Intent dated only by private postage meters, and not by the U.S. Postal Service or commercial carriers.

Since the Notice of Intent process and the postmarking requirements were new, and the Administration on Aging does not wish to penalize ongoing programs and new applicants who may have been confused, we are extending the filing deadline for filing the Notice of Intent to ten days after publication of this Notice.

We note that sometimes the U.S. Postal Service adds its own postmark on a private metered letter before delivering it, but sometimes it does not. It is the responsibility of the Tribe to assure that the U.S. Postal Service postmark is on the envelope containing the Notice.

New Procedure for Notices of Intent

The deadline for Notices of Intent is being extended, so that the Tribes which missed the filing deadline, as well as additional Tribes desiring to file a Notice for the first time, may do so. The Administration on Aging will notify the Tribes whose Notices must be resubmitted. If a Tribe is not notified by the Administration on Aging that it needs to resubmit its Notice, it may assume that its Notice was received or properly postmarked by October 21, 1988.

New Procedure for Applications

As noted in the September 21, 1988 Program Announcement, the Administration on Aging will send to all Tribes which file a timely properly postmarked Notice of Intent, application materials which will include a budget amount for the Tribe. Tribes should then send in full completed applications, postmarked no later than February 1, 1989. However, the earlier the Tribe submits its application, the more likely it is that the Administration on Aging can issue the Notice of Financial Assistance Awarded for the new grant by April 1, 1989. The application must also have a U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier.

The Program Announcement of September 21, 1988 had said that the application was to be submitted to the Department of Health and Human Services, Grants and Contracts Management Division, Hubert H. Humphrey Building-Room 345-F, 200 Independence Avenue, SW.,

Washington, DC 20201, Attn.: William J. McCarron.

However, due to the urgency of receiving the applications, we are changing those instructions and requiring that the applications be mailed directly to the Offices of Fiscal Operations, Office of Human Development Services, in the Regional Offices of the Department of Health and Human Services. The addresses will be enclosed with the application materials.

Other Provisions

All other provisions of the Program Announcement of September 21, 1988 still apply.

Dated: November 10, 1988.

Carol Fraser Fisk,
Commissioner on Aging.

Otis R. Bowen,
Secretary, Department of Health and Human Services.

[FR Doc. 88-27282 Filed 11-25-88; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of the Draft Environmental Impact Statement on Reelfoot Lake Water Level Management

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that a Draft Environmental Impact Statement (DEIS) will be available for public review by November 30, 1988. The document addresses proposed changes in management of water levels on Reelfoot Lake, Obion and Lake Counties, Tennessee, and Fulton County, Kentucky.

The DEIS considers the environmental and socio-economic effects of implementing different lake level management strategies designed to improve long-term water quality and fishery resources while maintaining the integrity of wetlands and terrestrial habitats vital to migratory birds and other wildlife. It evaluates impacts of various alternative actions and determines the degree to which each would contribute to the improvement of the Reelfoot Lake ecosystem, as well as the positive and negative environmental and economic impacts.

The six alternatives being considered by the Fish and Wildlife Service (FWS) are:

Alternative 1—No Action

No change in water management would be made. Surface elevations of Reelfoot Lake would be maintained as close as possible to 282.2 mean sea level (m.s.l.).

Alternative 2—Dynamic Water Fluctuation

Surface elevations of the lake would be managed for a dynamic and more natural variation of at least 2-foot seasonal fluctuations between elevations 284.0 m.s.l. and 280.0 m.s.l.

Alternative 3—Major Drawdown

Reelfoot Lake water levels would be lowered during the summer by 4 feet (with the present water control structure) or 8 feet (with a new water control structure), at intervals of 5 to 10 years. Exposed lake bottoms would be allowed to dry for 120 days before refilling begins. When refilled, the lake level would be maintained 1 foot higher than spillway level until the following June 1st.

Alternative 4—State Law

Reelfoot Lake water levels would be managed as specified in Public Chapter No. 670 of the State of Tennessee Public Acts of 1986. Water control gates would remain closed until the lake's surface elevation has risen at least 1.2 feet higher than the spillway level, at which time the water control structure would be opened to prevent a further rise in lake levels.

Alternative 5—Raise Permanent Pool 1 Foot

This alternative would require a new water control structure with a spillway level set 1 foot higher than the present structure, and with adequate spillway capacity to control flooding above that elevation.

Alternative 6—Combined Dynamic Water Fluctuation and Periodic Major Drawdown

This preferred alternative is a combination of Alternatives 2 and 3.

Public meetings will be held at 7 p.m. on December 13, 1988, at the Reelfoot Lake State Park Museum, Tiptonville, Tennessee, and at 7 p.m. on December 14, 1988, at the National Guard Armory in Hickman, Kentucky, to provide information, answer questions, and receive formal, oral, and written statements pertaining to the DEIS.

Written comments on the DEIS from persons who do not attend the public meetings must be received no later than December 30, 1988, to be considered in the final environmental impact statement.

ADDRESS: Comments should be addressed to: Regional Director (ARW), U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT:

Mr. John C. Oberheu, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Room 1240, Atlanta, Georgia 30303, Telephone: FTS 242-3538, Comm. 404/331-3538

or

Refuge Manager, Reelfoot National Wildlife Refuge, U.S. Fish and Wildlife Service, Route 2, Highway 157, Union City, Tennessee 38261, Telephone: Comm. 901/538-2481.

November 15, 1988.

Alan C. Bonsack,
Acting Regional Director.

[FR Doc. 88-27234 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

[OR-090-09-6310-12: GP9-036]

Emergency Closure of Public Lands and Access Roads; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands and access roads in Lane County, OR.

SUMMARY: Notice is hereby given that certain public lands and access roads in Lane County, Oregon are temporarily closed to all public use, including vehicle operation, camping, shooting, hiking and sightseeing, from November 28, 1988 through April 4, 1989. The closure is made under the authority of 43 CFR 8364.1.

The public lands affected by this emergency closure are specifically identified as Clear Cut Unit No. 3 of Timber Sale Contract No. OR090-TS85-65 and are located as follows:

Willamette Meridian, Oregon.

T. 15 S., R. 1 W.

Sec. 33: Metes and Bounds within the SE $\frac{1}{4}$ -NE $\frac{1}{4}$

Sec. 34: Metes and Bounds within the S $\frac{1}{2}$ -NW $\frac{1}{4}$

Containing approximately 31 acres.

All roads on the public lands listed above are closed as specified above, as are BLM Road No. 16-1-5.3 from its beginning in Section 5, T. 16 S., R. 1 W., W.M. to its junction with BLM Road No. 16-1-3 in Section 3, T. 16 S., R. 1 W., W.M., BLM Road No. 16-1-3 from its beginning to its junction with BLM Road No. 15-1-34.2 in Section 34, T. 15 S., R. 1 W., W.M., BLM Road No. 15-1-34.3 in its

entirety located in Section 34, T. 15 S., R. 1 W., W.M., and BLM Road No. 15-1-34.2 in its entirety located in Section 34, T. 15 S., R. 1 W., W.M. Road Nos. 16-1-3, 15-1-34.2 and 15-1-34.3 are entirely located on public land, while Road No. 16-1-5.3 is located partially on public land and partially on private land.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; the holders of BLM road use permits that include roads within the closure area; the purchaser of BLM timber within the closure area and their subcontractors. In addition, the owners of the non-federal lands crossed by BLM Road No. 16-1-5.3 and those residing full time on such lands are exempt from the closure to the extent necessary to access and manage their lands. Access by additional parties may be allowed, but must be approved in advance in writing by the Authorized Officer.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0-7, which include a fine not to exceed \$1,000 and/or imprisonment not to exceed 12 months.

The public lands and roads temporarily closed to public use under this order will be posted with signs at points of public access. In addition, the boundaries of the closed Clear Cut Unit are blazed, painted and posted.

The purpose of this emergency temporary closure is to protect valuable public timber resources from unauthorized damage, to facilitate authorized timber harvest operations, and to protect persons from potential harm from logging operations.

EFFECTIVE DATES: November 28, 1988 through April 4, 1989.

ADDRESSES: Copies of the closure order and maps showing the location of the closed lands and roads are available from the Eugene District Office, P. O. Box 10226 (1255 Pearl Street), Eugene, Oregon 97440.

FOR FURTHER INFORMATION CONTACT: Lee Lauritzen, McKenzie Area Manager, Eugene District Office, at (503) 683-6988.

Date: November 18, 1988.

Lee Lauritzen,
Area Manager.

[FR Doc. 88-27299 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-33-M

[AZ 020-41-5410-10-ZAFB; A-23553]

Mineral Interest Applications; Arizona

ACTION: Notice of receipt of Conveyance of Mineral Interest application A-23553.

Notice is hereby given that pursuant to section 209 of the Act of October 21, 1976, 90 Stat. 2757, Cahava Ranch Properties Partnership has applied to purchase the mineral estate described as follows:

Gila and Salt River Meridian, Arizona

T. 6N., R. 3 E.

Sec. 13, N $\frac{1}{2}$, SW $\frac{1}{4}$, E $\frac{1}{2}$ -SE $\frac{1}{4}$.

T. 6 N., R. 4 E.

Sec. 18, Lots 1 to 4, E $\frac{3}{4}$ -W $\frac{1}{2}$, W $\frac{1}{2}$ -SE $\frac{1}{4}$.
Containing 969.76 acres, more or less.

Additional information concerning this application may be obtained from the Area Manager, Phoenix Resource Area, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this Notice in the Federal Register, the mineral interests described above will be segregated to the extent that they will not be open to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate either upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application or two years from the date of filing of the application, September 29, 1988, whichever occurs first.

Date: November 10, 1988.

Henri R. Bisson,
District Manager.

[FR Doc. 88-27387 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-32-M

[NM 940-09-4111-13, NM NM 14206]

Proposed Reinstatement of Terminated Oil and Gas Lease; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Under the provisions of 43 CFR 3108.2-3, Bassett-Birney Oil Corporation, petitioned for reinstatement of oil and gas lease NM NM 14206 covering the following described lands located in Eddy County, New Mexico:

T. 19 S., R. 26 E., NMPM

Sec. 1: E $\frac{1}{2}$ -SW $\frac{1}{4}$

Sec. 12: E $\frac{1}{2}$ -NW $\frac{1}{4}$

T. 19 S., R. 27 E., NMPM

Sec. 6: SE $\frac{1}{4}$ -SE $\frac{1}{4}$

Containing 200.00 acres.

It has been shown to my satisfaction that failure to make timely payment of rental was due to inadvertence.

No valid lease has been issued affecting the lands. Payment of back rentals and administrative cost of \$500.00 has been paid. Future rentals shall be at the rate of \$7.00 per acre per year and royalties shall be at the rate of 16% percent, computed on a sliding scale of 4 percentage points greater than the competitive royalty schedule attached to the lease. Reimbursement for cost of the publication of this notice shall be paid by the lessee.

Reinstatement of the lease will be effective as of the date of termination, November 1, 1986.

Date: November 18, 1988.

Dolores L. Vigil,

Acting Chief, Adjudication Section.

[FR Doc. 88-27394 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-FB-M

[AZ-920-09-4212-13; A-22880]

Exchange of Public and Private Lands in Mohave and Yavapai Counties; AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: This notice corrects two errors in the legal description of land conveyed to the United States published in notice of land exchange, A-22880.

FOR FURTHER INFORMATION CONTACT: John Gaudio, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, Telephone (602) 241-5534.

SUPPLEMENTARY INFORMATION: In Federal Register document 88-24908 on page 43774 in the issue of Friday, October 28, 1988, the eleventh line from the bottom of the third column should read "R. 16 N., R. 13 W.," and on page 43775, the third line from the top of the first column should read "NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$."

John T. Mezes,

Chief, Branch of Lands and Minerals Operations

[FR Doc. 88-27296 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-32-M

[OR-020-09-4212-13; GP9-026; OR-32978]

Realty Action; Exchange of Lands in Harney County, OR

The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Willamette Meridian

T. 28 S., R. 33 E.,

Sec. 20, W $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$ SW $\frac{1}{4}$;Sec. 29, W $\frac{1}{2}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$;Sec. 30, E $\frac{1}{2}$ E $\frac{1}{2}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 31, lot 4, NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 32;

Sec. 33.

T. 29 S., R. 32 E.,

Sec. 1, E $\frac{1}{2}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;Sec. 11, E $\frac{1}{2}$ E $\frac{1}{2}$;

Sec. 12.

T. 29 S., R. 33 E.,

Sec. 3, W $\frac{1}{2}$ SW $\frac{1}{4}$;Sec. 4, lots 2, 3, and 4, SW $\frac{1}{4}$ NE $\frac{1}{4}$,†S $\frac{1}{2}$ NW $\frac{1}{4}$ and S $\frac{1}{2}$;

Sec. 5;

Sec. 6;

Sec. 7;

Sec. 8;

Sec. 9;

Sec. 10, SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described aggregates 7,309.94 acres, more or less, in Harney County, Oregon.

In exchange for these lands, the Federal Government will acquire the following described private lands from Delmer and Jo McLean:

Willamette Meridian

T. 30 S., R. 32 E.,

Sec. 4, lots 2 and 3, SE $\frac{1}{4}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ and E $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 30 S., R. 34 E.,

Sec. 1, lot 3, SW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and †SW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 12, W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, and NE $\frac{1}{4}$ NE $\frac{1}{4}$;Sec. 13, E $\frac{1}{2}$ W $\frac{1}{2}$, W $\frac{1}{2}$ E $\frac{1}{2}$, and E $\frac{1}{2}$ NE $\frac{1}{4}$;Sec. 24, NE $\frac{1}{4}$.

T. 30 S., R. 35 E.,

Sec. 5, S $\frac{1}{2}$ SW $\frac{1}{4}$;Sec. 6, lot 7 and NE $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 7, lot 1, E $\frac{1}{2}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, and NW $\frac{1}{4}$ SE $\frac{1}{4}$;Sec. 8, N $\frac{1}{2}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ NW $\frac{1}{4}$.

The area described aggregates 2,320.78 acres, more or less, in Harney County, Oregon.

The purpose of this exchange will be to acquire several miles of riparian and aquatic habitat in the Coyote and Riddle Creek Drainages. The private lands being acquired also have value for recreation, diverse wildlife habitat, and grazing management opportunities. The public interest will be well served by making this exchange.

The value of the lands to be exchanged is approximately equal. Final equalization will be made by acreage adjustments and/or cash equalization. Any monetary adjustments made will be for no more than 25 percent of the appraised value of the public lands involved.

These lands would not be exchanged until completion of the Andrews Drewsey Land Tenure Management Framework Plan Amendment or planning conformity is otherwise achieved.

The exchange will be subject to:

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. The reservation to the United States of a right-of-way for a segment of the Desert Trail, as described in BLM case OR-44412.

3. Valid, existing rights including, but not limited to, any right-of-way, easement or lease of record and to any existing easements for public roads and highways, not shown of record.

The publication of this Notice in the **Federal Register** will segregate all of the above described public lands to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not from exchange under section 206 of the Federal Land Policy and Management Act of 1976. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed and shall be returned to the applicant.

Detailed information concerning the exchange is available for review at the Burns District Office, HC 74-12533, Highway 20 West, Hines, Oregon 97738. For a period of 45 days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the Burns District Manager at the above address.

Objections will be reviewed by the State Director who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: November 14, 1988.

Joshua L. Warburton,
District Manager.

[FR Doc. 88-27386 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-33-M

[WY-940-09-4520-12]

Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Filing of plats of survey.

SUMMARY: The plats of survey of the following described lands were officially filed in the Wyoming State Office, Bureau of Land Management, Cheyenne, Wyoming, effective 10:00 a.m., November 10, 1988.

Sixth Principal Meridian

T. 32 N., R. 91 W.

The plat, in two sheets, representing the dependent resurvey of a portion of the Eighth Standard Parallel North, through R. 91 W., the south, east and west boundaries and the subdivisional lines, T. 32 N., R. 91 W., Sixth Principal Meridian, Wyoming, Group No. 458, was accepted November 8, 1988.

T. 51 N., R. 97 W.

The plat, in six sheets, representing the dependent resurvey of portions of certain tracts, Twelfth Guide Meridian West, through T. 51 N., between Rs. 96 and 97 W., west boundary and subdivisional lines, and the subdivision of certain sections, T. 51 N., R. 97 W., Sixth Principal Meridian, Wyoming, Group No. 403, was accepted November 8, 1988.

These surveys were executed to meet certain administrative needs of this Bureau.

T. 39 N., R. 115 W.

The plat representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, and the subdivision of section 18, T. 39 N., R. 115 W., Sixth Principal Meridian, Wyoming, Group No. 490, was accepted November 8, 1988.

T. 39 N., R. 116 W.

The plat representing the dependent resurvey of a portion of the subdivisional lines and Homestead Entry Survey Nos. 149, 188 and 248, T. 39 N., R. 116 W., Sixth Principal Meridian, Wyoming, Group No. 490, was accepted November 8, 1988.

These surveys were executed to meet certain administrative needs of the U.S. Forest Service.

ADDRESS: All inquiries concerning these lands should be sent to the Wyoming State Office, Bureau of Land Management, P.O. Box 1828, 2515 Warren Avenue, Cheyenne, Wyoming 82003.

Dated: November 10, 1988.

Dennis D. Bland,

Acting Chief, Branch of Cadastral Survey.

[FR Doc. 88-27371 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service**Development Operations Coordination Document; Pennzoil Exploration and Production Co.**

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Pennzoil Exploration and Production Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 2882, Block 125, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on November 17, 1988. Comments must be received December 13, 1988 or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Joseph; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2875.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested

parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Date: November 18, 1988.

J. Rogers Pearcy

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 88-27297 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Draft Colorado River Management Plan and Environmental Assessment; Grand Canyon National Park, Arizona

SUMMARY: Notice of Availability of the Draft Colorado River Management Plan and Environmental Assessment, Grand Canyon National Park, AZ.

Notice is hereby in accordance with § 1506.6(b)(2) of Title 40 Part 1506, of the Code of Federal Regulations, of availability of a draft revision of the Colorado River Management Plan and Environmental Assessment, Grand Canyon National Park, AZ.

SUPPLEMENTARY INFORMATION: Alternatives evaluated by the Environmental Assessment include: (1) No action, continue action under the 1981 plan guidelines, and (2) initiate management under the revised plan.

DATE: The revised plan and Environmental Assessment are available for public review and comment for a period not to exceed December 9th.

ADDRESSES: Single Copies of the draft revision may be obtained from the Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ 86023.

Date: November 21, 1988.

W. Lowen White

Acting Regional Director Western Region.

[FR Doc. 88-27303 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Section 5a Application No. 95 1; Amendment No. 4]

United Tariff Bureau, Inc.—Agreement

AGENCY: Interstate Commerce Commission.

¹ Section 5 was recodified as 49 U.S.C. 10706.

ACTION: Notice of decision and request for comment.

SUMMARY: United Tariff Bureau, Inc. (UTB) 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 some 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. Copies of UTB'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 UTB's representative: Alvin Altman, Brodsky, Linett, Altman, Schechter and Reicher, 888 Seventh Avenue, New York, NY 10106.

DATES: Comments from interested persons are due December 28, 1988. Replies are due 15 days thereafter.

ADDRESS: An original and 10 copies, if possible, of comments referring to section 5a Application No. 95 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Jasneth Metz, (202) 275-7974,

or

Richard B. Felder, (202) 275-7691.

(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, write to Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call (202) 289-4357/4359 (D.C. Metropolitan area) (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).

United Tariff Bureau, Inc. (UTB) has filed an application for approval of its proposed amended collective ratemaking agreement as required by section 14(e) of the Motor Carrier Act of 1980, Pub. L. 96-296 (1980) (MCA). Since filing its application, UTB has been obliged to observe the requirements of the MCA and the standards in *Motor Carrier Rate Bureaus—Imp. Pub. L. 96-296*, 364 I.C.C. 464 (1980) and 364 I.C.C. 921 (1981) (*Rate Bureau*). We have provisionally approved UTB's agreement as consistent with 49 U.S.C.

10706(bj) and *Rate Bureau, supra*, subject to certain conditions and modifications in the following subject areas: identification and description of member carriers; right of independent action; rate bureau protests; employee docketing; open meetings; proxy voting; final disposition of cases; single-line rates; general rate increases and decreases; changes in tariff structure; and zone of rate freedom and released rates. We have also offered comments and imposed requirements concerning the agreement generally. UTB 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 persons to comment on our interpretation of the controlling authority and administrative criteria, and their application to UTB's agreement.

A copy of any comments filed with the Commission must also be served on UTB, 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 UTB must submit to the Commission as a condition to final approval of its agreement.

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

Authority: 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: November 17, 1988.

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

Noreta R. McGee,

Secretary.

[FR Doc. 88-27312 Filed 11-25-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

November 22, 1988.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of estimated time it takes each respondent to respond; (6) an estimate of the total public burden hours associated with the collection; and, (7) an indication as to whether section 3504(h) of Pub. L. 96-511 applies. Comments and/or questions regarding

the item(s) contained in this notice, especially regarding the estimated response time, should be directed to the OMB reviewer, Mr. Sam Fairchild, on (202) 395-7340 AND to the Department of Justice's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer AND the Department of Justice's Clearance Officer of your intent as soon as possible. The Department of Justice's Clearance Officer is Mr. Larry E. Miesse who can be reached on (202) 633-4312.

Existing Collection in use Without an OMB Control Number

(Expedited OMB review requested, copy of form included in this notice.)

(1) Civil Liberties Act of 1988—
Voluntary Information Form

(2) CRT-55, Civil Rights Division

(3) One time use:

(4) Individuals or households. Under the provisions of 50 USC App. 1989b, this voluntary form may be used to locate persons of Japanese ancestry who were confined, held in custody, relocated, or otherwise deprived of liberty during World War II.

(5) 60,000 respondents at .5 hours each.

(6) 30,000 estimated annual public burden hours.

(7) Not applicable under 3504(h).

Larry E. Miesse,

Department Clearance officer, Department of Justice.

BILLING CODE 4410-01-M

U.S. Department of Justice
Civil Rights Division
Office of Redress Administration

DRAFT Civil Liberties Act of 1988 Voluntary Information Form

OMB Approval #1190-
Expires _____

Your support is needed to locate persons of Japanese ancestry who were confined, held in custody, relocated, or otherwise deprived of liberty or property during World War II. The submission of information is entirely voluntary. However, any of the information below will be of assistance in locating those individuals who may be eligible to receive compensation under the Civil Liberties Act of 1988. If you cannot fully answer all of the questions, partial information is also helpful. Failure to use this form will in no way impact any claim under this program. Form use is merely to standardize data.

IMPORTANT: You may complete this form if you believe yourself to be eligible for payment under the Act or you may complete this form to help locate another individual who may be eligible to receive payment.

SECTION A - CURRENT DATA ON POTENTIALLY ELIGIBLE INDIVIDUAL

1. Full name (last, first, middle)		2. Maiden name		3. Other names used	
4. Street address		City		State	Zip Code Country
5. Home telephone ()				6. Office telephone ()	
7. Date of birth	8. Place of birth		9. Sex	10. Social Security No.	
11. Of Japanese ancestry? Yes ___ Other: _____					
12. Citizenship Natural born U.S. citizen ___ Naturalized U.S. citizen ___ Date of naturalization: _____ Other: _____					
13. Alien Registration Number, if any: _____					

SECTION B - HISTORICAL INFORMATION REGARDING INTERNMENT, RELOCATION, OR DETENTION OF POTENTIALLY ELIGIBLE INDIVIDUAL. Complete as much as you remember. Partial information is helpful.

1. Last permanent address prior to evacuation:					
Street address		City		State	Zip Code Country
2. Names of assembly centers, relocation centers, camps, or other places of relocation or detention: _____					
3. Family number		4. Name of head of family group		5. Relationship to head of family group	
6. Names of parents					
Mother		Now living? Yes ___ No ___		Date/place of death	
Father		Now living? Yes ___ No ___		Date/place of death	
8. If individual was a voluntary evacuee, approximate date of evacuation and place of resettlement: _____					

DRAFT

Form CRT-55
Oct. 88

SECTION C - INFORMATION REGARDING SURVIVOR BENEFITS

If an eligible individual dies after the enactment of the Civil Liberties Act (August 10, 1988), but before receiving payment, a surviving spouse, children, or parents may be eligible to receive payment. To ensure that accurate survivor information is on file, please provide the following:

1. Current spouse Name	Date of Marriage	Address
2. Living children (include all natural children, adopted children, and step children who lived with you in a parent-child relationship)		
Name	Address	
3. Living parents (include parents by adoption)		
Name	Address	

SECTION D - To be completed by person filing this form (Complete this section only if you are providing information on someone else. If you are completing this form on your own behalf, please go on to Section E)

1. Your full name (last, first, middle)				
2. Your relationship to potentially eligible individual identified above (i.e. self, spouse, friend, son, daughter, etc.):				
3. Street address	City	State	Zip Code	Country
4. Home telephone ()		Office telephone ()		

SECTION E

Signature	Date
-----------	------

Because the Department of Justice may make use of this information, as detailed below, a Privacy Act Statement has been included.

The authority for this information is contained in 50 U.S.C.App. 1989b. The information that you provide will be used principally for locating and identifying persons eligible for payment under the restitution provisions of the Civil Liberties Act. Additional disclosures of the information may be: to a Federal, State, or local agency to confirm a person's date of birth, date of death, or address; to Members of congress or staff to enable the Congressman to provide service to his or her constituency; to volunteer student-workers so that they may perform their duties; to the news media when release is made consistent with the Freedom of Information Act and 28 C.F.R. 50.2; and to the National Archives and Records Administration and General Services Administration to perform records management inspection functions in accordance with their statutory responsibilities.

Reporting Burden

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the 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: U.S. Department of Justice, Civil Rights Division, Office of Redress Administration, Room 7603, Washington, D.C. 20530; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, ATTN: Public Use Report Project 1190-xxxx, Washington, D.C. 20503.

SEND TO: OFFICE OF REDRESS ADMINISTRATION
P.O. BOX 66260, WASHINGTON, D.C. 20035-6260

DEPARTMENT OF LABOR

Employment and Training
Administration

[TA-W-20,727]

London Fog, Powell, TN; Negative
Determination Regarding Application
for Reconsideration

By an application dated October 7, 1988 the Amalgamated Clothing Workers Union (ACTWU) AFL-CIO, requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on August 25, 1988 and published in the *Federal Register* on September 7, 1988 (53 FR 34597).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Workers at Powell produced men's golf jackets and warmers (liners) for raincoats and golf jackets. The Powell plant closed in June, 1988.

The union questions the accuracy of the responses of London Fog's customers in the Department's survey. The union also claims that imports of men's golf jackets increased during the relevant time period. Also, the union submitted an import agreement which shows that employment will be reduced at Powell because of rainwear imports and the transfer of raincoat warmer production to other company plants.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The Department's survey of the subject firm's customers shows that most of the respondents reported no import purchases of men's golf jackets during the period applicable to the petition. Some customers, however, did report import purchases of men's golf jackets. However, the importing customers either had increased purchases from the subject firm or their import purchases accounted for a negligible portion of the subject firm's sales decline. The responses were from specific buyers of men's golf jackets and the survey forms were signed by them.

The Department has no reason not to believe in the results of its survey.

Investigation findings show that the company did not import warmers, as such, but imported raincoats which include the warmers. Company officials indicated that after the transfer of warmer production to other corporate domestic plants, there was not enough work to justify the subject plant remaining open. Also, the transfer of component production to other domestic plants would not form a basis for certification.

The component issue was addressed early in the administration of the worker adjustment assistance program. In *United Shoe Workers of America, AFL-CIO v. Bedell*, 506 F.2d (D.C. Cir. 1974) the court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Increased imports of raincoats cannot be considered in determining import injury to workers producing raincoat warmers. Imports of finished articles (raincoats) incorporating components (warmers) are not like or directly competitive with the articles produced at the workers' firm.

Lastly, the Department did not deny certification to workers at the subject plant because rainwear workers were never certified. This statement in the Department's denial addresses the integration of production principle which should have been clarified. In order to certify workers producing components, the component production must be integrated with production at other company plants whose workers are already under a certification. However, this is not the case with London Fog, since none of their workers at the other plants are currently under a certification. Accordingly, the component workers (workers producing warmers) at Powell cannot be certified eligible to apply for adjustment assistance under the integration of production principle.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 14th Day of November, 1988.

Robert O. Deslongchamps,
Director, Office of Legislation and Actuarial
Services, UIS.

[FR Doc. 88-27373 Filed 11-25-88; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-20,831]

Indiana Gas and Chemical Corp.; Terre
Haute, IN; Negative Determination
Regarding Application for
Reconsideration

By an application dated October 26, 1988, Local #12009-30 of the United Steelworkers of America (USW) AFL-CIO, requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on September 20, 1988 and published in the *Federal Register* on October 6, 1988 (53 FR 39366).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

- (1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;
- (2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or
- (3) If, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The workers at Indiana Gas and Chemical in Terre Haute produced foundry coke. Production at the plant ceased in July 1988.

The union claims that imported steel adversely affected Indiana Gas and Chemical. Its alleged that since foreign steel has taken up some of the domestic market, less foundry coke is required by domestic steelmakers to produce steel.

In order for a worker group to become certified eligible to apply for adjustment assistance it must meet all three of the Group Eligibility Requirements of the Trade Act of 1974. The three group eligibility requirements are: (1) A significant decrease in employment, (2) an absolute decrease in production and/or sales and (3) an increase in imports of articles like or directly competitive with those articles produced by the workers' firm which "contributed importantly" to their layoffs and declines in sales or production. The "contributed importantly" test is generally demonstrated through a survey of the workers' firm's customers.

The Department's denial was based on the fact that the "contributed importantly" test of the Group Eligibility Requirements of the Trade Act of 1974 was not met. The Department's survey of the subject firm's customers which accounted for a substantial portion of

the firm's 1988 sales shows that none of the respondents reported import purchases of coke in the first six months of 1988 compared to the same period in 1987. Also, sales and production of foundry coke increased in 1987 compared to 1986.

The Department addressed the union's claim of imported steel adversely affecting the workers at Indiana Gas and Chemical in its original denial. The Department recognizes that in an economic sense employees of firms producing coke can be adversely affected by imports of products manufactured further downstream in the economy. Under the Trade Act of 1974, however, only increased imports of articles like or directly competitive with the articles produced by the workers' firm or appropriate subdivision can be considered. Steel and farm equipment imports are not like or directly competitive with coke. This issue was addressed in *United Shoe Workers of America, AFL-CIO v. Bedell*, 506 F2d 174 (D.C. Cir. 1974). The court held that imported finished women's shoes were not like or directly competitive with shoe components—shoe counters. Similarly, steel and farm equipment which are further removed from the finished article cannot be considered like or directly competitive with coke.

Conclusion

After review of the application and investigation findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 16th day of November 1988.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 88-27372 Filed 11-25-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-19,035, et al.]

Phillips Petroleum Co.; Exploration and Production Group, et al.; Revised Determinations on Remand

Pursuant to the U.S. Court of International Trade remand, dated September 27, 1988, in *Former Employees of Phillips Petroleum Company, v. Secretary of Labor* (USCIT 87-09-00793), the Department is issuing a revised notice of determinations. The Court's remand requires that the Department consider the applicability of

the 1988 amendments of the Trade Act of 1974 to the subject worker petitions.

Investigation findings show that Phillips Petroleum is a fully integrated producer of crude oil, natural gas, natural gas liquids and refined petroleum products and as such the 1988 amendments to the Trade Act would not apply. The Omnibus Trade and Competitiveness Act of 1988 extended eligibility for trade adjustment assistance (TAA) to workers with independent firms engaged in the exploration or drilling of oil and natural gas.

Workers in the Eastern and Western Divisions of Phillips Petroleum's Exploration and Production Group (TA-W-19,035 and TA-W-19,314) were subsequently certified eligible to apply for adjustment assistance under TA-W-20,862 and TA-W-20,875, respectively. Workers covered under TA-W-20,862 and TA-W-20,875 have impact dates of July 19, 1987 and August 2, 1987, respectively. Both certifications are based on an increased reliance on imports of crude oil used as feedstock for company refineries in 1987 compared to 1986.

Investigation findings on remand show increased company imports of crude oil by Phillips Petroleum in 1986 compared to 1985 and in 1987 compared to 1986. This finding together with the decreased production and employment findings in the Eastern and Western Divisions provide sufficient justification to certify workers in the subject divisions with impact dates back to January 7, 1986 for workers in the Western Division and February 19, 1986 for workers in the Eastern Division.

It is recommended that workers in Corporate Engineering at Borger, Texas (TA-W-19,134) and in the Refinery and Natural Gas Liquids Processing Center also at Borger, Texas (TA-W-17,135) be denied eligibility to apply for adjustment assistance. Engineering activities at Borger did not account for a significant amount of time on crude oil. Workers at the Borger Refinery produced refined products. U.S. imports of gasoline, the leading refined petroleum product made by Phillips, and dry natural gas declined absolutely and relative to domestic shipments in 1986 compared to 1985. Phillips does not import refined petroleum products.

Conclusion

After careful review of the additional facts obtained on remand, it is concluded that increased imports of crude oil like or directly competitive with the crude oil produced in the Western and Eastern Divisions of Phillips Petroleum's Exploration and

Production Group contributed importantly to worker separations and to declines in production and employment in the Western Division, Denver, Colorado and in the Eastern Division, Houston (Bellaire), Texas. In accordance with the provisions of the Trade Act of 1974, I make the following revised determinations:

All workers of Phillips Petroleum Company's Exploration and Production Group in the Western Division, Denver, Colorado who were laid off on or after January 7, 1986 and before August 2, 1987 and all workers in the Eastern Division, Houston, (Bellaire) Texas who were laid off on or after February 19, 1986 and before July 19, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

It is further determined that the Department's initial negative determination for all workers of Phillips Petroleum Company's Corporate Engineering at Borger, Texas and all other workers at the Refinery and Natural Gas Liquids Processing Center, Borger, Texas be affirmed.

Signed at Washington, DC, this 9th day of November, 1988.

Barbara Ann Farmer,

Director, Office of Program Management, UIS.

[FR Doc. 88-27374 Filed 11-25-88; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,039]

Ultramar Oil & Gas Limited, Denver, CO; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on September 19, 1988 in response to a worker petition which was filed on behalf of workers and former workers at Ultramar Oil and Gas Limited, Denver Branch Office, Denver, Colorado.

The retroactive provisions of section 1421(a)(1)(B) of the Omnibus Trade and Competitiveness Act of 1988 (OTCA) do not apply to workers who were eligible to be certified for benefits under the Trade Act prior to the implementation of the retroactive provisions.

No layoffs occurred at the Denver facility since September 6, 1987, one year prior to the date of the petition, which was September 6, 1988, and the earliest possible impact date. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 88-27375 Filed 11-25-88; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

[V-88-3]

Union Carbide Corp.; Variance Application

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of application for temporary variance and interim order; Grant of interim order; Denial of the request for permanent variance.

SUMMARY: This notice announces the application of Union Carbide Corporation for a temporary variance and an interim order from the standard prescribed in 29 CFR 1926.550(g)(3)(ii)(C) concerning the installation of anti-two-blocking devices on cranes used to hoist personnel platforms. This notice also announces the granting of an interim order until a decision is rendered on the application and the denial of a request for a permanent variance.

DATES: The interim order became effective on October 28, 1988, the date of the letter granting the interim order.

The interim order shall remain in effect until December 31, 1988 or until a decision is rendered on the application for variance, whichever occurs first. The last date for interested persons to submit comments on the temporary variance application is December 28, 1988. The last date for affected employers and employees to request a hearing is December 28, 1988.

ADDRESS: Send comments or request for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue, NW., Room N3653, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, at the above address, Telephone: (202) 523-7193.

Or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, 525 Griffin Square, Room 602, Dallas, Texas 75202.

U.S. Department of Labor—OSHA, Government Plaza—Room 300, 400 Main Street, Corpus Christi, Texas 78401.

Notice of Application

Notice is hereby given that Union Carbide Corporation (the applicant), 39 Old Ridgebury Road, Danbury, Connecticut 06817-0001 has made application pursuant to section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970 (the Act) (29

U.S.C. 655) and 29 CFR 1905.10 for a temporary variance and interim relief or, in the alternative, a permanent variance and interim relief under section 6(d) of the Act from the standard prescribed in 29 CFR 1926.550(g)(3)(ii)(C) which requires that cranes and derricks used to hoist personnel platforms be equipped with an anti-two-blocking device.

The place of employment affected by the temporary variance application is the Union Carbide Corporation Seadrift Plant, Polyolefins Division, P.O. Box 186 Port Lavaca, Texas 77979. The plant is located 25 miles south of Victoria, Texas. Union Carbide has certified that a copy of the application has been posted at the places where notices to employees are normally posted in order to inform employees of the application. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

Regarding the merits of the application, the applicant has submitted evidence that, despite its best efforts both prior to and subsequent to the effective date of the pertinent standard, it has been unable to obtain anti-two-blocking devices, because the devices which the applicant has ordered from the Manitowoc Engineering Co. and the American Crane Corporation, the manufacturers of the cranes used by the applicant, are not yet available. In addition, the applicant has found that the erection of scaffolding and other alternative means of access to certain elevated work stations to perform necessary maintenance and repair are less safe than hoisting personnel platforms with cranes not yet equipped with the anti-two-blocking devices. Union Carbide believes, on the basis of representations from Manitowoc, American Crane and crane parts suppliers, that the devices will be delivered and installed by December 31, 1988. The application for a temporary variance and an interim order is supported by affidavits and other evidence, including letters from the crane manufacturers.

The applicant states that there is a risk of shutting down some chemical units if the inability to hoist personnel platforms by cranes prevents maintenance employees from obtaining safe access to important equipment. Moreover, the applicant planned a shut-down at the Seadrift Plant in early November to perform necessary maintenance on a number of key chemical units. The applicant believes that some use of personnel platforms is necessary because some of the jobs planned are beyond the safe reach of other access means.

The applicant has requested an interim order because, pending the delivery and installation of the required anti-two-blocking devices, the applicant believes that the Seadrift Plant urgently needs permission to hoist personnel using the best available alternative to anti-two-blocking devices. According to the applicant, certain repair and maintenance operations should not be performed using scaffolding and other "conventional" means of access, because hoisting is safer. Thus, the applicant requested relief from 29 CFR 1926.550(g)(3)(ii)(C) until December 31, 1988, so that it could hoist personnel using alternative safety precautions which are in accordance with section 5-3.2.2(a)(4), (a)(7) and (a)(8) of ANSI B30.5-1982, Mobile and Locomotive Cranes, until the anti-two-blocking devices are delivered, installed and tested. These precautions include stationing a monitor equipped with an FM radio both in the personnel platform and at ground level to ensure, through the monitors' vigilance and through contact with the crane operator, that the load block of the personnel platform does not contact the boom, and training and crane operator to ensure that vertical line speed does not exceed 75 feet per minute. According to the applicant, the Seadrift Plant has approximately 11 years of experience in using these safety precautions.

OSHA is denying the application for a permanent variance for a limited period and interim relief, because the ANSI-specified safety precautions which the applicant proposes to use in lieu of positive-acting anti-two-blocking devices would not provide employment and places of employment which are as safe and healthful as those which would apply if the applicant complied with 29 CFR 1926.550(g)(3)(ii)(C). Indeed, OSHA made an explicit determination in the rulemaking for crane and derrick hoisted personnel platforms that " * * * because the Agency believes that only two-blocking preventive devices will provide the necessary employee protection, OSHA has not followed the pertinent ANSI standard" (53 FR 29125, August 2, 1988).

Grant of Interim Order

It appears from the Union Carbide Corporation application and supporting materials that the applicant was, apparently, unable to comply with 29 CFR 1926.550(g)(3)(ii)(C) by the October 3, 1988 effective date because the pertinent equipment was not yet available. It further appears that the applicant is taking and will take all necessary steps to obtain the required

anti-two-blocking devices and, in the interim, will take all available steps to safeguard employees and to comply with § 1926.550(g). Thus, based on the evidence, OSHA has decided that the Union Carbide Seadrift Plant, located near Victoria, Texas, warrants relief from the requirements of 29 CFR 1926.550(g)(3)(ii)(C) in the form of an interim order as authorized under 29 CFR 1905.10(c) of the temporary variance procedures.

Therefore, pursuant to the authority in section 6(b)(6)(A) of the Occupational Safety and Health Act of 1970, 29 CFR 1905.10(c), and the Secretary of Labor's Order No. 9-83 (48 FR 35736) OSHA has ordered that the Union Carbide Seadrift Plant be granted an interim order (effective on October 28, 1988, the date of the letter) with which the applicant will comply instead of complying with the requirements in 29 CFR 1926.550(g)(3)(ii)(C).

The conditions and terms of the interim order are enumerated below:

1. One employee in the personnel platform and one employee at ground level shall be equipped with portable FM radios tuned to the FM frequency in the crane cab. These employees shall monitor the hoist to determine if the personnel platform is getting too close to the boom and take necessary action, such as warning the operator, to ensure that the personnel platform does not contact the boom.

2. When communication stops, is interrupted or fails, the hoisting operation shall be terminated until communication is restored and safe movement is ensured.

3. The employee on the personnel platform and at the ground level monitoring the crane-hoisted personnel platform shall be competent persons as defined in 29 CFR 1926.32(f).

4. The crane operator shall maintain visual contact with the personnel platform whenever possible. Where it is not possible to see the personnel platform itself, the operator shall ensure that the crane is positioned so that the operator can see enough of the hoist line to ensure that the minimum distance between the boom and the platform is being maintained.

5. The applicant shall prescribe a minimum distance that the operator shall maintain between the two blocks to prevent two-blocking. This distance will incorporate a safety margin and will also be sufficient to ensure, taking into account the dimensions of the personnel platform and the angle of the boom, that the personnel platform does not contact the boom.

6. The applicant shall ensure that vertical line speeds do not exceed 75

feet per minute during the hoisting of the personnel platform.

7. The applicant shall train its crane operators to determine accurately that the line speed is no greater than 75 feet per minute and to determine how much line must remain between the boom and the personnel platform to ensure that two-blocking will not occur.

8. The applicant shall comply with all provisions of this order and with all applicable requirements of 29 CFR Part 1910 and 29 CFR Part 1926 except to the extent that it has been expressly granted relief from those requirements.

9. The applicant shall permit OSHA to inspect its personnel platform hoisting operations during normal business hours or upon appropriate notice at any time in connection with any aspect of this order.

10. The applicant shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for temporary variance and interim order.

The Assistant Secretary may revoke this order at any time, without prior notice whenever the applicant does not comply with any requirements of the order or relevant standards, or if other information indicates that revocation of the interim order is warranted. Unless revoked, the interim order will remain in effect until December 31, 1988.

Signed at Washington, DC this 21st day of November 1988.

John A. Pendergrass,

Assistant Secretary of Labor.

[FR Doc. 88-27284 Filed 11-25-88; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 88-98]

NASA Advisory Council (NAC), Space Station Advisory Committee (SSAC); Meeting

Agency: National Aeronautics and Space Administration.

Action: Notice of meeting.

Summary: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Station Advisory Committee.

Date and Time: December 13, 1988, 8:30 a.m. to 5 p.m. and December 14, 1988, 8:30 a.m. to 3 p.m.

Address: Capital Gallery Building, 600 Maryland Avenue SW., Suite 204, Washington, DC 20024.

For Further Information Contact: Dr. W.P. Raney, Code S, National Aeronautics and Space Administration, Washington, DC 20546, 202/453-4165.

Supplementary Information: The Space Station Advisory Committee (SSAC) is a standing committee of the NASA Advisory Council, which advises senior management on all Agency activities. The SSAC is an interdisciplinary group charged to advise Agency management on the development, operation, and utilization of the Space Station. The committee is chaired by Mr. Laurence J. Adams and is composed of 20 members including individuals who also serve on other NASA advisory committees. This meeting will be open to the public up to the seating capacity of the room, (which is approximately 50 persons including team members and other participants). It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the participants.

Type of Meeting: Open.

Agenda:

December 13, 1988

8:30 a.m.—Chairman's Remarks.

9 a.m.—Overview and Update.

10 a.m.—Program Office (SSPO) Report Requirements Review.

11:30 a.m.—Special Topics.

1 p.m.—Associate Contractor Arrangement (ACA).

Headquarters.

Centers.

Contractors.

3:45 p.m.—Safety, Reliability, and Quality Assurance.

4:15 p.m.—Joint Studies.

5 p.m.—Adjourn.

December 14, 1988

8:30 a.m.—Polar Platforms.

Design.

Use.

10 a.m.—Panel Reports and Plans.

1 p.m.—Committee Discussion.

3 p.m.—Adjourn.

November 21, 1988.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-27311 Filed 11-25-88 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Arts, National Foundation on the Arts and Humanities.

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 December 28, 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: Opera-Musical Theater Program Application Guidelines for FY 1990.

Frequency of Collection: One-time.

Respondents: Individuals or households; State or local governments; Non-profit institutions.

Use: Guidelines instructions and applications elicit relevant information from individual artists, non-profit organizations and state and local arts agencies that apply for funding under specific program categories. This

information is necessary for the accurate, fair and thorough consideration of competing proposals in the peer review process.

Estimated Number of Respondents: 339.

Average Burden Hours per Response: 51.

Total Estimated Burden: 17,168.

Anne E. Cowperthwaite,
Administrative Services Division, National
Endowment for the Arts.

[FR Doc. 88-27392 Filed 11-25-88; 8:45 am.]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee on Mechanical Components; Meeting

The ACRS Subcommittee on Mechanical Components will hold a meeting on December 12, 1988, Room P-114, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Monday, December 12, 1988—2:30 p.m. until the conclusion of business

The Subcommittee will continue its review of the NRC staff's generic letter to extend testing and surveillance to all safety-related MOVs.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member identified below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the

Chairman's ruling on requests for the opportunity to present oral statements and the time allocated therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Elpidio Igne (telephone 301/492-8192) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 21, 1988.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 88-27336 Filed 11-25-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-275]

Pacific Gas and Electric Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-80, issued to the Pacific Gas and Electric Company (PG&E or the licensee) for operation of the Diablo Canyon Nuclear Power Plant (DCPP) Unit 1 located in San Luis Obispo County, California.

The amendment would revise the technical specifications (TS) relating to the required frequency interval identified in TS 4.3.1.1, Table 4.3-1 for performance of the operational test for the Unit 1 seismic trip actuation device. The present surveillance requirement provides for the seismic trip actuation device operational test to be conducted semiannually. The proposed change would allow the test to be performed no later than the next refueling outage (currently targeted for October 1989).

The proposed amendment was requested by the licensee's letter of November 10, 1988.

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.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the

proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the hazard considerations involved with the proposed amendment, focusing on the three standards set forth in 10 CFR 50.92(c) as quoted below:

1. Does the change involve a significant increase in the probability or consequence of an accident previously evaluated?

Operated of the seismic trip is not required or assumed to mitigate the consequences of any accident in the FSAR Update safety analyses. Further, increasing the surveillance interval of the trip actuating device operational test will not affect the integrity of the reactor protection system. The seismic trip equipment history demonstrates that equipment failures would have resulted in the seismic trip system performing its intended function. Because the current design does not permit reliable on-line testing at power, two challenges to the reactor protection system have occurred during testing. Therefore, the proposed exemption change to increase the surveillance interval of the seismic reactor trip actuating device operational test until the next refueling outage does not increase the probability or consequences of any accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

There is no physical alteration to any plant system, nor is there a change in the method by which any safety related system performs its function. Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the change involve a significant reduction in the margin of safety?

The proposed change would potentially reduce the number of reactor trips due to surveillance testing and, therefore, would result in an increase in plant safety. Since the seismic reactor trip is not assumed to function for any of the Chapter 15 FSAR Update accident analyses, there is no effect on the margin of safety as defined in these analyses. Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The staff has considered the proposed change and agrees with the licensee's evaluation with respect to the three standards.

On this basis, the Commission has determined that the requested amendment meets the three standards and, therefore, has made a proposed determination that the amendment application does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed

determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC 20555. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 28, 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 or petition for leave to intervene. Requests for 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 before the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be

entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves no significant hazards consideration, any hearing held would take place before the issuance of the amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is

that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, 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 George W. Knighton: petitioner's name and telephone number; date petition was mailed; plant name; and publication data and page number of the **Federal Register** notice. A copy of the petition should also be sent to the Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Richard R. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120 and Bruce Norton, Esq., c/o Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

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).

For further details with respect to this action, see the application for amendment dated November 10, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the California Polytechnic State University Library, Government Documents and Maps

Department, San Luis Obispo, California 93407

Dated at Rockville, Maryland this 21st day of November 1988.

For the Nuclear Regulatory Commission.

Harry Rood,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR. Doc. 88-27332 Filed 11-25-88; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-446]

**Texas Utilities Electric Co., et al.,
Comanche Peak Steam Electric
Station, Unit No. 2; Order Extending
Latest Construction Completion Date**

The Texas Utilities Electric Company, Texas Municipal Power Agency, Brazos Electric Power Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (Applicants) are holders of Construction Permit No. CPPR-127 issued by the Atomic Energy Commission¹ on December 19, 1974 for construction of the Comanche Peak Steam Electric Station, Unit No. 2, a nuclear facility utilizing a Westinghouse Electric Corporation nuclear steam supply system, at the Applicants's site in Somervell County, Texas.

By letter dated April 29, 1987, as supplemented on July 22, September 9, and December 3, 1987, and amended and supplemented on June 6, 1988, the Applicants filed a request for extension of the latest construction completion date specified in Construction Permit No. CPPR-127 to August 1, 1992. The Applicants state that an intensive program of review and reinspection was initiated in the fall of 1984 to provide evidence of the safe design and construction of Comanche Peak Units No. 1 and No. 2. The temporary direction of resources since mid-1985 to activities under that remedial program to Unit No. 1 rather than to Unit No. 2, as well as the temporary suspension of Unit No. 2 construction for about one year beginning in April 1988 (which will allow the Applicants time to make a more complete determination of any modifications that may be required for Unit No. 2 based upon the knowledge they gain from the reinspection and corrective action program applied to Unit No. 1), have caused delays which have contributed to the need for the

extension of the latest construction completion date for Unit No. 2.

The remedial program was undertaken by the Applicants to respond to issues raised by the NRC staff, the Atomic Safety and Licensing Board (ASLB), and other sources in the operating license proceeding.² Although the Applicants temporarily suspended construction of Unit No. 2, they must maintain the construction permit in effect since they have not announced termination of the facility. The Applicants anticipate that remedial program activities related to Unit No. 2 and its preparation for operation will not be complete before August 1, 1992.

As discussed more fully in the staff's related Evaluation of Request dated November 18, 1988, we have concluded that good cause has been shown for the delay and that the requested extension is for a reasonable period. We have further concluded that the requested extension involves no significant hazards consideration, and therefore, no prior public notice is required.

The NRC staff has prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on October 25, 1988 (53 FR 43055). The NRC staff has concluded that this action will not have a significant impact on the quality of the human environment, and therefore, no environmental impact statement need be prepared.

The Applicants' letter dated April 29, 1987, as supplemented on July 22, September 9, and December 3, 1987, and amended and supplemented on June 6, 1988, and the staff's letter and evaluation issued in support of this Order are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and the local public document room at Somervell County Public Library, Glen Rose, Texas 76043.

It is hereby ordered that the latest construction completion date for CPPR-127 be extended to August 1, 1992.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland this 18th day of November 1988.

James G. Partlow,

Director, Office of Special Projects.

[FR Doc. 88-27333 Filed 11-25-88; 8:45 am]

BILLING CODE 7590-01-M

¹ Effective January 20, 1975, the Atomic Energy Commission was abolished and its regulatory authority transferred to the Nuclear Regulatory Commission.

² The CPSES operating license proceeding was dismissed on July 13, 1988 by ASLB Memorandum and Order (Dismissing Proceedings).

[Docket No. 50-445]

**Texas Utilities Electric Co., et al.,
Comanche Peak Steam Electric
Station, Unit No. 1; Order Extending
Latest Construction Completion Date**

The Texas Utilities Electric Company, Texas Municipal Power Agency, Brazos Electric Power Cooperative, Inc., and Tex-La Electric Cooperative of Texas, Inc. (Applicants) are holders of Construction Permit No. CPPR-126 issued by the Atomic Energy Commission¹ on December 19, 1974 for construction of the Comanche Peak Steam Electric Station, Unit No. 1, a nuclear facility utilizing a Westinghouse Electric Corporation nuclear steam supply system, at the Applicants' site in Somervell County, Texas.

By letter dated June 6, 1988, the Applicants filed a request for extension of the latest construction completion date specified in Construction Permit No. CPPR-126 to August 1, 1991. The Applicants state that an intensive program of review and reinspection was initiated in the fall of 1984 to provide evidence of the safe design and construction of Comanche Peak Units No. 1 and No. 2. The remedial program was undertaken by the Applicants to respond to issues raised by the NRC staff, the Atomic Safety and Licensing Board (ASLB), and other sources in the operating license proceeding.² The Applicants anticipate that remedial program activities related to Unit No. 1 and its preparation for operation will not be complete before August 1, 1991.

As discussed more fully in the Staff's related Evaluation of Request dated November 18, 1988, we have concluded that good cause has been shown for the delay and that the requested extension is for a reasonable period. We have further concluded that the requested extension involves no significant hazards consideration, and therefore, no prior public notice is required.

The NRC staff has prepared an Environmental Assessment and Finding of No Significant Impact which was published in the Federal Register on October 25, 1988 (53 FR 43053). The NRC staff has concluded that this action will not have a significant impact on the quality of the human environment, and therefore, no environmental impact statement need be prepared.

¹ Effective January 20, 1975, the Atomic Energy Commission was abolished and its regulatory authority transferred to the Nuclear Regulatory Commission.

² The CPSES operating license proceeding was dismissed on July 13, 1988 by ASLB Memorandum and Order (Dismissing Proceedings).

The Applicants' letter dated June 6, 1988, and the staff's letter and evaluation issued in support of this Order are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and the local public document room at Somervell County Public Library, Glen Rose, Texas 76043.

It is Hereby Ordered that the latest construction completion date for CPPR-126 be extended to August 1, 1991.

For the Nuclear Regulatory Commission.

Dated at Rockville, Maryland, this 18th day of November 1988.

James G. Partlow,

Director, Office of Special Projects.

[FR Doc. 88-27334 Filed 11-25-88; 8:45 am]

BILLING CODE 7590-01-M

**OFFICE OF PERSONNEL
MANAGEMENT****Excepted Service; Schedules A, B and C**

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Leesa Martin, (202) 632-0728.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on October 25, 1988 (53 FR 206). Individual authorities established or revoked under Schedule A, B, or C between October 1, 1988, and October 31, 1988, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

No Schedule A authorities were established or revoked during October.

Schedule B

No Schedule B authorities were established or revoked during October.

Schedule C**Department of Commerce**

One Confidential Assistant to the Director for the Office of Commercial Space Programs. Effective October 7, 1988.

One Confidential Assistant to the Deputy Assistant Secretary for Domestic Operations. Effective October 7, 1988.

One Special Assistant to the Director for Executive Programs. Effective October 7, 1988.

Department of Education

One Executive Assistant to the Deputy Under Secretary for Planning and Budget. Effective October 21, 1988.

Department of Energy

One Special Assistant to the Assistant Secretary for Environment, Safety and Health. Effective October 14, 1988.

One Associate Director for the Office of Policy, Planning and Analysis. Effective October 19, 1988.

One Staff Assistant to the Under Secretary. Effective October 5, 1988.

Department of Housing and Urban Development

One Special Assistant to the General Deputy Assistant Secretary for Public and Indian Housing. Effective October 25, 1988.

Department of Interior

One Confidential Assistant to the Director of Security and Drug Enforcement. Effective October 28, 1988.

One Confidential Assistant to the Deputy Assistant Secretary for Policy and Analysis. Effective October 28, 1988.

One Special Assistant to the Assistant Secretary for Policy Budget and Administration. Effective October 28, 1988.

One Confidential Assistant to the Assistant to the Secretary and Director for the Office of Congressional and Legislative Affairs. Effective October 28, 1988.

Department of Justice

One Executive Assistant to the Deputy Commissioner for Immigration and Naturalization Service. Effective October 7, 1988.

One Special Assistant to the Assistant Attorney General for Offices, Boards and Divisions. Effective October 12, 1988.

One Confidential Assistant to the Assistant Attorney General for Offices, Boards and Divisions. Effective October 21, 1988.

One Confidential Assistant to the Associate Deputy Attorney General for

Offices, Boards and Divisions. Effective October 25, 1988.

One Assistant Director to the Director for the Office of Legal Policy. Effective October 25, 1988.

One Special Assistant to the Assistant Attorney General for Offices, Boards and Divisions. Effective October 28, 1988.

Two Confidential Assistants to the Attorney General for Offices, Boards and Divisions. Effective October 28, 1988.

One Assistant to the Attorney General for Offices, Boards and Divisions. Effective October 28, 1988.

Department of Labor

Two Senior Liaison Officers to the Assistant Secretary for Congressional Affairs. Effective October 7, 1988.

One Staff Assistant to the Assistant Secretary for Congressional Affairs. Effective October 7, 1988.

One Special Assistant to the Director for the Women's Bureau. Effective October 7, 1988.

One Special Assistant to the Assistant Secretary for Public and Intergovernmental Affairs. Effective October 11, 1988.

Department of Transportation

One Staff Assistant to the Chief of Staff for the Office of the Secretary. Effective October 7, 1988.

One Special Assistant to the Assistant Secretary for Public Affairs. Effective October 21, 1988.

One Confidential Assistant to the Chief of Staff for the Office of the Secretary. Effective October 21, 1988.

One Staff Assistant to the Assistant Secretary for Public Affairs. Effective October 21, 1988.

One Staff Assistant to the Chief of Staff for the Office of the Secretary. Effective October 21, 1988.

Department of the Treasury

One Legislation Assistant to the Assistant Secretary for Legislative Affairs. Effective October 26, 1988.

One Deputy Assistant Secretary for Policy Review and Analysis to the Assistant Secretary for Policy Development. Effective October 28, 1988.

Environmental Protection Agency

One Staff Assistant to the Director for the Office of Community and Intergovernmental Relations. Effective October 28, 1988.

Export-Import Bank of the United States

One Secretary (Stenography) to the Senior Vice President for International Lending. Effective October 7, 1988.

One Administrative Assistant to the Director for the Board of Directors. Effective October 11, 1988.

Federal Labor Relations Authority

One Special Assistant to the General Counsel. Effective October 28, 1988.

General Services Administration

One Director to the Associate Administrator for the Office of Business and Industry Affairs. Effective October 5, 1988.

One Confidential Assistant to the Director for the Office of the Executive Secretariat. Effective October 26, 1988.

Interstate Commerce Commission

One Confidential Assistant to the Commissioner. Effective October 11, 1988.

Office of Management and Budget

One Confidential Assistant to the Director. Effective October 21, 1988.

U.S. Office of Personnel Management
Constance Horner,
Director.

Authority: 5 U.S.C. 3301, 3302; E.O. 10555, 3 CFR 1954-1958 Comp., P. 218.

[FR Doc. 88-27393 Filed 11-25-88; 8:45 am]

BILLING CODE 6325-01-M

POSTAL RATE COMMISSION

Complaint of Third Class Mail Association; Notice and Order Setting Deadline for Intervention and Responses to Motion to Dismiss

Issued November 21, 1988.

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc, III.

[Docket No. C89-1]

On October 17, 1988, the Third Class Mail Association (TCMA) filed a complaint with the Commission under 39 U.S.C. 3662. That complaint requests that the Commission investigate and report its findings as to whether the continued application of the Private Express Statutes (39 U.S.C. 601 *et seq.*) to advertising mail is consistent with the policies of the Postal Reorganization Act. The Commission issued Order No. 804 the following day, setting a date for the Postal Service's answer to the complaint. That Order also solicited intervention notices from interested parties applicable to any proceeding that might result from the complaint, but did not set a deadline for intervention.

The Postal Service filed an answer to the TCMA complaint on November 16, 1988, denying its allegations. On that

date it also filed a motion to dismiss the complaint on the grounds that the Commission has no jurisdiction over the administration of the Private Express Statutes.

The Postal Service's motion to dismiss relies, in part, on Commission Order No. 133, from Docket No. RM76-4. The Commission instituted that rulemaking to provide a more appropriate context for evaluating our jurisdiction over the Private Express Statutes than did pending classification and complaint proceedings in which that issue arose. Order No. 133 states our general policy not to assert jurisdiction over questions concerning the application of the Private Express Statutes unless such jurisdiction is ancillary to our express statutory duties.

Responses to the Postal Service's motion to dismiss the TCMA complaint will be due on or before December 5, 1988. Parties who have not previously filed a notice of intervention in this docket that satisfied Rule 20 of our Rules of Practice (39 CFR 3001.20) must do so on or before December 5, 1988, if they wish to respond to the Postal Service's motion.

It is Ordered

1. Responses to the Motion to Dismiss, filed by the Postal Service in this docket on November 16, 1988, are due on or before December 5, 1988.

2. Parties who wish to respond to the Postal Service's Motion to Dismiss, who have not previously filed a notice of intervention in this docket, must do so on or before December 5, 1988.

By the Commission.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 88-27286 Filed 11-25-88; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26298; File No. SR-NYSE-88-21]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

On July 28, 1988, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule

¹ 15 U.S.C. 78a(b)(1).

19b-4 thereunder,² copies of a proposed rule change to adopt Rule 750A governing option specialist performance evaluation and reallocation procedures. The new rule would be implemented as a pilot to run concurrently with the existing pilot program for revised NYSE Rule 103A.³

Notice of the proposal together with its terms of substance was given by the issuance of a Commission release (Securities Exchange Act Release No. 26001, August 16, 1988) and by publication in the *Federal Register* (53 FR 31948). No comments were received in connection with the proposal.

Currently, NYSE option specialist activity is, for the most part, governed by Exchange rules designed for equity specialist activity but made applicable to option specialists by NYSE Rule 750. The rule incorporates by reference a variety of Exchange rules that regulate equity specialist conduct and tailors the rules specifically to the options market. Pursuant to NYSE Rule 750, the Exchange has proposed to adopt Rule 750A, which would incorporate by reference recently approved revisions to NYSE Rule 103A.⁴ The proposed rule contains performance improvement action procedures, reallocation procedures and procedural safeguards largely identical to those contained in revised Rule 103A. As noted above, however, revised Rule 103A governs equity specialist performance evaluation and reallocation proceedings, while proposed rule 750A would establish procedures for the evaluation of option specialist performance and for the reallocation of option classes or products for substandard option specialist performance.

Under the new rule, the NYSE Market Performance Committee ("MPC") would oversee the program and would be authorized to commence a performance improvement action in the event an option specialist's performance falls below minimum performance standards. In this connection, the proposed rule provides that an option specialist would be subject to a performance improvement action if the specialist unit receives an overall score of 4.00 for one semi-annual review period on the specialist general information questionnaire ("Options SPEQ") or a grade below 4.00 in any of the five categories on the Options SPEQ for two successive semi-annual review periods.⁵

Rule 750A further provides that the MPC would initiate a performance improvement action in the event an option specialist unit regularly fails to comply with Exchange rules and standards governing option specialist activity.⁶

As is the case under NYSE Rule 103A, the performance improvement action would conclude within the time frame established by the MPC, unless it has been terminated earlier as a result of the monitoring team's recommendation. The monitoring team would be required to render a final report to the MPC, at which time the MPC, following a review of the team's report, would determine whether the specialist unit has met the specific performance improvement goals contained in the specialist unit's improvement plan. Further, as provided by the proposed rule, all units would be judged on the basis of improvement as demonstrated by their success, or lack thereof, in attaining the performance improvement goals. A MPC determination that a specialist unit failed to meet the established goals would trigger reallocation proceedings, except in those cases in which the MPC believes that, given additional time (not to exceed one quarter) the unit can be reasonably expected to achieve its performance improvement goals.

Reallocation proceedings under Rule 750A generally would be similar to reallocation proceedings under revised Rule 103A. Under Rule 750A, the MPC would be required to provide written notice to the specialist unit of the reallocation proceedings as well as an opportunity to defend its performance.⁷ A determination that the specialist unit failed to meet its goals would lead to the reallocation of its registered option classes or one or more option products. In identifying which class or product to reallocate, the MPC would consider performance areas in which the unit

factors or extenuating circumstance involving factors beyond the control of the unit, however, the MPC would not be required to initiate a performance improvement action. A determination of highly unusual factors or extenuating circumstances would be made by a majority vote of the MPC.

⁶ The Rule provides for monitoring teams to assist option specialist units in developing performance improvement plans, which identify measures that the units can undertake to improve their performance as well as meet performance improvement goals established by the MPC. Further, each monitoring team would be allowed to submit an interim report to the MPC at any time during the performance improvement action that recommends (1) termination of the performance improvement action due to improvement in the unit's performance; (2) modification of the unit's performance improvement plan; or (3) an allocation freeze. See, Proposed Rule 750A(b) (6).

⁷ A written record of the proceedings would be maintained.

remains weak and would select the option classes or option products most associated with the weak performance areas. In the event the MPC is unable to identify particular option classes or one or more particular option products, the MPC would be allowed to use its discretion in determining which classes or products it believes should be reallocated.

Following the MPC's determination, the specialist unit would be provided an opportunity to persuade the MPC to reallocate other option classes or products and to request the MPC to consider revoking its registration in other option classes or products. The MPC would then make a final determination as to which specialist unit's option classes or option products would be referred to the Allocation Committee for reallocation.⁸

Finally, all option specialist units would be entitled to appeal a MPC reallocation decision to the Exchange's Board of Directors pursuant to Article IV, Section 14 of the NYSE Constitution. The rule would also bar member organizations associated directly or indirectly with either a member of the MPC or any monitoring team from applying to the Allocation Committee for an option class or product approved for reallocation.

After careful consideration, the Commission believes that the NYSE proposal to adopt Rule 750A to run concurrently with the Rule 103A pilot is reasonable and therefore has determined to approve the proposed rule change. In particular, the Commission believes that the Rule 750A pilot will enable the Exchange to monitor the effectiveness of the performance standards and other procedures contained in the rule. The Commission further believes that Rule 750A will provide structure to NYSE option specialist performance evaluations and reallocations. In this regard, we note that the new rule establishes specific, numerical standards of acceptable performance for option specialists as well as a more general requirement of compliance with applicable Exchange rules. Taken together, the Commission believes that these performance requirements should provide option specialists with tangible

⁸ The rule also provides for the initiation of reallocation proceedings in any instance where a specialist unit's performance in a particular instance was so egregiously inadequate as to call into question the Exchange's integrity or impair the Exchange's reputation for maintaining an efficient, fair, and orderly market. See, proposed Rule 750A(f).

² 17 CFR 240.19b-4.

³ See, Securities Exchange Act Rel. No. 25681 (May 9, 1988) 53 FR 17287.

⁴ See, n. 3, *supra*.

⁵ In the event the specialist unit's poor performance is attributable to highly unusual

measures by which the units can constantly assess their performance.

Further, the new rule establishes guidelines for, among other things, performance improvement actions. Option specialist units whose performance is found to be substandard will be provided with specific improvement goals developed by the Exchange in view of the unit's performance needs as well as other broader considerations such as overall market quality and order flow. Further, each unit will be permitted to participate in the preliminary stages of the performance improvement action by developing their own plan for performance improvement. The Commission believes that these procedures should enable the Exchange to oversee option specialists performance improvement efforts to the greatest extent practical, and should allow for joint Exchange and member efforts to remedy substandard specialist unit performance.

Finally, the Commission believes that the procedural protections contained in Rule 750A should ensure that specialist units whose performance fall below minimum acceptable standards or units whose option classes or products are subject to reallocation proceedings will be made aware of pending performance improvement or other remedial action and ensure that they are provided an opportunity to defend their performance.

While the Commission believes that proposed Rule 750A is reasonable, however, the Commission nonetheless believes that the Exchange should develop and incorporate into the rule objective performance criteria in a manner similar to its Rule 103A pilot. In the Commission's view, the combination of objective and subjective performance measures will improve the Exchange's ability to assess option specialist performance. For the reasons discussed above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rule and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the above mentioned proposed rule change be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Date: November 21, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-27366 Filed 11-25-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26297; File No. SR-PSE-88-25]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Notice and Order Granting Accelerated Approval to a Proposed Rule Change Relating to Increased Flexibility in Determining Position and Exercise Limits

On October 31, 1988, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4² thereunder, a proposed rule change to amend PSE Rule VI, Section 5 to provide greater flexibility in the establishment of position and exercise limits for stock options.

Currently, position limits for individual stock options are determined in accordance with a three-tiered system established in April 1985.³ Pursuant to this system, an underlying stock which meets specific standards governing trading volume and/or number of outstanding shares will qualify the overlying option for either an 8,000, 5,500, or 3,000 contract position limit. Under current practices, the Exchange reviews the volume and outstanding share information of all underlying stocks every six months (in January and July) to determine which contract limit shall apply for the following six months. If an underlying stock meets the requirements of a higher position limit, the higher limit is effective the first business day following the January or July review period.

The proposed rule change will revise the current review procedures such that the Exchange, in its discretion, may increase an option's position limit before the next six-month review date, if, subsequent to one six-month review but prior to the next review, an increase in the option's trading volume and/or outstanding shares would make a stock eligible for a higher position limit at the next review period. Nothing in the proposed rule change, however, shall change the current six-month review process that occurs in January and July. In this regard, even if an option becomes

eligible for a higher position limit between review periods, all subsequent calculations of that option's trading volume and/or outstanding shares for position limit purposes will continue to be based upon the six-month period immediately preceding the January or July review period, whichever is appropriate. The proposed rule change also does not alter the existing position limit criteria relating to outstanding shares and/or trading volume.⁴

The Exchange states that the proposed rule change is designed to provide liquidity to certain options without increasing the potential for market manipulation. The Exchange notes that frequently an underlying stock meets or surpasses the eligibility requirements for a higher position limit prior to the next six-month review. The Exchange notes further that, under current rules, an option that qualifies for a higher position limit before the next review period remains at the lower limit until the next semi-annual review is conducted. The Exchange suggests that limiting an option which is qualified for a higher position limit to the lower limit can discourage market participation by institutions and other market participants with substantial hedging needs.

The Commission finds that the proposed rule change is consistent with the Act and in particular the requirements of Section 6 and the Rules and Regulations thereunder. More specifically, the Commission believes that the proposed rule change will help provide additional liquidity to certain options by increasing institutional and individual investor participation in the trading of those options without altering the existing position limit criteria. In addition, because options can be used to hedge existing stock portfolios, the Commission believes that acceleration of the date upon which a qualified option's increased position limit takes effect will provide investors with a useful tool to hedge more effectively underlying stock positions.

The Commission believes further that any increase in an option's position limit before a semi-annual review period will not result in investor confusion. The Exchange specifically has indicated that

⁴ For example, under current PSE rules, if during the first two months after a six-month review a stock with an options position limit of 5,500 contracts trades 40,000,000 shares, the position limit would remain at 5,500 contracts even though the option would qualify for an 8,000 contract limit at the next six-month review. The Exchange's proposed rule change would allow the Exchange, at its discretion, to raise the limit to 8,000 contracts after the stock had reached the requirements for an 8,000 contract limit.

¹ 15 U.S.C. 78s(b)(1)(1982).

² 17 CFR 240.19b-4 (1988).

³ See Securities Exchange Act Release No. 21907 (March 29, 1985), 50 FR 13440.

it will provide its member firms with adequate notice of any increase so as to ensure the investment community is aware in advance of the changed position limit.⁵

Finally, the Commission believes that the proposed rule change, along with the recently approved two-year pilot program permitting a position limit exemption for up to twice the existing position limit where equity option positions are hedged on a one-for-one basis with underlying stock,⁶ will assist specialists and market makers in adequately meeting their obligations to maintain a fair and orderly market.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the *Federal Register* because the Commission recently approved substantially identical proposals to provide greater flexibility in determining position limits for stock options submitted by the American Stock Exchange, Inc., the Philadelphia Stock Exchange, Inc., and the Chicago Board Options Exchange, Inc.⁷ In addition, because the current position limit criteria for equity options have not changed, the Commission does not believe that the proposed rule change raises any additional market disruption or manipulation concerns.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the

Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of the exchange's filing also will be available for inspection and copying at the principal office of the exchange. All submissions should refer to the file number in the caption above and should be submitted by December 20, 1988.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁸ that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.⁹

Jonathan G. Katz,

Secretary.

[FR Doc. 88-27367 Filed 11-25-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16646; (811-5442)]

The Guardian Generation Series Trust; Notice of Application

November 21, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for De-Registration under the Investment Company Act of 1940 ("1940 Act").

Applicant: The Guardian Generation Series Trust.

Relevant 1940 Act Section: Section 8(f) and Rule 8f-1 thereunder.

Summary of Application: Applicant requests an order under section 8(f) declaring that it has ceased to be an investment company.

Filing Dates: The application was filed on October 21, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 13, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549;

⁵ 15 U.S.C. 78s(b)(2) (1982).

⁹ 17 CFR 200.30-3(a)(12) (1988).

Applicant, 201 Park Avenue South, New York, NY 10003.

FOR FURTHER INFORMATION CONTACT:

James E. Banks, Staff Attorney, (202) 272-2190, or Brion R. Thompson, Branch Chief, (202) 272-3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier, (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant registered under the 1940 Act as an open-end, diversified, management investment company on December 31, 1987. Applicant did not register any securities under the Securities Act of 1933 and never commenced a public offering of any of its shares.

2. Applicant is in the process of terminating its existence as a Massachusetts Business Trust.

3. Applicant has not distributed or transferred any assets in connection with the winding-up of its affairs, and does not have any outstanding debts or other liabilities.

4. Applicant is not a party to any current or pending litigation or administrative proceedings, and does not propose to engage in any business activities other than those necessary to effectuate the winding-up of its business and affairs.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-27302 Filed 11-25-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16647; 812-7119]

Application for Exemption; Chemical Mortgage Acceptance Corporation

November 21, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: Chemical Mortgage Acceptance Corporation.

Relevant 1940 Act Section: Exemption requested under Section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks an order exempting it from all

⁵ In this regard, the Commission expects that the Exchange will exercise judgment in determining whether to raise an option's limit so that six-month review will remain as the review period for the overwhelming majority of options. For example, it would be more consistent with the Exchange's discretion under the proposed rule for it to raise the limit for an option with a 5,500 limit if the underlying stock reaches the 40,000,000 share trading threshold two months before a six-month review than if it reached it one week before a six-month review.

⁶ See Securities Exchange Act Release No. 25738 (May 24, 1988), 53 FR 20201.

⁷ See Securities Exchange Act Release Nos. 26092 (September 19, 1988), 53 FR 37073; 26228 (October 31, 1988).

provisions of the 1940 Act in connection with its proposed issuance and sale of collateralized mortgage obligations and residual interest certificates.

Filing Date: The application was filed on September 13, 1988, and amendments to the application were filed on November 4, 10 and 18, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on the application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 14, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Chemical Mortgage Acceptance Corporation, 277 Park Avenue, New York, New York 10172.

FOR FURTHER INFORMATION CONTACT: H. R. Hallock, Jr., Special Counsel, at (202) 272-3030, Office of Investment Company Regulation, Division of Investment Management.

SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copies who can be contacted at (800) 258-4300.

Applicant's Representations

1. The Applicant, a Delaware corporation, is a wholly-owned, limited-purpose subsidiary of Chemical Acceptance Corporation, and an indirect wholly-owned subsidiary of Chemical Banking Corporation. The Applicant was organized to facilitate the financing of mortgage loans through the issuance of one or more series (each, a "Series") of bonds ("Bonds"), secured primarily by Mortgage Certificates (as defined in paragraph 4 below), and will perform certain related activities. The only Bonds which are the subject of the application are Bonds issued by the Applicant.

2. The Applicant seeks exemptive relief to permit it to issue one or more Series of Bonds and invest in certain Mortgage Certificates which will be used to collateralize such Bonds, and to permit it to sell its right to receive funds released by the Trustee from the lien of

the Indenture (each as defined in paragraph 3 below) in the form of residual interest certificates ("Residual Interest Certificates").

3. The Applicant will issue one or more Series of Bonds under the terms of an indenture (the "Indenture") between the Applicant and the trustee (the "Trustee"), as supplemented by one or more series supplements. The Indenture will be qualified under the Trust Indenture Act of 1939 unless an appropriate exemption is available.

4. The Applicant will issue and sell Bonds in Series secured primarily by Mortgage Certificates. The "Mortgage Certificates" collateralizing the Bonds will be limited to fully modified pass-through mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), Guaranteed Mortgage Pass-Through Securities issued by the Federal National Mortgage Association ("FNMA Certificates") and Mortgage Participation Certificates issued by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"). All or a portion of the Mortgage Certificates securing a Series of Bonds may be "Partial Pool" Mortgage Certificates. Each Series of Bonds may also be secured by certain funds and accounts including collateral proceeds accounts, reserve funds, reinvestment agreements and by other funds and accounts described in the series supplement (any or all of the foregoing, together with the Mortgage Certificates, the "Collateral").

5. Each Series of Bonds will consist of one or more classes, which may include one or more classes of current interest Bonds, compound Bonds, zero coupon Bonds, planned amortization Bonds or floating interest rate Bonds on which the rate of interest is adjusted periodically according to a fixed index set forth in the prospectus supplement or series supplement.

6. The Mortgage Certificates securing each Series of Bonds, together with any reinvestment income thereon and any applicable funds, will be sufficient to pay all interest due on the Bonds and to retire each class of Bonds by its stated maturity. The outstanding "collateral value" (calculated in accordance with the Indenture) at the time of issuance of the Bonds and following each payment date will be equal to or be greater than the outstanding principal balance of the Bonds. The Mortgage Certificates will be assigned to the Trustee and will be subject to the lien of the related Indenture.

7. In addition to the issuance and sale of the Bonds, the Applicant may sell some or all of the Residual Interest Certificates to certain institutional and

non-institutional investors, as described more fully under Condition C.(2) below.

8. There will not be a conflict of interest between the holders of the Bonds (the "Bondholders") and the owners of the Residual Interest Certificates because: (a) The Mortgage Certificates will not be speculative in nature; (b) the Bonds will be issued only if an independent nationally recognized statistical rating agency has rated such Bonds in one of the two highest rating categories; and (c) the Trustee will retain a first priority perfected security interest on behalf of the Bondholders in the Collateral, all income distributions thereon and all proceeds from a conversion, voluntary or involuntary, of any such Collateral, subject only, in the event of a default under the Indenture, to the Trustee's own limited prior lien, if any, to the extent of its unpaid fees and expenses.

9. Neither the Applicant, the holders of the Residual Interest Certificates, nor the Trustee will be able to impair the security afforded by the Mortgage Certificates because, without the consent of each affected Bondholder, neither the Applicant, the holders of the Residual Interest Certificates, nor the Trustee will be able to: (a) Change the stated maturity on any Bond; (b) reduce the principal or rate of interest (or the manner of determining the rate of interest on floating interest rate bonds) on any Bond; (c) change the priority of repayment on any class of any Series of Bonds; (d) impair or adversely affect the Mortgage Certificates securing a Series of Bonds; (e) permit the creation of a lien ranking prior to or on parity with the lien of the related Indenture with respect to the Mortgage Certificates; or (f) otherwise deprive the Bondholders of the security afforded by the lien of the related Indenture.

10. The sale of the Residual Interest Certificates will not alter the payment of cash flows under an Indenture, including the amounts to be deposited in the collateral proceeds account or any reserve fund. The aggregate interest in the Collateral which is available to the holders of the Residual Interest Certificates will be far less than payments to Bondholders.

11. An election by the Applicant to treat the arrangement by which the Collateral secures a Series of Bonds as a "real estate mortgage investment conduit" ("REMIC") under the Internal Revenue Code of 1986, as amended, will have no significant effect on the level of expenses that would be incurred by such REMIC. See Condition D, below.

Applicant's Legal Conclusions

The relief requested is necessary and appropriate in the public interest because the Applicant is not the type of entity to which the provisions of the 1940 Act were intended to be applied, the safeguards afforded to Bondholders fully protect investors, the owners of Residual Interest Certificates will be sophisticated in the area of mortgages and mortgage-backed assets and limited in number, and the proposed activities will promote the public interest by facilitating the financing of housing by supplying capital for reinvestment in the real estate and mortgage markets.

Conditions to Order

The Application agrees that the requested order may be expressly conditioned upon the following:

A. Conditions Relating to the Collateral

(1) The Bonds of each Series will be registered under the Securities Act of 1933 ("1933 Act"), unless offered in a transaction exempt from registration either under section 4(2) of the 1933 Act or because such Series of Bonds will come to rest outside the United States, provided that the Bonds are offered and sold outside the United States or to non-United States persons in reliance upon an opinion of United States counsel that registration is not required. No single offering of Bonds both within and outside the United States will be made without registration of all such Bonds under the 1933 Act without first obtaining a no-action letter under the 1933 Act permitting such offering or otherwise complying with the applicable standards then governing such offerings. In all such cases, the Applicant will adopt agreements and procedures reasonably designed to prevent such Bonds from being offered or sold in the United States or to United States persons (except as United States counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be substantially the same as that provided to United States investors in United States offerings.

(2) The Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the Securities Exchange Act of 1934. The primary collateral directly securing the Bonds will be limited to GNMA, FNMA and FHLMC Certificates.

(3) If new Mortgage Certificates are substituted, the substitute mortgage certificates must: (i) Be of equal or better quality than the Mortgage Certificates replaced; (ii) have similar payment terms and cash flows to the Mortgage

Certificates replaced; (iii) be insured or guaranteed at least to the same extent as the Mortgage Certificates replaced; and (iv) meet the criteria set forth in Conditions A. (2) and (4). New Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

(4) All of the Mortgage Certificates, funds, accounts or other collateral securing a Series of Bonds will be held by the Trustee or on behalf of the Trustee by an independent custodian. The Trustee or the custodian may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act, 17 CFR 230.405) of the Applicant or any owner of a Residual Interest Certificate. The Trustee will retain a first priority perfected security or lien interest in and to all collateral securing such Bonds.

(5) Each Series of Bonds will be rated in one of the two highest bond rating categories by at least one nationally recognized statistical rating organization that is not affiliated with the Applicant or any owner of a Residual Interest Certificate. The Bonds will not be "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

(6) No less often than annually, an independent public accountant will audit the books and records of the Applicant and will report on whether the anticipated payments of principal and interest on the collateral continue to be adequate to pay the principal and interest on the Bonds in accordance with their terms. Upon completion, copies of the auditor's reports will be provided to the Trustee.

B. Conditions Relating to Floating Interest Rate Bonds

(1) Each class of floating interest rate Bonds will have a set maximum interest rate (an interest rate cap) or a minimum interest rate (with respect to adjustable rate Bonds which vary inversely with an index).

(2) At the time of the assignment and pledge of the Mortgage Certificates to the Trustee, as well as during the life of the Bonds, the scheduled payments of principal and interest to be received by the Trustee on the Mortgage Certificates plus any reinvestment income thereon, and funds, if any, pledged to secure the Bonds will be sufficient to make all payments of principal and interest on the Bonds then outstanding. The Mortgage Certificates will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but

subject to the Applicant's limited right to substitute collateral as set forth in Condition A.(3) above, will not be released from the lien of the Indenture prior to the payment of the Bonds.

C. Conditions Relating to the Sale of the Residual Interest Certificates

(1) Notwithstanding the sale of Residual Interest Certificates, all of the outstanding capital stock of the Applicant will continue to be owned by Chemical Acceptance Corporation or an affiliate thereof. The Applicant will not issue any other capital stock, except to Chemical Acceptance Corporation or an affiliate thereof.

(2) A Residual Interest Certificate will be offered and sold only to (i) institutions or (ii) not more than 15 non-institutions which are "accredited investors" as defined in Rule 501(a) of the 1933 Act. Institutional purchasers of Residual Interest Certificates will be limited to mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds, real estate investment trusts, master limited partnerships or other similar institutional investors. Institutional investors will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing Residual Interest Certificates and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 15, be required to purchase at least \$200,000 of such Residual Interest Certificates and will have a net worth at the time of purchase that exceeds \$1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing a Residual Interest Certificate and will have direct personal and significant experience in making investments in mortgage-related securities.

(3) Each sale of Residual Interest Certificates will qualify as a transaction not involving any public offering within the meaning of the 1933 Act.

(4) The Indenture will prohibit the transfer of any such Residual Interest Certificates if there would be more than 100 holders of Residual Interest Certificates in a Series of Bonds as a result of such transfer.

(5) In connection with each sale of Residual Interest Certificates each purchaser thereof will be required to represent that it is purchasing for investment and not for distribution and that it will hold such Residual Interest Certificates in its own name and not as nominee for undisclosed investors.

(6) In connection with each sale of Residual Interest Certificates, each purchaser thereof will be required to represent that it is not affiliated with the Trustee.

(7) If the sale of Residual Interest Certificates results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of any REMIC where Applicant has elected to treat the arrangement by which the Bonds are issued as a REMIC, the exemptive relief afforded by an order granted on the application would not apply to subsequent Bond offerings by such REMIC.

D. Condition Relating to REMICs

The election by the Applicant to treat the arrangement by which the collateral secures a Series of Bonds as a REMIC will have no significant effect on the level of the expenses that would be incurred by the REMIC. In the event of such a REMIC election, the Applicant will provide for the payments of administrative fees and expenses as set forth in the application in a manner satisfactory to the agency or agencies rating the Bonds. The Applicant will ensure that the anticipated level of fees and expenses will be adequately provided for regardless of which method or methods described in the application to provide for the payment of such fees and expenses is selected.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-27368 Filed 11-25-88; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. IC-16649; 812-7170]

Application for Exemption; MBL Growth Fund, Inc., and MAP-Government Fund, Inc.

November 21, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

Applicants: MBL Growth Fund, Inc. and MAP-Government Fund, Inc. ("Funds" or "Applicants").

Relevant 1940 Act Sections:

Exemption requested under section 6(c) from the provisions of section 32(a)(1).

Summary of Application: Applicants seek an order to permit them to file financial statements signed or certified by an independent public accountant selected at a board of directors meeting held within sixty days after the beginning of each Applicant's respective fiscal year.

Filing Date: The application was filed on November 8, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m., on December 16, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, c/o The Mutual Benefit Life Insurance Company, 520 Broad Street, Newark, New Jersey 07102-3184. Attention: Judith C. Keilp, Esq., with copies to Freedman, Levy, Kroll & Simonds, Washington Square, Suite 825, 1050 Connecticut Avenue NW., Washington, DC 20036-5366, Attention: Gary O. Cohen, Esq.

FOR FURTHER INFORMATION CONTACT: Jeremy N. Rubenstein, Staff Attorney, at (202) 272-2847, or Stephanie M. Monaco, Special Counsel, at (202) 272-3030 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. The Funds are diversified, open-end management investment companies registered under the Act and incorporated under the laws of the State of Maryland.

2. The Funds typically hold sequential quarterly meetings of their boards of directors on the same day. The respective board of directors of each

Fund selects independent public accountants at its first quarterly meeting.

3. The corporate laws of Maryland do not require the holding of an annual shareholder meeting, except as required under the Act. Therefore, unless shareholder action is required for one of the specified exceptions, the Funds do not intend to hold annual meetings of shareholders. Accordingly, under the provisions of section 32(a)(1), the Funds would be required to select their independent public accountants within thirty days before or after the beginning of each Fund's respective fiscal year.

4. Each Fund's selection of independent public accountants is based on the recommendation of an audit committee composed of disinterested directors serving on the board of directors of each Fund.

5. Presently, the same independent public accountant serves both of the Funds. It is anticipated that the practice of the Funds using the same independent public accountant will be continued.

6. The extension of the thirty-day period under section 32(a)(1) to sixty days would provide each Fund's audit committee with the necessary time to review the accountants' reports, and would provide each Fund's board of directors with the necessary time to review the audit committee's recommendations and make an informed decision regarding the selection of independent public accountants to be used by the Fund for the current fiscal year.

7. Continuation of the current schedule of boards of directors meetings and the selection of independent public accountants during the first quarterly meetings would be consistent with the past practices of the Funds, and would be more cost effective than requiring special meetings or continuing to hold regular shareholder meetings. The cost savings will benefit the shareholders. Therefore, the Funds are seeking an order to permit them to file financial statements signed or certified by independent public accountants which have been selected at meetings held within sixty days after the beginning of their respective fiscal years. The requested expansion is consistent with the underlying policies of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 88-27369 Filed 11-25-88; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE**[Public Notice CM-5/1242]****Advisory Committee on Historical Diplomatic Documentation; Meeting**

The Advisory Committee on Historical Diplomatic Documentation will meet on December 8, 1988, at 9:00 a.m. in Room 1105 of the Department of State.

The Advisory Committee advises the Bureau of Public Affairs, and in particular the Office of the Historian, concerning problems connected with preparation of the documentary series entitled "Foreign Relations of the United States" and other responsibilities of that Office.

In accordance with section 10(d) of the Advisory Committee Act (Pub. L. 92-463) it has been determined that certain discussions during the meeting will necessarily involve consideration of matters recognized as not subject to public disclosure under 5 U.S.C. 552 b (c)(1), and that the public interest requires that such activities be withheld from disclosure. The meeting will therefore be closed when such discussions take place from 2 p.m. to 5 p.m. on Thursday, December 8, and all day Friday, December 9.

Persons wishing to attend the open portion of the meeting should come before 9:00 a.m. on December 8 to the Diplomatic Entrance of the Department of State at 22nd and C Streets NW., Washington, DC. They will be escorted to Room 1105 and at the conclusion of the open portion of the meeting back to the Diplomatic Entrance.

Questions concerning the meeting should be directed to William Z. Slany, Executive Secretary, Advisory Committee on Historical Diplomatic Documentation, Department of State, Office of the Historian, Washington, DC 20520; telephone (202) 663-1122.

William Z. Slany,

Executive Secretary.

[FR Doc. 88-27288 Filed 11-25-88; 8:45 am]

BILLING CODE 4710-10-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**Canadian Duty Remission Programs for Automotive Components; Decision Not To Initiate Investigation**

AGENCY: Office of the United States Trade Representative.

ACTION: Decision not to initiate an investigation.

The United States Trade Representative (USTR) has determined

not to initiate an investigation at this time under section 302 of the Trade Act of 1974, as amended by the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 2411), with respect to a petition filed on October 4, 1988 concerning Canada's duty remission programs for automotive components. The petitioner in this case, the Governor of the State of Michigan, lacks standing to file a petition pursuant to section 302(a)(1) (19 U.S.C. 2412(a)(1)) and USTR regulations (15 CFR 2006.0(b)); he is not a private party seeking government action under section 301.

Even were standing not at issue in this matter, the Trade Representative still would have determined not to initiate an investigation at this time. Under section 207 of the United States-Canada Free-Trade Agreement Implementation Act of 1988, the USTR will be required to initiate a study to determine whether any of Canada's production-based duty remission programs for automotive products is either: (a) Inconsistent with the provisions of, or otherwise denies benefits to the United States under, the General Agreement on Tariffs and Trade; or (b) being implemented inconsistently with the obligations under article 1002 of the Free-Trade Agreement not to expand the extent or the application, or to extend the duration, of such programs. Section 207, which will take effect upon entry into force of the Free-Trade Agreement, will also require USTR to determine whether to initiate a section 301 investigation with respect to these programs. The Trade Representative believes the appropriate course is to follow the procedures set forth in section 207 rather than preempt that process by initiating an investigation under section 302(a) at this time.

FOR FURTHER INFORMATION CONTACT: Charles Roh (202) 395-3432, or William Merkin (202) 395-5663, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, DC 20506.

EFFECTIVE DATE: November 15, 1988.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 88-27310 Filed 11-25-88; 8:45 am]

BILLING CODE 3190-01-M

[Docket No. 301-69]

Initiation of Section 302 Investigation; Japanese Barriers to the Provision of Architectural, Engineering, and Construction Services, and Related Consulting Services

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation under section 302 of the Trade Act of 1974, as amended.

SUMMARY: As required by section 1305 of the Omnibus Trade and Competitiveness Act of 1988, Pub. L. No. 100-418, the United States Trade Representative is initiating an investigation under section 302 of the Trade Act of 1974, as amended, regarding those acts, policies and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance in Japan by United States persons of architectural, engineering, and construction services, and related consulting services.

EFFECTIVE DATE: November 21, 1988.

FOR FURTHER INFORMATION CONTACT: Bonnie Richardson, Special Assistant for Services, (202) 395-7271, Office of the U.S. Trade Representative, 600 17th Street NW., Washington, DC, 20506.

SUPPLEMENTARY INFORMATION: The Office of the United States Trade Representative (USTR) intends to request consultations with the Government of Japan regarding the issues involved in this investigation, as required by section 303(a) of trade Act of 1974, as amended. In preparation for such consultations, USTR will seek information from appropriate private sector advisory committees, pursuant to section 304(b) of that Act.

Any interested person wishing to express a view with respect to the issues raised in this investigation should file a comment by no later than 5:00 p.m. on December 20, 1988, in accordance with the regulations set out at 15 CFR 2006.8. Comments must be in English and provided in twenty copies to: A. Jane Bradley, Chairman, Section 301 Committee, Room 223, USTR, 600 17th Street NW., Washington, DC, 20506.

A. Jane Bradley,

Chairman, Section 301 Committee.

[FR Doc. 88-27309 Filed 11-25-88; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY**Public Information Collection Requirements Submitted to OMB for Review**

Date: November 21, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980,

Pub. L. 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Alcohol, Tobacco and Firearms

OMB Number: 1512-0052

Form Number: ATF F 5130.9

Type of Review: Extension

Title: Brewer's Monthly Report of Operations

Description: ATF F 5130.9 is a periodic report detailing specific operations and activities to account for taxable commodities used in operating. For this reason, ATF F 5130.9 is a method of safeguard tax revenue. ATF F 5130.9 shows taxable and nontaxable removals, overages, shortages and losses at breweries. ATF is able to pinpoint difficulties at individual breweries and take appropriate steps on a timely basis to protect revenue.

Respondents: Businesses or other for-profit, Small businesses or organizations

Estimated Number of Respondents: 147
Estimated burden Hours Per Response: 1 hour

Frequency of Response: Monthly

Estimated Total Reporting Burden: 1,764 hours

Clearance Officer: Robert Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7011, 1200 Pennsylvania Avenue NW., Washington, DC 20226.

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports, Management Officer.

[FR Doc. 88-27292 Filed 11-25-88; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

Date: November 21, 1988.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub.L. 96-511. Copies of the

submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515-0075

Form Number: 7512-C, 7512-D

Type of Review: Revision

Title: Transportation Entry and Manifest of Goods

Description: Customs Forms 7512-C and D are control forms used by importers, customs brokers, and carriers to show proof of delivery of merchandise entering the United States and being transported in-bond to another port of destination in the United States.

Respondents: Businesses of other for-profit, Small businesses or organizations

Estimated Number of Respondents: 10,000

Estimated Burden Hours Per Response: 20 seconds

Frequency of Response: On occasion

Estimated Total Reporting Burden: 11,120 hours

Clearance Officer: B. J. Simpson (202) 566-7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue, NW., Washington, DC 20229.

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 88-27293 Filed 11-25-88; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 88-75]

Revocation of Corporate Broker License No. 9836; Jose A. Montemayor e Hijos, Inc.

November 15, 1988.

AGENCY: U.S. Customs Service, Treasury.

ACTION: General notice.

SUMMARY: Notice is hereby given that on October 26, 1988, pursuant to section 641(b)(5), Tariff Act of 1930, as amended (19 U.S.C. 1641(b)(5)), the corporate

license (No. 9836) for Jose A. Montemayor e Hijos, Inc., to conduct Customs business was revoked by action of law.

Dated: November 15, 1988.

Victor G. Weeren,

Director, Office of Trade Operations.

[FR Doc. 88-27340 Filed 11-25-88; 8:45 am]

BILLING CODE 4820-02-M

UNITED STATES INFORMATION AGENCY

Radio Engineering Advisory Committee; Meeting

The Radio Engineering Advisory Committee of the United States Information Agency (USIA) will meet in Washington, DC, on Wednesday, December 7, 1988, to discuss current operations and future plans of the Voice of America (VOA). The meeting will be held at the Voice of America, 330 Independence Avenue SW., Washington, DC 20547. The meeting will begin at 10 a.m. on December 7 and will continue through 4 p.m. Point of contact for the meeting is Helen Giles, telephone (202) 485-8048.

This meeting will include reports from senior members of the VOA management and engineering staff on the progress being made on the overall VOA modernization and enhancement effort. Specific topics of discussion will include the procurement and testing of high frequency broadcasting antennas, the status of negotiations with other governments and major construction projects, and other technical and regulatory issues relating to VOA modernization.

This meeting will be closed to the public because issues relating to negotiations with other governments will be discussed throughout the meeting. This meeting will be closed because disclosure of the matters to be discussed is likely to divulge information that is: (A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy, and (B) in fact, is properly classified pursuant to such Executive Order (5 U.S.C. 552b(c)(1)).

Date: November 18, 1988.

Charles Z. Wick,

Director.

[FR Doc. 88-27289 Filed 11-25-88; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register

Vol. 53, No. 228

Monday, November 28, 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).

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Commission Meeting, Tuesday, November 29, 1988, 2:30 p.m.
LOCATION: Room 556, Westwood Towers, 5401 Westbard Avenue, Bethesda, Maryland.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. *Compliance Status Report*
The staff will brief the Commission on the status of various compliance matters.
2. *Enforcement Matter OS #3038*
The staff will brief the Commission on issues related to enforcement matter OS #3038.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5703.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800. November 11, 1988.

Sheldon D. Butts,
Deputy Secretary.
 [FR Doc. 88-27505 Filed 11-23-88; 3:34 pm]
 BILLING CODE 6355-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:11 a.m. on Tuesday, November 22, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation;

and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), (c)(9)(A) (ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550 17th Street NW., Washington, DC.

Dated: November 23, 1988.
 Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.
 [FR Doc. 88-27516 Filed 11-23-88; 4:32 pm]
 BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m.—November 30, 1988.

PLACE: Hearing Room One—1100 L Street NW., Washington, DC 20573-0001.

STATUS: Part of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portion Open to the Public

1. Docket No. 88-16—*Service Contracts*—Correction of Clerical or Administrative Errors—Consideration of Comments.
2. Proposed Rulemaking to Amend Agreement Filing Regulations—Definitions of "Conference Agreement" and "Joint Service/Consortium Agreement".

Portion Closed to the Public

1. Matson Navigation Company, Inc.—Application for section 35 Exemption From Tariff Filing Requirements
2. Agreement No. 232-011217: A Space Chartering Agreement Between P&O Containers (TFL) Limited, Nedlloyd Lijnen B.V., Sea-Land Service, Inc. (Agreement No. 232-011171); and Compania Trasatlantica Espanola, S.A. ("CTE"); filed October 24, 1988.

CONTACT PERSON FOR MORE INFORMATION: Joseph C. Polking, Secretary, (202) 523-5725.

Joseph C. Polking,
Secretary.
 [FR Doc. 88-27399 Filed 11-23-88; 10:03 am]
 BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, November 30, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street

entrance between 20th and 21st Streets NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding a contingency data processing center within the Federal Reserve System.
2. Proposals regarding a Federal Reserve Bank's building requirements. (This item was originally announced for a closed meeting on November 28, 1988.)
3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 22, 1988.

James McAfee,
Associate Secretary of the Board.
 [FR Doc. 88-27396 Filed 11-23-88; 9:15 am]
 BILLING CODE 6210-01-M

NATIONAL TRANSPORTATION SAFETY BOARD

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 53, No. 220/Tuesday, November 15, 1988/46013.

PREVIOUSLY ANNOUNCED TIME AND DATE: 9:30 a.m., Tuesday, November 22, 1988.

CHANGE IN MEETING: A majority of the Board Members determined by recorded vote that the business of the Board required revising the agenda of this meeting and that no earlier announcement was possible. Item one (Aircraft Accident Report-Ryan Air Service, Inc. Flight 103 Beech Aircraft Corporation 1900C, N401RA, Homer, Alaska, November 23, 1987) has been removed from the agenda to be scheduled at a later date.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Bea Hardesty,
Federal Register Liaison Officer.
 November 21, 1988.

[FR Doc. 88-27416 Filed 11-23-88; 11:23 a.m.]
 BILLING CODE 7533-01-M

SECURITIES AND EXCHANGE COMMISSION Agency Meetings

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 meetings during the week of November 28, 1988.

An open meeting will be held on Tuesday, November 29, 1988, at 2:00 p.m., followed by a closed meeting.

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 Fleischman, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Tuesday, November 29, 1988, at 2:00 p.m., will be:

1. Consideration of whether to issue a Notice of and Order for Hearing on applications filed by Noverco Inc., of Montreal, Canada, (1) to acquire the common stock of Northern New England Gas Corporation, a Vermont corporation and an exempt holding company, and (2) for an exemption pursuant to section 3(a)(5) of the Public Utility Holding Company Act of 1935. For further information, please contact Robert F. McCulloch at (202) 272-7699.

2. Consideration of whether to publish for comment a release proposing revisions to its rules regarding the filing of ownership reports by corporate officers, directors, and principal shareholders, and exemption of certain transactions by those persons from the short-swing profit recovery provisions of the

Securities Exchange Act of 1934. For further information, please contact Brian J. Lane or Mark W. Green at (202) 272-2589.

The subject matter of the closed meeting scheduled for Tuesday, November 29, 1988, following the 2:00 p.m. open meeting, will be:

Institution of injunctive actions.

Settlement of administrative proceedings of an enforcement nature.

Institution 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: Max Berueffy at (202) 272-2400.

Jonathan G. Katz,

Secretary.

November 23, 1988.

[FR Doc. 88-27451 Filed 11-23-88; 1:07 pm]

BILLING CODE 8010-01-M

Corrections

Federal Register

Vol. 53, No. 228

Monday, November 28, 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.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-260052; -FRL-3388-3]

Regulation of Pesticides in Food: Addressing the Delaney Paradox Policy Statement

Correction

In notice document 88-24126 beginning on page 41104 in the issue of Wednesday, October 19, 1988, make the following corrections:

1. On page 41112, in the second column, in the third complete paragraph, in the first line, "is" should read "in".

2. On the same page, in the third column, in the second complete paragraph, in the ninth line, "know" should read "known"; and in the 13th line "secondly" should read "secondary".

3. On page 41116, in the first column, in the first complete paragraph, in the 13th line, "date" should read "data".

4. On page 41117, in the second column, in the fourth complete paragraph, in the 14th line, "or" should read "of".

5. On the same page, in the third column, in the second complete paragraph, in the second line, "he" should read "the".

6. On page 41118, in the second column, in the first complete paragraph, in the 11th line, "not" should read "no".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-940-09-4214-10; CACA 17620]

Proposed Withdrawal and Opportunity for Public Meeting; California

Correction

In notice document 88-24857 appearing on page 43479 in the issue of Thursday, October 27, 1988 make the following corrections:

1. In the second column, under **DATE**, the third line should read "January 25, 1989".

2. In the same column, under **San Bernardino Meridian**, in the entry for "Sec 23.", the first line should read "Sec. 23. SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ ".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-930-09-4214-10; WYW 112132]

Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

Correction

In notice document 88-24816 beginning on page 43479 in the issue of Thursday, October 27, 1988, make the following correction:

In the third column, under **DATE**, in the third line "January 25, 1988" should read "January 25, 1989".

BILLING CODE 1505-01-D

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

Correction

In rule document 88-26340 beginning on page 45904 in the issue of Tuesday,

November 15, 1988, make the following correction:

On page 45905, in the second and third columns, the third and fourth paragraphs under **SUPPLEMENTARY INFORMATION** are incorrect and should read as follows:

"The PBGC is amending Appendix B to add the required interest rate for premium payment years beginning in November 1988. Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(d)(3).

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of \$100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets."

BILLING CODE 1505-01-D

1. The first year of the war	1
2. The second year of the war	10
3. The third year of the war	20
4. The fourth year of the war	30
5. The fifth year of the war	40
6. The sixth year of the war	50
7. The seventh year of the war	60
8. The eighth year of the war	70
9. The ninth year of the war	80
10. The tenth year of the war	90
11. The eleventh year of the war	100
12. The twelfth year of the war	110
13. The thirteenth year of the war	120
14. The fourteenth year of the war	130
15. The fifteenth year of the war	140
16. The sixteenth year of the war	150
17. The seventeenth year of the war	160
18. The eighteenth year of the war	170
19. The nineteenth year of the war	180
20. The twentieth year of the war	190
21. The twenty-first year of the war	200
22. The twenty-second year of the war	210
23. The twenty-third year of the war	220
24. The twenty-fourth year of the war	230
25. The twenty-fifth year of the war	240
26. The twenty-sixth year of the war	250
27. The twenty-seventh year of the war	260
28. The twenty-eighth year of the war	270
29. The twenty-ninth year of the war	280
30. The thirtieth year of the war	290
31. The thirty-first year of the war	300
32. The thirty-second year of the war	310
33. The thirty-third year of the war	320
34. The thirty-fourth year of the war	330
35. The thirty-fifth year of the war	340
36. The thirty-sixth year of the war	350
37. The thirty-seventh year of the war	360
38. The thirty-eighth year of the war	370
39. The thirty-ninth year of the war	380
40. The fortieth year of the war	390
41. The forty-first year of the war	400
42. The forty-second year of the war	410
43. The forty-third year of the war	420
44. The forty-fourth year of the war	430
45. The forty-fifth year of the war	440
46. The forty-sixth year of the war	450
47. The forty-seventh year of the war	460
48. The forty-eighth year of the war	470
49. The forty-ninth year of the war	480
50. The fiftieth year of the war	490

Registered Federal Land

Monday
November 28, 1988

Part II

Department of the Interior

Bureau of Land Management

43 CFR Part 3190

Delegation of Authority, Cooperative
Agreements and Contracts for Oil and
Gas Inspections; Proposed Rulemaking

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 3190

[AA-650-08-4121-2410]

Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This proposed rulemaking would establish administrative procedures for States and Indian tribes to inspect Federally supervised oil and gas leases within the limits of their jurisdictions. These procedures are necessary to implement section 202 of the Federal Oil and Gas Royalty Management Act of 1982.

DATE: Comments should be submitted by December 28, 1988. Comments received or postmarked after the above date may not be considered in the decisionmaking process on issuance of a final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, Room 5555, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Susan Pepperney, (202) 653-2127.

SUPPLEMENTARY INFORMATION: This proposed rulemaking would establish a new Subpart 3192 in Part 3190, Group 3100 which would implement the authority contained in section 202 of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) (30 U.S.C. 1732) relating to the inspection of Federally supervised oil and gas leases by a State or Indian tribe under a cooperative agreement between BLM and the State or tribe. This is the second of a series of 3 rulemakings implementing the authority in FOGRMA that provides for inspection of Federally supervised oil and gas leases by other than Federal employees. The first, published in the *Federal Register* on July 17, 1987 (52 FR 27180), set forth general provisions pertaining to delegations of authority, cooperative agreements, and contracts, and the particular regulations governing delegations of authority. It has been the policy of the Department of the Interior to implement section 205 of the Federal Oil and Gas Royalty Management Act first and then to follow with the implementation of sections 202 and 301. This proposed rulemaking would provide procedures for cooperative agreements under section

202 of the Act. It therefore covers cooperative agreements between the Bureau of Land Management and States and Indian tribes.

The purpose of the inspection program is to determine whether there is compliance on oil and gas leases with the requirements of the mineral leasing laws and the Federal Oil and Gas Royalty Management Act.

Section 202 of the Federal Oil and Gas Royalty Management Act authorizes the Secretary of the Interior to enter into cooperative agreements with States and Indian tribes for the purpose of sharing oil and gas royalty management information, and carrying out inspection, investigation, and certain enforcement activities, including those activities authorized by section 108 of the Act. The Secretary may not enter into cooperative agreements with a State involving Indian lands without permission of the affected Indian tribe.

In considering this proposed rulemaking, States and tribes should be aware that the continuation of any cooperative agreement made under any regulations promulgated as a result of this rulemaking process will be conditioned upon the availability of the funds for compensation to an entity participating in the program.

The proposed rulemaking would also add a new § 3190.4 providing that the Bureau of Land Management will make available information needed by States or Indian tribes to carry out activities authorized by cooperative agreements, contracts, or delegations of authority provided for in this part.

The principal author of this proposed rulemaking is Susan Pepperney of the Division of Fluid Mineral Lease and Reservoir Management, assisted by the staff of the Division of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this proposed rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

The information collection requirements contained in Subpart 3192 have been approved by the Office of Management and Budget under 44 U.S.C.

3501 and assigned clearance number 0348-0006.

List of Subjects in 43 CFR Part 3190

Administrative practice and procedure, Government contracts, Indian lands—mineral resources, Intergovernmental relations, Mineral royalties, Oil and gas production, Public lands—mineral resources, Reporting and recordkeeping requirements.

Under the authorities cited below, it is proposed to amend Part 3190, Group 3100, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations as set forth below:

PART 3190—DELEGATION OF AUTHORITY, COOPERATIVE AGREEMENTS AND CONTRACTS FOR OIL AND GAS INSPECTION

1. The authority citation for Part 3190 continues to read as follows:

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 *et seq.*), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Act of March 3, 1909, as amended (25 U.S.C. 396), the Act of May 11, 1938, as amended (25 U.S.C. 396a-396q), the Act of February 18, 1891, as amended (25 U.S.C. 397), the Act of May 29, 1924 (25 U.S.C. 398), the Act of March 3, 1927 (25 U.S.C. 398a-398e), the Act of June 30, 1919, as amended (25 U.S.C. 399) and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

Subpart 3190—Delegation of Authority, Cooperative Agreements and Contracts for Oil and Gas Inspections; General

2. Section 3190.4 is added to read as follows:

§ 3190.4 Availability of information.

Information in the possession of the Bureau of Land Management that is necessary to carry out activities authorized by delegations of authority, cooperative agreements, or contracts entered into under this part will be provided by the BLM to the States and Indian tribes party to such agreements. Release of proprietary data shall be subject to the provisions of section 3190.1 of this part.

3. Subpart 3192 is added to read as follows:

Subpart 3192—Cooperative Agreements with States and Tribes

Sec.

3192.1 Establishment of cooperative agreements with States and tribes.

3192.1-1 Eligibility.

3192.1-2 Request for cooperative agreement.

3192.1-3 Action on request for cooperative agreement.

Sec.

- 3192.1-4 Terms of agreements.
- 3192.1-5 Contents of agreements.
- 3192.1-6 Allowable costs.
- 3192.1-7 Performance standards.
- 3192.1-8 Withdrawal of Indian lands from State cooperative agreements.
- 3192.2 Activities authorized under cooperative agreements.
- 3192.2-1 Inspections.
- 3192.2-2 Enforcement.
- 3192.2-3 Investigations.
- 3192.2-4 Oil transporter inspection.
- 3192.3 Activities not authorized under cooperative agreements.
- 3192.3-1 Assessments and penalties.
- 3192.3-2 Collections.
- 3192.4 State and tribal inspectors.
- 3192.4-1 Selection of inspectors.
- 3192.4-2 Training.
- 3192.4-3 Inspector identification cards.
- 3192.4-4 Certification.
- 3192.4-5 Conflict of interest.
- 3192.5 Termination and reinstatement of agreements.
- 3192.5-1 Termination.
- 3192.5-2 Reinstatement.

Subpart 3192—Cooperative Agreements with States and Tribes

§ 3192.1 Establishment of cooperative agreements with States and tribes.

§ 3192.1-1 Eligibility.

(a) Only those States with Federally supervised producing oil and gas leases within their boundaries may enter into cooperative agreements with BLM for the purposes of conducting oil and gas inspections.

(b) Only those tribes with producing oil or gas leases on Indian lands under their jurisdiction may enter into cooperative agreements with BLM for the purpose of conducting oil and gas inspections.

§ 3192.1-2 Request for cooperative agreement.

(a) Any eligible State or Indian tribe may propose to enter into a cooperative agreement with BLM for oil and gas inspection activities, as covered in this part.

(b) The Governor, tribal chairman or other appropriate official shall make a written proposal to the appropriate BLM State Director.

(c) States or tribes may request a preproposal meeting with the BLM for the purpose of obtaining information required for the preparation of a proposal.

(d) Proposals for cooperative agreements shall include the following:

- (1) A completed Standard Form 424, Application for Federal Assistance.
- (2) A description of the type and extent of oil and gas inspection activities proposed under the agreement and the period of time the proposed agreement will be in effect;

(3) The estimated total cost to the State or tribe for activities carried out under the proposed agreement, separated into salary, overhead, equipment, and other costs;

(4) The name, address and telephone number of a contact for the State or tribe.

(e) States requesting cooperative agreements on Indian lands located within the boundaries of their State must include a signed statement from the appropriate tribal official(s) indicating agreement with the State proposal. The statement must include a description of the type and extent of activities to be carried out by the State on Indian lands and should indicate the period of time the proposed agreement between the State and the tribe will be in effect.

§ 3192.1-3 Action on request for cooperative agreement.

(a) Upon receipt of a proposal for a cooperative agreement from a State or tribe the BLM will review the proposal to determine if it is in keeping with the intent of FOGFMA.

(b) Within 30 days the BLM shall notify the State or tribe whether or not the proposal is complete. If the proposal is complete BLM will also indicate when the State or tribe can expect to begin negotiating the provisions of the agreement. If the proposal is not complete the BLM will state the reasons why the proposal is unacceptable.

§ 3192.1-4 Terms of agreements.

(a) All agreements entered into under this part shall be in accordance with the purposes of FOGFMA and the Grants and Cooperative Agreements Act of 1977.

(b) All cooperative agreements shall be valid for a period of 1 to 3 years from the effective date of the agreement.

(c) Federal assistance received for cooperative agreements shall be used only for costs directly required to carry out the agreed upon activities.

(d) There shall be no subcontracting of agreed upon activities, except for financial audits of program funds, without approval of the authorized officer.

§ 3192.1-5 Contents of agreements.

Cooperative agreements shall contain as a minimum the following:

- (a) A statement of purpose, objective and authority;
- (b) Definitions as appropriate;
- (c) Roles and responsibilities of the BLM and the State or tribe;
- (d) A detailed description of activities to be carried out under the agreement;
- (e) Those performance standards required by § 3192.1-7 for activities to

be carried out by a State or tribe under an agreement;

(f) Provisions for confidentiality of proprietary information; conflict of interest; shared civil penalties; and termination of the agreement;

(g) Specific contacts for BLM and the State or tribe;

(h) Plans for scheduling inspection activities and for training State or Indian inspectors;

(i) A specific limit on the amount of Federal funding as established by BLM;

(j) Procedures for State or tribe to request reimbursement, as established by 43 CFR Part 12, Subpart A;

(k) A statement identifying those expenditures that are covered as allowable costs and therefore subject to 50 percent reimbursement under § 3190.2-2 of this title;

(l) A schedule for periodic reviews and meetings;

(m) Plans for BLM oversight of State or tribe activities.

§ 3192.1-6 Allowable costs.

Allowable costs shall be as specified in 43 CFR Part 12, Subpart A.

§ 3192.1-7 Performance standards.

The BLM shall establish minimum performance standards for carrying out activities, which shall be incorporated into each agreement and shall be used as the basis for evaluating State or tribal performance.

§ 3192.1-8 Withdrawal of Indian lands from State cooperative agreements.

(a) When an Indian tribe withdraws permission for a State to conduct inspection and related activities on its lands, the Indian tribe shall provide written notice of its withdrawal of permission to the State, and provide a copy of the notice to the authorized officer.

(b) Upon withdrawal of Indian lands from a State cooperative agreement, the authorized officer shall immediately provide for the inspection and enforcement activities on the affected Indian lands.

(c) No later than 120 days after receipt of a notice of withdrawal of permission from an Indian tribe, that portion of the cooperative agreement applying to the lands covered by the notice shall terminate.

(d) Upon termination that portion of a State cooperative agreement covering Indian lands, appropriate changes in funding shall be made by the authorized officer.

§ 3192.2 Activities authorized under cooperative agreements.

§ 3192.2-1 Inspections.

(a) Inspections of oil and gas operations covered by this part shall be carried out by State and Indian inspectors only as specified in the agreement.

(b) State and Indian inspectors conducting inspections as authorized representatives of the Secretary shall inspect for compliance with the regulations of the Bureau of Land Management and the Federal mineral leasing laws.

(c) State and Indian inspectors may conduct independent inspections, as specified in the agreement, after they are certified to do so as provided in § 3192.4-4 of this title.

(d) BLM shall select leases to be inspected, taking into account the interests of the affected State or tribe.

(e) Inspections shall be scheduled in a manner to avoid duplication of effort between the BLM and the State or tribe.

(f) State and Indian inspectors shall use BLM inspection forms when conducting inspections. Completed forms are to be returned to BLM within the time frame specified in the agreement.

(g) Entering into an agreement does not preclude BLM or other authorized representatives of the Secretary from entering lease sites covered by the agreement to conduct inspections, investigations, or enforcement or other activities necessary to supervise lease operations.

§ 3192.2-2 Enforcement.

Qualified State and Indian inspectors may, subject to the agreement, be authorized to issue Notices of Incidents of Noncompliance, BLM Form 3160-9, in accordance with the policies of the appropriate BLM State, District or Resources Area Office.

§ 3192.2-3 Investigations

(a) Criminal investigations on Federally-supervised oil and gas leases on public lands shall be the responsibility of the BLM. Participation of State inspectors in such investigations shall be as specified in the agreement or at the discretion of the authorized officer.

(b) Criminal investigations on Federally-supervised oil and gas leases on Indian lands shall be the responsibility of BIA and/or the tribe. Participation of State or tribal inspectors in such investigations shall be as specified in the agreement.

(c) Avoidable/unavoidable loss determinations shall be the

responsibility of the BLM. Participation of State or Indian inspectors in the determinations shall be as specified in the agreement at the discretion of the authorized officer.

§ 3192.2-4 Oil transporter inspection.

Inspection of oil transporters for documentation required in 43 CFR 3162.7 shall be carried out by State and Indian inspectors only as specified in the agreement.

§ 3192.3 Activities not authorized under cooperative agreements.

§ 3192.3-1 Assessments and penalties.

Imposition of assessments and penalties provided for in 43 CFR 3163.1 and 43 CFR 3163.2 and 3163.3, respectively, shall be the responsibility of the BLM.

§ 3192.3-2 Collections.

Collections of assessments and penalties, and collection of any other payments required in this part, shall be the responsibility of the BLM.

§ 3192.4 State and Indian inspectors.

§ 3192.4-1 Selection of inspectors.

(a) States and tribes shall select the inspector candidates to participate in the cooperative agreement program from a list of nominees submitted to and screened by the authorized officer.

(b) Continued inspector participation in the program is contingent upon satisfactory completion of required training, certification, and satisfactory performance of activities carried out under the agreement.

§ 3192.4 Training.

(a) BLM shall schedule appropriate classroom and on-the-job training for State and Indian inspectors.

(b) BLM shall be required to train only those inspectors participating in a cooperative agreement.

(c) States and tribes shall ensure that State and Indian inspectors participating in the inspection program attend the appropriate training as required.

(d) Nomination of State and Indian inspectors for training shall be coordinated through the appropriate BLM State or District Office.

§ 3192.4-3 Inspector identification cards.

(a) Inspector identification cards shall be issued by BLM to those State and Indian inspectors who are qualified and are participating in inspection activities under a cooperative agreement. These cards shall identify State and Indian inspectors as representatives of the Secretary of the Interior.

(b) Identification cards remain the property of the Federal Government and

shall be surrendered upon request of the authorized officer of BLM.

§ 3193.4-4 Certification.

(a) BLM shall establish standards for certifications of State and Indian inspectors.

(b) State and Indian inspectors shall be certified by BLM before conducting independent inspections under this part.

(c) Certification of inspectors shall be contingent upon satisfactory completion of appropriate classroom and on-the-job training.

§ 3192.4-5 Conflict of interest.

(a) State and Indian inspectors shall not inspect the operations of those companies in which they or a member of their immediate family have a direct financial interest.

(b) State and Indian inspectors shall not inspect the operations of those companies in which their immediate supervisors have a direct financial interest.

(c) Information acquired by a State or Indian inspector as a result of his/her participation in a cooperative agreement may not be used for private gain for him/herself or another person by indirect or direct action on his/her part or by counsel, recommendation or suggestion to another person.

§ 3192.5 Termination and reinstatement of agreements.

§ 3192.5-1 Termination.

(a) A cooperative agreement may be terminated at any time by mutual agreement.

(b) A cooperative agreement may be terminated unilaterally by the BLM if it has been determined that the State or tribe has failed to carry out the terms of the agreement, or upon a finding that the agreement is no longer needed.

(c) If BLM intends to terminate an agreement under § 3192.5-1(b) because of a failure on the part of the State or tribe to carry out the terms of the agreement, the reason(s) shall be specified in detail in a notice of intent to the State or tribe. The State or tribe may provide a plan for correction. If the corrections proposed by the State or tribe will remedy the failure, the BLM may agree to withdraw the notice of intent. If the State or tribe does not implement corrective action within 30 days of BLM approval of the plan, BLM may provide a subsequent notice of termination. Failure to respond within 30 days to a notice of intent to terminate shall result in termination of the agreement.

§ 3192.5-2 Reinstatement.

(a) If a cooperative agreement has been terminated by mutual consent under § 3192.25-1(a) of this title, the State or Indian tribe may request that the appropriate State Director reinstate the cooperative agreement. The State Director, on receipt of the request, shall determine whether the cooperative agreement should be reinstated, and if

so, what modifications, if any, should be made to the agreement.

(b) For cooperative agreements terminated under § 3192.5-1(b) due to deficiencies by the State or tribe in carrying out the provisions of the agreement, the State or tribe shall provide evidence that it has remedied all defects for which the cooperative agreement was terminated and that it is fully capable of resuming the activities

to be carried out under the cooperative agreement. The State Director shall determine whether the cooperative agreement should be reinstated, and if so, what modifications, if any, should be made to the agreement.

October 6, 1988.

James E. Cason,

Assistant Secretary of the Interior.

[FR Doc. 88-27184 Filed 11-25-88; 8:45 am]

BILLING CODE 4310-84-M

Environmental Federal Register

**Monday
November 28, 1988**

Part III

Environmental Protection Agency

**Premanufacture Notices; Monthly Status
Report for September 1988**

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53110; FRL-3473-6]

Premanufacture Notices; Monthly Status Report for September 1988

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the *Federal Register* each month reporting the premanufacture notices (PMNs) and exemption request pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for September 1988.

Nonconfidential portions of the PMNs and exemption request may be seen in the Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday thru Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53110]" and the specific PMN and exemption request number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Room L-100, 401 M Street SW., Washington, DC 20460, (202) 554-1305.

FOR FURTHER INFORMATION CONTACT: Lawrence Culleen, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the *Federal Register* as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during September; (b) PMNs received previous and still under review at the end of September; (c) PMNs for which the notice review period has ended during September; (d) chemical substances for which EPA has received a notice of commencement to manufacture during September; and (e) PMNs for which the review period has been suspended. Therefore, the September 1988 PMN Status Report is being published.

Date: October 26, 1988.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report September 1988

I. 824 PREMANUFACTURE NOTICES AND EXEMPTION REQUESTS RECEIVED DURING THE MONTH

PMN No.

P 88-1915	P 88-1979
P 88-1916	P 88-1980
P 88-1917	P 88-1981
P 88-1918	P 88-1982
P 88-1919	P 88-1983
P 88-1920	P 88-1984
P 88-1921	P 88-1985
P 88-1922	P 88-1986
P 88-1923	P 88-1987
P 88-1924	P 88-1988
P 88-1925	P 88-1989
P 88-1926	P 88-1990
P 88-1927	P 88-1991
P 88-1928	P 88-1992
P 88-1929	P 88-1993
P 88-1930	P 88-1994
P 88-1931	P 88-1995
P 88-1932	P 88-1996
P 88-1933	P 88-1997
P 88-1934	P 88-1998
P 88-1935	P 88-1999
P 88-1936	P 88-2000
P 88-1937	P 88-2001
P 88-1938	P 88-2002
P 88-1939	P 88-2003
P 88-1940	P 88-2004
P 88-1941	P 88-2005
P 88-1942	P 88-2006
P 88-1943	P 88-2007
P 88-1944	P 88-2008
P 88-1945	P 88-2009
P 88-1946	P 88-2010
P 88-1947	P 88-2011
P 88-1948	P 88-2012
P 88-1949	P 88-2013
P 88-1950	P 88-2014
P 88-1951	P 88-2015
P 88-1952	P 88-2016
P 88-1953	P 88-2017
P 88-1954	P 88-2018
P 88-1955	P 88-2019
P 88-1956	P 88-2020
P 88-1957	P 88-2021
P 88-1958	P 88-2022
P 88-1959	P 88-2023
P 88-1960	P 88-2024
P 88-1961	P 88-2025
P 88-1962	P 88-2026
P 88-1963	P 88-2027
P 88-1964	P 88-2028
P 88-1965	P 88-2029
P 88-1966	P 88-2030
P 88-1967	P 88-2031
P 88-1968	P 88-2032
P 88-1969	P 88-2033
P 88-1970	P 88-2034
P 88-1971	P 88-2035
P 88-1972	P 88-2036
P 88-1973	P 88-2037
P 88-1974	P 88-2038
P 88-1975	P 88-2039
P 88-1976	P 88-2040
P 88-1977	P 88-2041
P 88-1978	P 88-2042

P 88-2043	P 88-2122
P 88-2044	P 88-2123
P 88-2045	P 88-2124
P 88-2046	P 88-2125
P 88-2047	P 88-2126
P 88-2048	P 88-2127
P 88-2049	P 88-2128
P 88-2050	P 88-2129
P 88-2051	P 88-2130
P 88-2052	P 88-2131
P 88-2053	P 88-2132
P 88-2054	P 88-2133
P 88-2055	P 88-2134
P 88-2056	P 88-2135
P 88-2057	P 88-2136
P 88-2058	P 88-2137
P 88-2059	P 88-2138
P 88-2060	P 88-2139
P 88-2061	P 88-2140
P 88-2062	P 88-2141
P 88-2063	P 88-2142
P 88-2064	P 88-2143
P 88-2065	P 88-2144
P 88-2066	P 88-2145
P 88-2067	P 88-2146
P 88-2068	P 88-2147
P 88-2069	P 88-2148
P 88-2070	P 88-2149
P 88-2071	P 88-2150
P 88-2072	P 88-2151
P 88-2073	P 88-2152
P 88-2074	P 88-2153
P 88-2075	P 88-2154
P 88-2076	P 88-2155
P 88-2077	P 88-2156
P 88-2078	P 88-2157
P 88-2079	P 88-2158
P 88-2080	P 88-2159
P 88-2081	P 88-2160
P 88-2082	P 88-2161
P 88-2083	P 88-2162
P 88-2084	P 88-2163
P 88-2085	P 88-2164
P 88-2086	P 88-2165
P 88-2087	P 88-2166
P 88-2088	P 88-2167
P 88-2089	P 88-2168
P 88-2090	P 88-2169
P 88-2091	P 88-2170
P 88-2092	P 88-2171
P 88-2093	P 88-2172
P 88-2094	P 88-2173
P 88-2095	P 88-2174
P 88-2096	P 88-2175
P 88-2097	P 88-2176
P 88-2098	P 88-2177
P 88-2099	P 88-2178
P 88-2100	P 88-2179
P 88-2101	P 88-2180
P 88-2102	P 88-2181
P 88-2103	P 88-2182
P 88-2104	P 88-2183
P 88-2105	P 88-2184
P 88-2106	P 88-2185
P 88-2107	P 88-2186
P 88-2108	P 88-2187
P 88-2109	P 88-2188
P 88-2110	P 88-2189
P 88-2111	P 88-2190
P 88-2112	P 88-2191
P 88-2113	P 88-2192
P 88-2114	P 88-2193
P 88-2115	P 88-2194
P 88-2116	P 88-2195
P 88-2117	P 88-2196
P 88-2118	P 88-2197
P 88-2119	P 88-2198
P 88-2120	P 88-2199
P 88-2121	P 88-2200

P 88-2201	P 88-2281	P 88-2361	P 88-2442	P 88-2525	P 88-2606
P 88-2202	P 88-2282	P 88-2362	P 88-2443	P 88-2526	P 88-2607
P 88-2203	P 88-2283	P 88-2363	P 88-2444	P 88-2527	P 88-2609
P 88-2204	P 88-2284	P 88-2364	P 88-2445	P 88-2528	P 88-2611
P 88-2205	P 88-2285	P 88-2365	P 88-2446	P 88-2529	P 88-2612
P 88-2206	P 88-2286	P 88-2366	P 88-2447	P 88-2530	P 88-2613
P 88-2207	P 88-2287	P 88-2367	P 88-2448	P 88-2531	P 88-2614
P 88-2208	P 88-2288	P 88-2368	P 88-2449	P 88-2532	P 88-2615
P 88-2209	P 88-2289	P 88-2369	P 88-2450	P 88-2533	P 88-2616
P 88-2210	P 88-2290	P 88-2370	P 88-2451	P 88-2534	P 88-2617
P 88-2211	P 88-2291	P 88-2371	P 88-2452	P 88-2535	P 88-2618
P 88-2212	P 88-2292	P 88-2372	P 88-2453	P 88-2536	P 88-2619
P 88-2213	P 88-2293	P 88-2373	P 88-2454	P 88-2537	P 88-2620
P 88-2214	P 88-2294	P 88-2374	P 88-2455	P 88-2538	P 88-2621
P 88-2215	P 88-2295	P 88-2375	P 88-2456	P 88-2539	P 88-2622
P 88-2216	P 88-2296	P 88-2376	P 88-2457	P 88-2540	P 88-2623
P 88-2217	P 88-2297	P 88-2377	P 88-2458	P 88-2541	P 88-2624
P 88-2218	P 88-2298	P 88-2378	P 88-2459	P 88-2542	P 88-2625
P 88-2219	P 88-2299	P 88-2379	P 88-2460	P 88-2543	P 88-2626
P 88-2220	P 88-2300	P 88-2380	P 88-2461	P 88-2544	P 88-2627
P 88-2221	P 88-2301	P 88-2381	P 88-2462	P 88-2545	P 88-2628
P 88-2222	P 88-2302	P 88-2382	P 88-2463	P 88-2546	P 88-2629
P 88-2223	P 88-2303	P 88-2383	P 88-2464	P 88-2547	P 88-2630
P 88-2224	P 88-2304	P 88-2384	P 88-2465	P 88-2548	P 88-2631
P 88-2225	P 88-2305	P 88-2385	P 88-2466	P 88-2549	P 88-2632
P 88-2226	P 88-2306	P 88-2386	P 88-2467	P 88-2550	P 88-2633
P 88-2227	P 88-2307	P 88-2387	P 88-2468	P 88-2551	P 88-2634
P 88-2228	P 88-2308	P 88-2388	P 88-2469	P 88-2552	P 88-2635
P 88-2229	P 88-2309	P 88-2389	P 88-2470	P 88-2553	P 88-2636
P 88-2230	P 88-2310	P 88-2390	P 88-2471	P 88-2554	P 88-2637
P 88-2231	P 88-2311	P 88-2391	P 88-2472	P 88-2555	P 88-2638
P 88-2232	P 88-2312	P 88-2392	P 88-2473	P 88-2556	P 88-2639
P 88-2233	P 88-2313	P 88-2393	P 88-2474	P 88-2557	P 88-2640
P 88-2234	P 88-2314	P 88-2394	P 88-2475	P 88-2558	P 88-2641
P 88-2235	P 88-2315	P 88-2395	P 88-2476	P 88-2559	P 88-2642
P 88-2236	P 88-2316	P 88-2396	P 88-2477	P 88-2560	P 88-2643
P 88-2237	P 88-2317	P 88-2397	P 88-2478	P 88-2561	P 88-2644
P 88-2238	P 88-2318	P 88-2398	P 88-2479	P 88-2562	P 88-2645
P 88-2239	P 88-2319	P 88-2399	P 88-2480	P 88-2563	P 88-2646
P 88-2240	P 88-2320	P 88-2400	P 88-2481	P 88-2564	P 88-2647
P 88-2241	P 88-2321	P 88-2401	P 88-2482	P 88-2565	P 88-2648
P 88-2242	P 88-2322	P 88-2402	P 88-2483	P 88-2566	P 88-2649
P 88-2243	P 88-2323	P 88-2403	P 88-2484	P 88-2567	P 88-2650
P 88-2244	P 88-2324	P 88-2404	P 88-2485	P 88-2568	P 88-2651
P 88-2245	P 88-2325	P 88-2405	P 88-2486	P 88-2569	P 88-2652
P 88-2246	P 88-2326	P 88-2406	P 88-2487	P 88-2570	P 88-2653
P 88-2247	P 88-2327	P 88-2407	P 88-2488	P 88-2571	P 88-2654
P 88-2248	P 88-2328	P 88-2408	P 88-2489	P 88-2572	P 88-2655
P 88-2249	P 88-2329	P 88-2409	P 88-2490	P 88-2573	P 88-2656
P 88-2250	P 88				

Y 88-0301	Y 88-0331	P 88-0195	P 88-1221	P 88-1670	P 88-1786
Y 88-0302	Y 88-0332	P 88-0225	P 88-1223	P 88-1677	P 88-1800
Y 88-0303	Y 88-0333	P 88-0275	P 88-1224	P 88-1682	P 88-1801
Y 88-0304	Y 88-0334	P 88-0288	P 88-1235	P 88-1683	P 88-1802
Y 88-0305	Y 88-0335	P 88-0290	P 88-1236	P 88-1686	P 88-1805
Y 88-0306	Y 88-0336	P 88-0319	P 88-1240	P 88-1690	P 88-1806
Y 88-0307	Y 88-0337	P 88-0320	P 88-1243	P 88-1691	P 88-1807
Y 88-0308	Y 88-0338	P 88-0353	P 88-1244	P 88-1694	P 88-1809
Y 88-0309	Y 88-0339	P 88-0387	P 88-1250	P 88-1697	P 88-1811
Y 88-0310	Y 88-0340	P 88-0388	P 88-1251	P 88-1698	P 88-1813
Y 88-0311	Y 88-0341	P 88-0393	P 88-1252	P 88-1700	P 88-1816
Y 88-0312	Y 88-0342	P 88-0436	P 88-1267	P 88-1713	P 88-1821
Y 88-0313	Y 88-0343	P 88-0468	P 88-1271	P 88-1718	P 88-1823
Y 88-0314	Y 88-0344	P 88-0515	P 88-1272	P 88-1727	P 88-1831
Y 88-0315	Y 88-0345	P 88-0522	P 88-1273	P 88-1730	P 88-1832
Y 88-0316	Y 88-0346	P 88-0567	P 88-1274	P 88-1732	P 88-1839
Y 88-0317	Y 88-0347	P 88-0568	P 88-1275	P 88-1735	P 88-1841
Y 88-0318	Y 88-0348	P 88-0576	P 88-1276	P 88-1739	P 88-1844
Y 88-0319	Y 88-0349	P 88-0598	P 88-1277	P 88-1740	P 88-1850
Y 88-0320	Y 88-0350	P 88-0602	P 88-1278	P 88-1742	P 88-1856
Y 88-0321	Y 88-0351	P 88-0606	P 88-1293	P 88-1745	P 88-1857
Y 88-0322	Y 88-0352	P 88-0622	P 88-1303	P 88-1748	P 88-1860
Y 88-0323	Y 88-0353	P 88-0658	P 88-1304	P 88-1750	P 88-1863
Y 88-0324	Y 88-0354	P 88-0671	P 88-1367	P 88-1753	P 88-1869
Y 88-0325	Y 88-0355	P 88-0701	P 88-1370	P 88-1761	P 88-1870
Y 88-0326	Y 88-0356	P 88-0715	P 88-1375	P 88-1763	P 88-1871
Y 88-0327	Y 88-0357	P 88-0726	P 88-1377	P 88-1764	P 88-1872
Y 88-0328	Y 88-0358	P 88-0792	P 88-1403	P 88-1771	P 88-1885
Y 88-0329	Y 88-0359	P 88-0831	P 88-1409	P 88-1773	P 88-1889
Y 88-0330	Y 88-0360	P 88-0836	P 88-1425	P 88-1774	P 88-1896
		P 88-0837	P 88-1426	P 88-1778	P 88-1898
		P 88-0854	P 88-1439	P 88-1783	P 88-1914
		P 88-0862	P 88-1440		
		P 88-0864	P 88-1443		
		P 88-0875	P 88-1445		
		P 88-0884	P 88-1446		
		P 88-0888	P 88-1460		
		P 88-0889	P 88-1466		
		P 88-0890	P 88-1473		
		P 88-0894	P 88-1485		
		P 88-0898	P 88-1508		
		P 88-0900	P 88-1512		
		P 88-0918	P 88-1514		
		P 88-0972	P 88-1529		
		P 88-0981	P 88-1540		
		P 88-0985	P 88-1543		
		P 88-0997	P 88-1559		
		P 88-0998	P 88-1564		
		P 88-0999	P 88-1567		
		P 88-1005	P 88-1568		
		P 88-1020	P 88-1570		
		P 88-1021	P 88-1598		
		P 88-1035	P 88-1611		
		P 88-1037	P 88-1616		
		P 88-1063	P 88-1617		
		P 88-1069	P 88-1618		
		P 88-1070	P 88-1619		
		P 88-1071	P 88-1620		
		P 88-1109	P 88-1621		
		P 88-1115	P 88-1622		
		P 88-1116	P 88-1623		
		P 88-1117	P 88-1628		
		P 88-1118	P 88-1630		
		P 88-1120	P 88-1631		
		P 88-1136	P 88-1632		
		P 88-1154	P 88-1636		
		P 88-1163	P 88-1643		
		P 88-1168	P 88-1647		
		P 88-1169	P 88-1648		
		P 88-1170	P 88-1650		
		P 88-1189	P 88-1653		
		P 88-1197	P 88-1657		
		P 88-1205	P 88-1658		
		P 88-1206	P 88-1665		
		P 88-1211	P 88-1667		
		P 88-1212	P 88-1668		
		P 88-1219	P 88-1669		
		P 88-1220			

II. 297 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.

P 83-0669	P 87-1028
P 85-0216	P 87-1066
P 85-0535	P 87-1104
P 85-0536	P 87-1192
P 85-0619	P 87-1226
P 85-0718	P 87-1227
P 85-0941	P 87-1273
P 86-0065	P 87-1337
P 86-0066	P 87-1379
P 86-0067	P 87-1417
P 86-0092	P 87-1436
P 86-0294	P 87-1437
P 86-0295	P 87-1542
P 86-0592	P 87-1546
P 86-1078	P 87-1547
P 86-1189	P 87-1548
P 86-1235	P 87-1549
P 86-1602	P 87-1555
P 86-1603	P 87-1673
P 86-1604	P 87-1676
P 86-1607	P 87-1677
P 87-0057	P 87-1679
P 87-0058	P 87-1680
P 87-0059	P 87-1694
P 87-0068	P 87-1759
P 87-0105	P 87-1769
P 87-0197	P 87-1770
P 87-0198	P 87-1787
P 87-0199	P 87-1872
P 87-0200	P 87-1879
P 87-0201	P 87-1881
P 87-0323	P 87-1882
P 87-0326	P 88-0049
P 87-0770	P 88-0083
P 87-0794	P 88-0134
P 87-0930	P 88-0138
P 87-0931	P 88-0156
P 87-0963	P 88-0157
P 87-0973	P 88-0182

III. 138 PREMANUFACTURE NOTICES AND EXEMPTION REQUEST FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAS BEEN ADDED TO THE INVENTORY)

PMN No.

P 84-1182	P 88-1532
P 84-1183	P 88-1533
P 87-1041	P 88-1534
P 87-1471	P 88-1535
P 88-0759	P 88-1536
P 88-0770	P 88-1537
P 88-0886	P 88-1538
P 88-0914	P 88-1539
P 88-1186	P 88-1541
P 88-1200	P 88-1542
P 88-1246	P 88-1544
P 88-1251	P 88-1545
P 88-1323	P 88-1546
P 88-1471	P 88-1547
P 88-1485	P 88-1548
P 88-1495	P 88-1549
P 88-1515	P 88-1550
P 88-1516	P 88-1551
P 88-1517	P 88-1552
P 88-1518	P 88-1553
P 88-1519	P 88-1554
P 88-1521	P 88-1555
P 88-1522	P 88-1556
P 88-1523	P 88-1557
P 88-1524	P 88-1558
P 88-1525	P 88-1560
P 88-1526	P 88-1561
P 88-1527	P 88-1562
P 88-1528	P 88-1563
P 88-1530	P 88-1565
P 88-1531	P 88-1566

P 88-1569	P 88-1582	P 88-1595	P 88-1609	P 88-1635	Y 88-0247
P 88-1570	P 88-1583	P 88-1596	P 88-1610	P 88-1636	Y 88-0248
P 88-1571	P 88-1584	P 88-1597	P 88-1612	P 88-1637	Y 88-0249
P 88-1572	P 88-1585	P 88-1598	P 88-1613	P 88-1638	Y 88-0250
P 88-1573	P 88-1586	P 88-1599	P 88-1614	P 88-1639	Y 88-0251
P 88-1574	P 88-1587	P 88-1600	P 88-1615	P 88-1640	Y 88-0252
P 88-1575	P 88-1588	P 88-1601	P 88-1624	P 88-1641	Y 88-0253
P 88-1576	P 88-1589	P 88-1602	P 88-1625	Y 88-0242	Y 88-0254
P 88-1577	P 88-1590	P 88-1603	P 88-1626	Y 88-0243	Y 88-0255
P 88-1578	P 88-1591	P 88-1604	P 88-1627	Y 88-0244	Y 88-0256
P 88-1579	P 88-1592	P 88-1605	P 88-1629	Y 88-0245	Y 88-0257
P 88-1580	P 88-1593	P 88-1606	P 88-1633	Y 88-0246	Y 88-0258
P 88-1581	P 88-1594	P 88-1607	P 88-1634		

IV. 63 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Identity/generic name	Date of commencement
P 84-0127	G Polyurethane prepolymer resin.....	Aug. 29, 1988.
P 86-0368	G Acrylourethane.....	Sept. 6, 1988.
P 86-0840	Water dispersible phenolic modified alkyd resin.....	Sept. 13, 1988.
P 86-0913	G High solids oxirane/hydride polyester resin.....	Sept. 29, 1988.
P 86-0958	G Polyperfluoroalkyl acrylate.....	Feb. 25, 1988.
P 86-1196	G Copolyester.....	July 25, 1988.
P 86-1255	G Amine neutralized alkyl phosphate.....	Jan. 19, 1987.
P 86-1263	G Phosphoric acid, 1,2-ethanediyl-tetrakis (2-chloro-1-methylethyl) ester.....	Dec. 16, 1986.
P 86-1489	G Poly(oxy-1,2-ethanediyl alpha-(nonylphenyl)-omega-((2-amino-2-methylethoxy) poly(oxy(methyl-1,2-ethanediyl))).....	Aug. 23, 1988.
P 87-0077	G Blocked polyurethane prepolymer.....	Sept. 6, 1988.
P 87-0550	G Substituted spiro-benzoxanthraceneisobenz-furane.....	Sept. 13, 1988.
P 87-0711	High solids oxirane/anhydride polyester resin.....	Sept. 30, 1988.
P 87-0780	G Phthalocyanine colorant.....	Aug. 31, 1988.
P 87-0848	G Substituted thioxotetrazole salt.....	Aug. 15, 1988.
P 87-0949	G Ethyl dimethyl propylamine.....	Aug. 24, 1988.
P 87-0980	G Substituted thioxotetrazole.....	Aug. 15, 1988.
P 87-1023	G Epoxy modified chlorinated hydrocarbon.....	July 30, 1988.
P 87-1281	G 3-acetyl-5-butyl-dihydro-2(3H)-furanone.....	Aug. 1, 1988.
P 87-1356	G Substituted nitrophenoxy substituted naphthoic acid derivative.....	Aug. 17, 1988.
P 87-1358	G Hydroxyalkylnitrophenoxy substituted naphthoic acid derivative.....	Aug. 8, 1988.
P 87-1487	G Crosslinked halogenated rubber.....	Aug. 25, 1988.
P 87-1611	G Hydrophobically-modified hydroxyethylcellulose.....	Sept. 1, 1988.
P 87-1642	G Vinylidene chloride/butadiene polymer with alkane dioic acid.....	June 10, 1988.
P 87-1766	G Trisubstituted dialkyl cycloalkane metal.....	Sept. 13, 1988.
P 87-1782	G Siloxane dimer.....	Aug. 23, 1988.
P 87-1836	G Epichlorohydrin.....	Aug. 19, 1988.
P 87-1851	G Siloxane-caprolactone copolymer.....	Aug. 23, 1988.
P 88-0063	G Substituted thioazino salt.....	Sept. 10, 1988.
P 88-0190	G Aqueous polymeric dispersion.....	Sept. 14, 1988.
P 88-0312	G Saturated polyester resin.....	Aug. 31, 1988.
P 88-0313	G Saturated polyester resin.....	Aug. 31, 1988.
P 88-0314	G Saturated polyester resin.....	Aug. 31, 1988.
P 88-0412	G Substituted alkylamino aryl disulfide.....	Aug. 9, 1988.
P 88-0462	G Fatty acids, trimethylol ethane, benzoic acid, chlorendic anhydride resin.....	Aug. 4, 1988.
P 88-0645	1,1,3,3-Tetramethyl-1,3-di-(5-hexenyl)disiloxane.....	Aug. 23, 1988.
P 88-0646	Methyl-(5-hexenyl)-dichlorosilane.....	Aug. 29, 1988.
P 88-0807	G Copolyether ester.....	Sept. 7, 1988.
P 88-0863	G Phosphine-substituted transition metal compound.....	Aug. 12, 1988.
P 88-0892	G Arylheteroaryalkylamine.....	Sept. 12, 1988.
P 88-0947	Methyl benzenesulfonic acid, mono- and di-1C20-24, alkyl derivatives, sodium salt.....	Aug. 19, 1988.
P 88-0948	G Blocked isocyanated prepolymer.....	Aug. 31, 1988.
P 88-0949	G Epoxymethacrylate ester copolymer.....	Aug. 24, 1988.
P 88-0958	G Ethylene polymerized halogenated magnesium oxotitanium alkoxide.....	Sept. 1, 1988.
P 88-0960	G Halogenated magnesium oxotitanium alkoxides; halogenated magnesium oxotitanate, halogenated magnesium titanium alkoxides.....	Aug. 28, 1988.
P 88-1039	G Substituted p-cresidine sulfonic acid salt.....	July 13, 1988.
P 88-1040	G Modified polyisocyanate.....	July 31, 1988.
P 88-1057	Fluorinated substituted, substituted-substituted sulfonamide, butyl ester.....	Aug. 5, 1988.
P 88-1107	G Vinyl polymer.....	Aug. 10, 1988.
P 88-1131	G Bisphenol A diglycidyl ether resin, reaction products with an aliphatic amine and an accelerator.....	June 30, 1988.
P 88-1155	G Mono-, di-, and tri-alkyl glyceride.....	Aug. 31, 1988.
P 88-1241	G Polyurethane dispersion.....	Sept. 2, 1988.
P 88-1262	G Aliphatic polyester glycol.....	Aug. 17, 1988.
P 88-1300	G Modified polyester resin.....	Aug. 31, 1988.
P 88-1444	G Blocked isocyanate powder coating curing agent.....	Aug. 22, 1988.
P 88-1449	G Styrene acrylate acrylamide copolymer.....	Aug. 29, 1988.
Y 88-0106	Polymer from alkane diols, alkanedioic acid carbomonocyclic acids.....	Aug. 9, 1988.
Y 88-0106	Polymer of: 2-Methylpentamethylenediamine; isophthalic acid; high molecular weight aliphatic primary alcohol (UNILVIN 550).....	June 1, 1988.
Y 88-0111	G Alkyd resin.....	Aug. 22, 1988.
Y 88-0175	G Dibasic acid polyol polyester.....	Aug. 19, 1988.
Y 88-0197	G Sunflower oil alkyd.....	Aug. 23, 1988.
Y 88-0207	G Vinyl acetate/olefins tetrapolymer.....	Aug. 22, 1988.
Y 88-0212	G Polyvinyl alcohol poly(alkyleneoxy)acrylate copolymer.....	Aug. 22, 1988.

IV. 63 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Identity/generic name	Date of commencement
Y 88-0248	G Aliphatic polyester urethane	Sept. 9, 1988.

V. 36 PREMANUFACTURE NOTICES FOR WHICH THE PERIOD HAS BEEN SUSPENDED

PMN No.	P 88-1611	P 88-1623	P 88-1682	P 88-1861
P 87-1694	P 88-1616	P 88-1628	P 88-1688	P 88-1898
P 88-0854	P 88-1617	P 88-1630	P 88-1690	P 88-2003
P 88-0875	P 88-1618	P 88-1631	P 88-1727	P 88-0258
P 88-1005	P 88-1619	P 88-1632	P 88-1730	P 88-0261
P 88-1223	P 88-1620	P 88-1650	[FR Doc. 88-25937 Filed 11-25-88; 8:45 am]	
P 88-1224	P 88-1621	P 88-1657		
			BILLING CODE 6560-50	

Federal Register

Monday
November 28, 1988

Part IV

Department of Commerce

International Trade Administration

19 CFR Parts 353, 354, and 355

Procedures For Imposing Sanctions For
Violation of an Antidumping or
Countervailing Duty Protective Order;
Final Rule

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Parts 353, 354, and 355

[Docket No. 70503-8177]

Procedures for Imposing Sanctions for Violation of an Antidumping or Countervailing Duty Protective Order

AGENCY: International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The International Trade Administration (ITA) hereby establishes procedures for imposing sanctions against an individual, firm, or other entity for violating an administrative protective order issued by the International Trade Administration as a condition for the release of proprietary business information during an antidumping or countervailing duty proceeding.

The Secretary of Commerce is authorized to release proprietary business information under an administrative protective order in the course of an antidumping duty or countervailing duty investigation or administrative review. 19 U.S.C. 1677f(c). The Secretary is further authorized to impose sanctions for the violation of a protective order. *Id.* Current antidumping duty and countervailing duty regulations provide that a person against whom sanctions are proposed "shall be afforded a reasonable opportunity to be heard before the determination is made." 19 CFR 353.30(e)(3), 355.20(e)(2).

On July 6, 1987, the Department proposed rules to govern the imposition of sanctions for violation of an administrative protective order (52 FR 25246). The Department considered all of the comments received in response to the proposed rule and request for comments. These comments, and the Department's response to them, are summarized below.

EFFECTIVE DATE: These regulations are effective December 28, 1988.

FOR FURTHER INFORMATION CONTACT: Stephen J. Powell, Chief Counsel for Import Administration, (202) 377-1411.

SUPPLEMENTARY INFORMATION:**Classification**

Executive Order 12291. The ITA has determined that these procedures for imposing sanctions for violations of an antidumping duty or countervailing duty administrative protective order in 19 Code of Federal Regulations ("CFR") Parts 353, 354, and 355 are not a major rule as defined in section 1(b) of

Executive Order 12291 (46 FR 13193, February 19, 1981) because they will not: (1) Have a major monetary effect on the economy; (2) result in a major increase in costs or prices; or (3) have a significant adverse effect on competition (domestic or foreign), employment, investment, productivity, or innovation.

Executive Order 12612. These regulations do not contain policies with Federalism implications sufficient to warrant preparation of a Federalism assessment under Executive Order 12612 (52 FR 41685, October 30, 1987).

Paperwork Reduction Act. These regulations will not impose a collection of information requirement for purposes of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Regulatory Flexibility Act. The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that this rule will not have a significant economic impact on a substantial number of small business entities because, to the extent it changes existing practices, the rule simply improves the administration of the antidumping duty and countervailing duty provisions of the Tariff Act of 1930, as amended. As a result, a Regulatory Flexibility Analysis was not prepared.

Changes Required by Departmental Reorganization. In the proposed rule, the Assistant Secretary for Trade Administration was made responsible for deciding whether to initiate proceedings and for taking other actions following a report of investigation. As we explained in the preamble, "Persons who make day-to-day decisions under the antidumping and countervailing duty laws * * * would not be involved."

On October 1, 1987, the position of Assistant Secretary for Trade Administration was abolished. Consistent with the view expressed in the preamble to the proposed rule, the authority to make decisions during the initial stages of a proceeding under these regulations has been delegated to the Deputy Under Secretary for International Trade. This rule has been revised accordingly.

Time Limits Imposed on the Investigation and Initiation of Charging Proceeding

Comment: Three parties suggest that the Department impose a time limit under § 354.5 with respect to allegations that the terms of an administrative protective order have been violated. A reasonable and adequate time frame would maintain the integrity of the protective order process, ensure adequate protection for business proprietary information, and protect the

rights of the accused party. Requiring prompt notification of an apparent disclosure of protective order material would allow some remedial measures to be taken in order to minimize actual harm to the party whose information allegedly has been wrongfully disclosed.

One party believes that an allegation of impermissible behavior should not be permitted more than three months after the action takes place, unless the violation could not have been discovered through the exercise of reasonable care. A second party believes that a one-year limitation should be imposed both on the investigation concerning the alleged violation and on the possible initiation of a proceeding under § 354.6.

Department's Position: We agree that time limits are appropriate and have revised the proposed regulations as follows: First, we modified § 354.5(b) to provide that the Department will not investigate an allegation unless it is received within 30 days after the violation has occurred or could have been discovered through the exercise of reasonable and ordinary care. If necessary, the Director will make a determination whether this condition is met before deciding whether to commence an investigation. In addition to the reasons given in the comments, our experience has been that stale allegations not only make impossible the taking of prompt remedial action, if appropriate, but also seriously hamper an investigation because of the fading memories and unavailability of witnesses. No investigation the Department has to date conducted would have been precluded by application of this 30-day reporting requirement.

We also modified § 354.5(b) to state that the Director will conduct an investigation and submit a report no later than 180 days after receiving information concerning a violation. Upon the Director's request, and if extraordinary circumstances exist, the Deputy Under Secretary for International Trade may grant the Director up to an additional 180 days to conduct the investigation and submit the report.

Finally, we changed § 354.6 to provide that the Deputy Under Secretary must decide whether to initiate a proceeding no later than 60 days after receiving a report of the investigation.

The regulations as originally proposed set forth time limits for the remainder of the sanction procedures, except for the scheduling of a hearing by a presiding official. Under § 354.12, the presiding official will schedule a hearing at a

reasonable time, date, and place. We have not revised the proposal in this respect. This statement thus grants the presiding officer sufficient discretion to take account both of the presiding officer's other obligations and of discussions that may be taking place between the parties to narrow the issues. For its part, however, the Department would not intend to continue such discussions for more than 90 days after issuance of the charging letter.

Guidelines for Treatment of Protective Order Material

Comment: Two parties suggest that guidelines defining appropriate or inappropriate behavior in treatment of protective order material be incorporated into these rules. Failure to establish guidelines will result in serious differences of opinion as to what constitutes a violation and needless allegations against attorneys trying to comply with the terms of an administrative protective order as they understand them.

One party suggests the following guidelines be included in these procedures as new paragraph (d) to § 354.5:

(d) In making his investigation and preparing his report, the Director shall be guided as follows:

(1) Following is a non-exhaustive list of behaviors that constitute violations of a protective order:

(a) The willful disclosure of protective order information to any client or any other third party not allowed access under the protective order;

(b) Counsel's taking protective order material out of the United States to a foreign country;

(c) The use of protective order information in questioning third parties even when those parties would not be in the position to pass any information to an interested party to the proceeding;

(d) Intentional disposal of APO documents not returned to the agency other than through shredding or tearing (in at least 8 parts).

(2) Following is a non-exhaustive list of behavior that does not constitute actionable violations of a protective order:

(a) Inadvertent disclosure of protected information, including inadvertent failure to shred or tear documents not returned to the agency; however, if the Director finds that the individual or firm that has made the inadvertent disclosure has made similar disclosures in the recent past (preceding 12 months), he shall indicate this history in his investigation report;

(b) Collection of documents from counsel prior to their further dissemination will not be deemed to be a "disclosure" at all;

(c) In the instance where administrative reviews of the same order for different time periods are proceeding simultaneously, the use of protective order material received as the result of one review in the other;

(d) The disclosure of such issues (claim for an adjustment for after-sale rebates, sales below cost of production, etc.) when such issues are not evident from public information but only from the APO information;

(e) The disclosure of ranges of aggregate values within plus or minus 10 percent of the actual values or of sample calculations when the actual values appear only in protective order information.

Another party supports a distinction between willful and inadvertent disclosures of proprietary information. The party recommends that when the failure to delete proprietary information from the public version of a brief or other correspondence is found to be inadvertent, the person submitting the information should be required to demonstrate that the release caused substantial harm to its competitive position. If it is determined that no, or minimal, harm has resulted from the disclosure, the party believes the Department can reasonably conclude that the proprietary designation was improperly granted and that no violation of the protective order occurred. A person should not be penalized for the inadvertent disclosure of information where that disclosure did not cause substantial harm to the competitive position of the submitter.

Department's Position: The Department agrees that guidelines defining inappropriate behavior in the treatment of protective order material should be incorporated into the procedures for imposing sanctions. Thus, we have added guidelines under § 354.5, new paragraph (d), to assist persons subject to an administrative protective order. The guidelines are based upon the violations described in our September 11, 1987, notice of the Status of Investigations into Charges of Violations of Administrative Protective Orders in Antidumping and Countervailing Duty Proceedings (52 FR 34399), the comments we received with respect to that notice (which are summarized and answered here), and the comments we received with respect to these proposed regulations.

The Department chose not to define guidelines for permissible behavior under a protective order. We believe that persons subject to an administrative protective order may place themselves in greater danger of committing a violation by attempting to interpret guidelines of permissible behavior rather than by attempting to avoid impermissible behavior. We urge persons subject to protective orders to contact the Department attorney assigned to the case if they are unable to determine from the guidelines, or from

the terms of the protective order, whether a contemplated act constitutes a violation. (See, "Designation of APO Legal Officer," *infra*.)

The Department also did not include as a violation the suggested example of "[c]ounsel's taking protective order material out of the United States to a foreign country." We fail to see how the risk of disclosure is increased by counsel's removal of proprietary material from the United States such that the simple act of doing so should be proclaimed, *ipso facto*, a violation. Counsel is subject to the requirements to safeguard proprietary information at any location, and if the risk of disclosure increases from one place to the next, counsel is expected to increase the steps taken to safeguard this material.

In addition, the Department did not include a guideline on the method by which the disposal of protective order material must take place. As explained in response to the next comment, this suggestion is directed more to procedures for administering protective orders than to sanctions for violations of those orders.

We disagree with the suggestion that we should authorize limited use of proprietary material obtained during one administrative review of an order in a later administrative review of the same order. (See, "Use of Protective Order Material in Other Proceedings," *infra*.) While isolated examples can be given of the potential utility of such exceptions, the increased risk of disclosure and the drain of the Department's limited resources away from the real work of a review far outweigh that potential benefit. In order to implement the comment, protective orders would have to extend in time from the initial investigation through all administrative reviews, which means keeping such orders active for ten years or more in some cases. The chance that proprietary material can adequately be managed under those circumstances is slim, and the risk, therefore, of inadvertent disclosure is greatly increased.

Moreover, parties could find it necessary to raise again issues resolved as to the particular facts in prior reviews, thus ensuring that no topic is ever put to rest and distracting Departmental personnel from resolving the issues that pertain to the facts in the current review. These dangers are not warranted by the potential benefits identified in the comment. The Department, of course, will have access to proprietary data in prior reviews as part of its investigatory mandate, and will transfer proprietary information

into the record of the current review from that of a prior review when it is appropriate to do so.

The recommendation that use of proprietary information when questioning third parties should be considered a violation is included in the first guideline, that is, such use would be considered disclosure of protective order information to someone not listed in the guideline.

Finally, the Department did not distinguish in its guidelines between willful and inadvertent disclosures of protected information for purposes of deciding whether a violation has, in fact, occurred. Disclosure of proprietary information, inadvertent or otherwise, will continue to constitute a violation of the administrative protective order. We recognize, however, that a willful or inadvertent violation of an administrative protective order and the degree of harm caused by a violation should be considered in determining whether sanctions are appropriate and, if so, what sanctions to impose. This is why the test for deciding whether to initiate a charging proceeding has two parts. Before a charging letter is issued, the Deputy Under Secretary must find under § 354.6 not only that reasonable cause to believe a person violated a protective order exists, but also that imposition of a sanction for that violation is appropriate. If a sanction is not appropriate for the violation, the Deputy Under Secretary will not initiate a proceeding. If a sanction is appropriate, the gradient of sanctions listed in § 354.3 provides the Deputy Under Secretary, the presiding official, or the APO Sanctions Board sufficient discretion to impose the sanction appropriate to the particular violation. As noted in § 354.6, "In determining whether sanctions are appropriate and, if so, what sanctions to impose, the Deputy Under Secretary will consider the nature of the violation, the resulting harm, and other relevant circumstances of the case." A similar statement is made in § 354.14(b).

Handling of Protective Order Material Following a Final Determination

Comment: One party suggests that the Department establish a guideline as to what documents containing proprietary information must be returned to the Department or the submitting party and what documents may be destroyed. The party believes that the current policy requires only that the original documents furnished must be returned, while copies of the original documents and all notes, memoranda, and official submissions containing protected information may be destroyed. If the

Department permits destruction of such information, it should clearly indicate how that destruction should take place, specifically as regards an electronic memory or a computer program.

Department's Position: The subject matter of this comment is directed more to procedures for administering protective orders than to sanctions for violations of those orders, which is the subject of this rulemaking. We have, however, deleted "destruction" of proprietary information from the guideline in new paragraph (d), even though it was included in the proposed rule, because the Department permits destruction, and certification of such destruction, in accordance with instructions contained in the model application and protective order.

Use of Protective Order Material When a Petition Is Refiled

Comment: One party recommends that the Department should presume that protective order material has not been misused when an antidumping duty or a countervailing duty case is refiled, provided that the petitioner can demonstrate an independent basis for believing circumstances changed sufficiently to warrant the refile. Counsel risks a claim that he used protective order information submitted in a prior proceeding when refiled a petition following the termination of the earlier proceeding. A guideline on this subject would significantly reduce any chilling effect upon the party's right to petition the government for redress.

Department's Position: The Department agrees with the presumption enunciated by the party; that is, the Department presumes that protective order material has not been misused when an antidumping duty or a countervailing duty petition is refiled. We did not, however, include this presumption as a guideline under these regulations because we decided, in response to an earlier comment, not to establish guidelines for permissible behavior under a protective order. Again, the Department is always willing to consult with any person who requests guidance as to the use of proprietary information.

Standard for Allegations

Comment: One party suggests that counsel who allege a violation of an administrative protective order be held to the same standard as that imposed under Rule 11 of the Federal Rules of Civil Procedure. This standard would limit frivolous allegations of wrongdoing by other counsel.

Department's Position: The Department condemns frivolous

allegations of wrongdoing under these regulations, but does not consider it necessary at this time to impose a standard by which to judge the propriety of an individual's allegation. Civil remedies allow an accused party an adequate response to the more serious charges of frivolity. Our experience also demonstrates that the persons who allege a violation impose upon themselves a rigorous standard by which they scrutinize their decision. If these regulations generate frivolous allegations, we will consider imposing a standard for allegations of violations of administrative protective orders in future rulemaking, together with appropriate sanctions for failure to meet that standard.

Repeated Inadvertent Disclosures of Protective Order Material

Comment: One party recommends that the text of § 354.6 include the following statement:

If the Director has found a repeated history of inadvertent disclosures, the Assistant Secretary will notify appropriate ITA [Department] personnel and request that they provide assistance to the offending party in the form of review of the party's APO procedures and the provision of appropriate advice so that the party may reduce or eliminate his or her inadvertent disclosures. Failure to adopt the recommendations of the Commerce Department personnel, where such recommendations are reasonable and do not involve substantial additional costs, can be considered by the agency in determining whether future APO release should be permitted.

Department's Position: The Department does not consider it necessary to add the party's recommended paragraph to our regulations. We have always placed a high priority on educating parties as to the proper use and control of proprietary information and will continue to provide guidance whenever a misunderstanding develops. Also, the failure of a person to adopt the Department's recommendations is, more appropriately, a consideration of intent to violate a protective order and thus will be reflected in the Deputy Under Secretary's recommendation for sanction. We note that any disclosure, albeit inadvertent, constitutes a violation and the Department may investigate and take action accordingly.

Designation of an APO Legal Officer

Comment: One party suggests that the Department designate an "APO legal officer." This individual would have the power under the regulations to issue formal advisory opinions as to the confidentiality of information derived

from protective order materials. The difficult decisions as to maintenance of a document's confidentiality during an indirect discussion of protective order data, or whether a document's confidentiality has been waived by the submitter, should not be left solely to the judgment of opposing counsel.

Department's Position: The Department does not consider it necessary to designate a particular legal officer to answer questions concerning protective order material. A person may contact the attorney assigned from the Office of Chief Counsel for Import Administration to seek clarification as to whether a proposed act constitutes a violation of an administrative protective order. We will continue, however, to evaluate whether it is necessary to appoint an APO legal officer.

Closing Public Hearings

Comment: Two parties recommend that the Department close the administrative hearings in antidumping and countervailing duty proceedings when necessary to permit disclosure of proprietary information. One of these parties suggests that a portion of the hearing be closed only where all parties to the investigation consent. The other party suggests that the Department withhold copies of the transcript from the public for 48 hours to permit counsel to delete proprietary information from it. The spontaneous nature of testimony at a hearing increases the risk of an inadvertent disclosure of proprietary information. Closed hearings would reduce this risk.

Department's Position: The subject matter of this comment is more appropriate for consideration in the context of our current revision of the regulations for countervailing duty and antidumping duty proceedings than in the context of this rulemaking. Therefore, this comment will be considered in our revision of those regulations.

Blanket Administrative Protective Orders

Comment: One party suggests that all counsel to a proceeding be covered by a single, blanket administrative protective order. This approach would limit the concern of respondents' counsel where multiple source information is used and reduce the risk of inadvertent disclosure when attempting to make many versions of the same brief.

Department's Position: The subject matter of this comment is more appropriate for consideration in the context of our current revision of the regulations for countervailing duty and antidumping duty proceedings than in

the context of this rulemaking. Therefore, this comment will be considered in our revision of those regulations.

Use of Protective Order Material in Other Proceedings

Comment: One party believes that the Department should not artificially limit its own factfinding abilities by preventing interested parties and itself from taking cognizance of protective order information in the context of any ongoing proceeding in which the information is relevant. The statutory limitation on the use of protective order information is designed to encourage submission of such information by giving assurances that the data will not be used in additional legal proceedings brought by parties given access. This limitation should not bar the use of this material over the course of a single proceeding as that term is defined in the Department's regulations. This limitation should also not bar the use of this material against another party where that party is involved in the same or a separate investigation of the same product. Finally, this limitation should not bar use of this information in a simultaneous investigation of the same party under another unfair trade statute.

Department's Position: The Department has consistently held that the acts described above violate administrative protective orders. Therefore, to clarify our holding, we established under § 354.5, new paragraph (d), guidelines to address the use of protective order information for purposes other than the proceeding for which it was obtained. (See, "Guidelines for Treatment of Protective Order Material," *supra*. See also the Department's discussion of this issue in the current revision of the regulations for antidumping and countervailing duty proceedings.)

Limit Sanctions to Appearances Before the ITA

Comment: One party suggests that the sanctions barring a person from appearing before the Department or any constituent agency or other sub-unit of the Department under paragraphs (a)(1) and (b)(1) of § 354.3 and paragraphs (c)(2) and (c)(3) of § 354.8 be limited just to appearances before the ITA. The party believes that a person found to have violated a protective order before the ITA should not be barred from appearing before other agencies of the Department, such as the Patent and Trademark Office or the National Oceanic and Atmospheric Administration, which perform services different from those of the ITA.

Department's Position: The Department agrees that sanctions to bar a person from appearing before the Department should be limited just to appearances before the ITA. That is, our proceedings do not consider factors relevant to the appearance of a person before another agency of the Department. Thus, a violation of an administrative protective order forms no basis for us to decide whether a person should be prohibited from practicing before another agency.

Sections 354.3(a), 354.3(b), and 354.8(c) have been amended to be consistent with this position. The Department notes, however, that it still retains the authority under § 354.15(e) to provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations whenever the Deputy Under Secretary subjects a charge or affected party to a sanction under § 354.3(a)(1) and to any Federal agency likely to have an interest in the matter and will cooperate in any disciplinary actions by any association or agency. We would also note that disbarment from practice before ITA could trigger disciplinary proceedings by other agencies.

No Time Limit Imposed on Sanctions

Comment: One party recommends that the seven-year limit placed on sanctions barring a person from appearing before the Department under § 354.3(a)(1) and § 354.3(b)(1) or denying a person access to proprietary information under § 354.3(a)(2) be lifted. The Department should have the ability to impose sanctions upon a person found to have violated a protective order for a period longer than seven years.

Department's Position: The Department agrees that it should not limit its ability to impose sanctions upon a person found to have violated a protective order for a period not to exceed seven years. Paragraphs (a)(1), (a)(2), and (b)(1) of § 354.3 have thus been amended to be consistent with this position.

Longer Time Limit for the Presiding Official's Initial Decision

Comment: One party suggests that the presiding official be allowed more than 10 days to file an initial decision after the conclusion of a hearing under § 354.14(a). The party notes that it normally takes more than one day for a hearing transcript to become available and that to require a transcript in one day significantly increases the costs of the proceeding.

Department's Position: The Department agrees that it should increase the period in which the presiding official will ordinarily issue a decision following the conclusion of a hearing. Paragraph (a) of § 354.14 has thus been amended to allow the presiding official 20 days to file a decision under these circumstances.

Note.—The Department added the phrase, "whenever the Deputy Under Secretary subjects a charged or affected party to a sanction under paragraph (a)(1) of § 354.3," to the last sentence of § 354.15(e) in order to indicate when the Department will refer a violation under this part to the disciplinary body of the appropriate professional association. The last sentence of § 354.14(e) now reads as follows:

The Deputy Under Secretary will also provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations *whenever the Deputy Under Secretary subjects a charged or affected party to a sanction under paragraph (a)(1) of § 354.3 and to any Federal agency likely to have an interest in the matter and will cooperate in any disciplinary actions by any [the] association[s] or agency[ies].*

Many bar associations, including that of the District of Columbia, operate under procedural rules which would require a formal investigation of such a notice, regardless of its nature. The unintended effect could be the initiation of an investigation by a bar association for a violation which did not warrant further remedial action. We thus decided to limit such referrals to the most grievous violations; that is, those that result in debarment from practice before the ITA.

List of Subjects in 19 CFR Parts 353, 354, and 355

Business and industry, Foreign trade, Imports, Trade practices.

Dated: November 21, 1988.

Jan W. Mares,

Assistant Secretary for Import Administration.

For the reasons stated, we amend Parts 353 and 355 of 19 CFR Chapter III and add a Part 354 as shown below.

PART 353—[AMENDED]

1. The authority citation for Part 353 is revised to read as follows:

Authority: 5 U.S.C. 301, and subtitle IV, parts II, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96-39, 93 Stat. 150; sec. 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 93-573, 98 Stat. 2948; and Title XVIII, Subtitle B, Chapter 3 of the Tax Reform Act of 1986, Pub. L. 99-514, 100 Stat. 2085.

2. 19 CFR 353.30(e)(2) is revised to read as follows:

§ 353.30 Limited disclosure of certain confidential information under an administrative protective order.

* * * * *

(e) * * *

(2) The imposition of such sanctions shall be in accordance with the procedures set forth in 19 CFR Part 354.

3. 19 CFR Part 354 is added as follows:

PART 354—PROCEDURES FOR IMPOSING SANCTIONS FOR VIOLATION OF AN ANTIDUMPING OR COUNTERVAILING DUTY PROTECTIVE ORDER

Secs.

- 354.1 Scope.
- 354.2 Definitions.
- 354.3 Sanctions.
- 354.4 Suspension of rules.
- 354.5 Report of violation and investigation.
- 354.6 Initiation of proceedings.
- 354.7 Charging letter.
- 354.8 Interim sanctions.
- 354.9 Request for a hearing.
- 354.10 Discovery.
- 354.11 Prehearing conference.
- 354.12 Hearing.
- 354.13 Proceeding without a hearing.
- 354.14 Initial decision.
- 354.15 Final decision.
- 354.16 Reconsideration.
- 354.17 Confidentiality.

Authority: 5 U.S.C. 301, and sec. 777 of the Tariff Act of 1930, as amended by sec. 619 of The Trade and Tariff Act of 1984, Pub. L. 93-573, 98 Stat. 2948, 3038, and sec. 1886(a)(13) of the Tax Reform Act of 1986, Pub. L. 99-514, 100 Stat. 2085.

§ 354.1 Scope.

This Part sets forth the procedures for imposing sanctions for violation of an administrative protective order issued under 19 CFR § 353.30 or § 355.20, or successor regulations, as authorized by 19 U.S.C. § 1677f(c).

§ 354.2 Definitions.

For purposes of this part:

(a) "Affected party" means a party against whom sanctions have been proposed but who is not a charged party;

(b) "APO Sanctions Board" means the Administrative Protective Order Sanctions Board;

(c) "Charged party" means a person who is charged by the Deputy Under Secretary with violating a protective order;

(d) "Chief Counsel" means Chief Counsel for Import Administration, or designee;

(e) "Date of service" means the day a document is deposited in the mail or delivered in person;

(f) "Days" means calendar days, except that a deadline which falls on a weekend or holiday shall be extended to the next working day;

(g) "Department" means Department of Commerce;

(h) "Deputy Under Secretary" means Deputy Under Secretary for International Trade, or designee;

(i) "Director" means an Office Director under the Deputy Assistant Secretary for Investigations, International Trade Administration, or designee, who shall be responsible for conducting an investigation of an alleged violation of an administrative protective order if the incident is discovered during an administrative review, or an Office Director under the Deputy Assistant Secretary for Compliance, International Trade Administration, or designee, if the incident is discovered during any other time;

(j) "Lesser included sanction" means a sanction of the same type but of more limited scope than the proposed sanction; thus a one-year bar on representations before the International Trade Administration is a lesser included sanction of a proposed seven-year bar;

(k) "Parties" means the Department and the charged party or affected party in an action under this Part;

(l) "Person" means an individual, partnership, corporation, association, organization, or other entity;

(m) "Presiding official" means the person authorized to conduct hearings in administrative proceedings or to rule on any motion or make any determination under this part, who may be an Administrative Law Judge, a Hearing Commissioner, or such other person who is not under the supervision or control of the Assistant Secretary for Import Administration, the Deputy Under Secretary for International Trade, the Chief Counsel for Import Administration, or a member of the APO Sanctions Board;

(n) "Proprietary information" means information the disclosure of which the Secretary has decided is limited under 19 CFR 353.29 or 355.19, including business or trade secrets; production costs; distribution costs; terms of sale; prices of individual sales, likely sales, or offers; names of customers, distributors, or suppliers; exact amounts of the gross net subsidies received and used by a person; names of particular persons from whom proprietary information was obtained; and any other business information the release of which to the public would cause substantial harm to

the competitive position of the submitter;

(o) "Protective order" means an administrative protective order issued by the Secretary under 19 CFR 353.30 or 355.20; and

(p) "Under Secretary" means Under Secretary for International Trade, or designee.

§ 354.3 Sanctions.

(a) A person determined under this part to have violated a protective order may be subjected to any or all of the following sanctions:

(1) Barring such person from appearing before the International Trade Administration to represent another for a designated time period from the date of publication in the **Federal Register** of a notice that a violation has been determined to exist;

(2) Denying the person access to proprietary information for a designated time period from the date of publication in the **Federal Register** of a notice that a violation has been determined to exist;

(3) Other appropriate administrative sanctions, including striking from the record any information or argument submitted by, or on behalf of, the violating party or the party represented by the violating party; terminating any proceeding then in progress; or revoking any order then in effect; and

(4) Requiring the person to return material previously provided by the Department and all other materials containing the proprietary information, such as briefs, notes, or charts based on any such information received under an administrative protective order.

(b) (1) The firm of which a person determined to have violated a protective order is a partner, associate or employee; any partner, associate, employer, or employee of such person; and any person represented by such person may be barred from appearing before the International Trade Administration for a designated time period from the date of publication in the **Federal Register** of notice that a violation has been determined to exist or may be subjected to the sanctions set forth in paragraph (a) of this section, as appropriate.

(2) Each person against whom sanctions are proposed under paragraph (b)(1) of this section is entitled to all the administrative rights set forth in this Part separately and apart from rights provided to a person subject to sanctions under paragraph (a) of this section, including the right to a charging letter, right to representation, and right to a hearing, but subject to joinder or consolidation by a presiding official under § 354.12(b).

§ 354.4 Suspension of rules.

Upon request by the Deputy Under Secretary, a charged or affected party, or the APO Sanctions Board, a presiding official may modify or waive any rule in the part upon determining that no party will be unduly prejudiced and the ends of justice will thereby be served and upon notice to all parties.

§ 354.5 Report of violation and investigation.

(a) An employee of the Department of Commerce who has information indicating that the terms of an administrative protective order have been violated will provide the information to the appropriate Director or the Chief Counsel.

(b) Upon receiving information which indicates that a person may have violated the terms of an administrative protective order, from an employee of the Department of Commerce or any other person, the appropriate Director will conduct an investigation concerning whether there was a violation of a protective order, and who was responsible for the violation, if any. For purposes of this part, the Director will be supervised by the Deputy Under Secretary for International Trade with guidance from the Chief Counsel. The Director will conduct an investigation only if the information is received within 30 days after the alleged violation occurred or, as determined by the Director, could have been discovered through the exercise of reasonable and ordinary care.

(c) The appropriate Director will provide a report of the investigation to the Deputy Under Secretary, after review by the Chief Counsel, no later than 180 days after receiving information concerning a violation. Upon the appropriate Director's request, and if extraordinary circumstances exist, the Deputy Under Secretary may grant the appropriate Director up to an additional 180 days to conduct the investigation and submit the report.

(d) The following examples of actions that constitute violations of an administrative protective order shall serve as guidelines to each person subject to a protective order. These examples do not represent an exhaustive list. Evidence that one of the acts described in the guidelines has been committed, however, shall be considered by the Deputy Under Secretary as reasonable cause to believe a person has violated a protective order, within the meaning of § 354.6.

(1) Disclosure of proprietary information to any person not granted access to that information by protective order, including an employee of the

Department not directly concerned with carrying out the investigation in connection with which the information is submitted, an employee of any other United States Government agency, or a member of Congress.

(2) Failure to follow the detailed procedures outlined in the protective order for safeguarding proprietary information, including maintaining a log showing when each proprietary document is used, and by whom, and requiring all employees who obtain access to proprietary information (under the terms of a protective order granted their employer) to sign and date a copy of that protective order.

(3) Loss of proprietary information.

(4) Failure to return or destroy all copies of the original documents and all notes, memoranda, and submissions containing proprietary information at the close of the proceeding for which the data were obtained by burning or shredding of the documents or by erasing electronic memory, computer disk, or tape memory, as set forth in the administrative protective order.

(5) Failure to delete proprietary information from the public version of a brief or other correspondence filed with the Department.

(6) Disclosure of proprietary information during a public hearing.

(7) Use of proprietary information submitted for one investigation or administrative review during a different investigation or administrative review.

(8) Use of proprietary information submitted in one investigation or administrative review in a separate investigation or administrative review of a product from the same or different country.

(9) Use of proprietary information submitted for a countervailing duty investigation or administrative review during an antidumping duty investigation or administrative review, or vice versa.

§ 354.6 Initiation of proceedings.

If the Deputy Under Secretary concludes, after an investigation and report by the appropriate Director under § 354.5(c) and consultation with the Chief Counsel, that there is reasonable cause to believe that a person has violated a protective order and that sanctions are appropriate for the violation, the Deputy Under Secretary will initiate a proceeding under this part by issuing a charging letter as set forth in § 354.7. In determining whether sanctions are appropriate and, if so, what sanctions to impose, the Deputy Under Secretary will consider the nature of the violation, the resulting harm, and

other relevant circumstances of the case. The Deputy Under Secretary will decide whether to initiate a proceeding no later than 60 days after receiving a report of the investigation.

§ 354.7 Charging letter.

(a) *Contents of Letter.* The Deputy Under Secretary will initiate proceedings by issuing a charging letter to each charged party and affected party which includes:

(1) A statement of the allegation that a protective order has been violated and the basis thereof;

(2) A statement of the proposed sanctions;

(3) A statement that the charged or affected party is entitled to review the documents or other physical evidence upon which the charge is based and the method for requesting access to, or copies of, such documents;

(4) A statement that the charged or affected party is entitled to a hearing before a presiding official if requested within 30 days of the date of service of the charging letter and the procedure for requesting a hearing, including the name, address, and telephone number of the person to contact if there are further questions;

(5) A statement that the charged or affected party has a right, if a hearing is not requested, to submit documentary evidence to the Deputy Under Secretary and an explanation of the method for submitting evidence and the date by which it must be received; and

(6) A statement that the charged or affected party has a right to retain counsel at the party's own expense for purposes of representation.

(b) *Settlement and amending the charging letter.* The Deputy Under Secretary may amend, supplement, or withdraw the charging letter at any time with the approval of a presiding official if the interests of justice would thereby be served. If a hearing has not been requested, the Deputy Under Secretary will ask the Under Secretary to appoint a presiding official to make this determination. If a charging letter is withdrawn after a request for a hearing, the presiding official will determine whether the withdrawal will bar the Deputy Under Secretary from seeking sanctions at a later date for the same alleged violation. If there has been no request for a hearing, or if supporting information has not been submitted under § 354.13, the withdrawal will not bar future actions on the same alleged violation. The Deputy Under Secretary and a charged or affected party may settle a charge brought under this part by mutual agreement at any time after service of the charging letter; approval

of the presiding official or the APO Sanctions Board is not necessary.

(c) *Service of charging letter on a resident of the United States.* (1) Service of a charging letter on a United States resident will be made by:

(i) Mailing a copy by registered or certified mail addressed to the charged or affected party at the party's last known address;

(ii) Leaving a copy with the charged or affected party or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service for the party; or

(iii) Leaving a copy with a person of suitable age and discretion who resides at the party's last known dwelling.

(2) Service made in the manner described in paragraph (c) (ii) or (iii) of this section shall be evidenced by a certificate of service signed by the person making such service, stating the method of service and the identity of the person with whom the charging letter was left.

(d) *Service of charging letter on a non-resident.* If applicable laws or intergovernmental agreements or understandings make the methods of service set forth in paragraph (c) of this section inappropriate or ineffective, service of the charging letter on a person who is not a resident of the United States may be made by any method that is permitted by the country in which the person resides and that satisfies the due process requirements under United States law with respect to notice in administrative proceedings.

§ 354.8 Interim sanctions.

(a) If the Deputy Under Secretary concludes, after issuing a charging letter under § 354.7 and before a final decision is rendered, that interim sanctions are necessary to protect the interests of the Department or others, including the protection of proprietary information, the Deputy Under Secretary may petition a presiding official to impose such sanctions.

(b) The presiding official may impose interim sanctions against a person upon determining that:

(1) There is probable cause to believe that there was a violation of a protective order and the Department is likely to prevail in obtaining sanctions under this Part,

(2) The Department or others are likely to suffer irreparable harm if the interim sanctions are not imposed, and

(3) The interim sanctions are a reasonable means for protecting the rights of the Department or others while preserving to the greatest extent possible the rights of the person against

whom the interim sanctions are proposed.

(c) Interim sanctions which may be imposed include any sanctions that are necessary to protect the rights of the Department or others, including, but not limited to:

(1) Denying a person further access to proprietary information.

(2) Barring a person from representing another person before the International Trade Administration.

(3) Barring a person from appearing before the International Trade Administration, and

(4) Requiring the person to return material previously provided by the Department and all other materials containing the proprietary information, such as briefs, notes, or charts based on any such information received under an administrative protective order.

(d) The Deputy Under Secretary will notify the person against whom interim sanctions are sought of the request for interim sanctions and provide to that person the material submitted to the presiding official to support the request. The notice will include a reference to the procedures of this section.

(e) A person against whom interim sanctions are proposed has a right to oppose the request through submission of material to the presiding official. The presiding official has discretion to permit oral presentations and to allow further submissions.

(f) The presiding official will notify the parties of the decision on interim sanctions and the basis therefor within five days of the conclusion of oral presentations or the date of final written submissions.

(g) If interim sanctions have been imposed, the investigation and any proceedings under this part will be conducted on an expedited basis.

(h) An order imposing interim sanctions may be revoked at any time by the presiding official and expires automatically upon the issuance of a final order.

(i) The presiding official may reconsider imposition of interim sanctions on the basis of new and material evidence or other good cause shown. The Deputy Under Secretary or a person against whom interim sanctions have been imposed may appeal a decision on interim sanctions to the APO Sanctions Board, if such an appeal is certified by the presiding official as necessary to prevent undue harm to the Department, a person against whom interim sanctions have been imposed or others, or is otherwise in the interests of justice. Interim sanctions which have been imposed

remain in effect while an appeal is pending, unless the presiding official determines otherwise.

(j) The Deputy Under Secretary may request a presiding official to impose emergency interim sanctions to preserve the status quo. Emergency interim sanctions may last no longer than 48 hours, excluding weekends and holidays. The person against whom such emergency interim sanctions are proposed need not be given prior notice or an opportunity to oppose the request for sanctions. The presiding official may impose emergency interim sanctions upon determining that the Department is, or others are, likely to suffer irreparable harm if such sanctions are not imposed and that the interests of justice would thereby be served. The presiding official will promptly notify a person against whom emergency sanctions have been imposed of the sanctions and their duration.

(k) If a hearing has not been requested, the Deputy Under Secretary will ask the Under Secretary to appoint a presiding official for making determinations under this section.

§ 354.9 Request for a hearing.

(a) Any party may request a hearing by submitting a written request to the Under Secretary within 30 days after the date of service of the charging letter. However, the Deputy Under Secretary may request a hearing only if the interests of justice would thereby be served.

(b) Upon timely receipt of a request for a hearing, the Under Secretary will appoint a presiding official to conduct the hearing and render an initial decision.

§ 354.10 Discovery.

(a) *Voluntary discovery.* All parties are encouraged to engage in voluntary discovery procedures regarding any matter, not privileged, which is relevant to the subject matter of the pending proceeding.

(b) *Interrogatories and requests for admissions or production of documents.* A party may serve on any other party interrogatories, requests for admissions, or requests for production of documents for inspection and copying, and a party concerned may then apply to the presiding official for such enforcement or protective order as that party deems warranted concerning such discovery. The party will serve a discovery request at least 20 days before the scheduled date of a hearing, if a hearing has been requested and scheduled, unless the presiding official specifies a shorter time period. Copies of interrogatories, requests for admissions, and requests

for production of documents and responses thereto will be served on all parties. Matters of fact or law of which admission is requested will be deemed admitted unless, within a period designated in the request (at least 10 days after the date of service of the request, or within such further time as the presiding official may allow), the party to whom the request is directed serves upon the requesting party a sworn statement either admitting or denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party cannot truthfully either admit or deny such matters.

(c) *Depositions.* Upon application of a party and for good cause shown, the presiding official may order the taking of the testimony of any person who is a party, or under the control or authority of a party, by deposition and the production of specified documents or materials by the person at the deposition. The application shall state the purpose of the deposition and shall set forth the facts sought to be established through the deposition.

(d) *Enforcement.* The presiding official may order a party to answer designated questions, to produce specified documents or items, or to take any other action in response to a proper discovery request. If a party does not comply with such an order, the presiding official may make any determination or enter any order in the proceedings as he or she deems reasonable and appropriate. The presiding official may strike related charges or defenses in whole or in part, or may take particular facts relating to the discovery request to which the party failed or refused to respond as being established for purposes of the proceeding in accordance with the contentions of the party seeking discovery. In issuing a discovery order, the presiding official will consider the necessity to protect proprietary information and will not order the release of information in circumstances where it is reasonable to conclude that such release will lead to unauthorized dissemination of such information.

(e) *Role of the Under Secretary.* If a hearing has not been requested, the party seeking enforcement will ask the Under Secretary to appoint a presiding official to rule on motions under this section.

§ 354.11 Prehearing conference.

(a)(1) If an administrative hearing has been requested, the presiding official will direct the parties to attend a prehearing conference to consider:

(i) Simplification of issues;

(ii) Obtaining stipulations of fact and of documents to avoid unnecessary proof;

(iii) Settlement of the matter;

(iv) Discovery; and

(v) Such other matters as may expedite the disposition of the proceedings.

(2) Any relevant and significant stipulations or admissions will be incorporated into the initial decision.

(b) If a prehearing conference is impractical, the presiding official will direct the parties to correspond with each other or to confer by telephone or otherwise to achieve the purposes of such a conference.

§ 354.12 Hearing.

(a) *Scheduling of hearing.* The presiding official will schedule the hearing at a reasonable time, date, and place, which will be in Washington, DC, unless the presiding official determines otherwise based upon good cause shown that another location would better serve the interests of justice. In setting the date, the presiding official will give due regard to the need for the parties adequately to prepare for the hearing and the importance of expeditiously resolving the matter.

(b) *Joinder or consolidation.* The presiding official may order joinder or consolidation if sanctions are proposed against more than one party or if violations of more than one protective order are alleged if to do so would expedite processing of the cases and not adversely affect the interests of the parties.

(c) *Hearing procedures.* Hearings will be conducted in a fair and impartial manner by the presiding official, who may limit attendance at any hearing or portion thereof if necessary or advisable in order to protect proprietary information from improper disclosure. The rules of evidence prevailing in courts of law shall not apply, and all evidentiary material the presiding official determines to be relevant and material to the proceeding and not unduly repetitious may be received into evidence and given appropriate weight. The presiding official may make such orders and determinations regarding the admissibility of evidence, conduct of examination and cross-examination, and similar matters as are necessary or appropriate to ensure orderliness in the proceedings. The presiding official will ensure that a record of the hearing be taken by reporter or by electronic recording, and will order such part of the record to be sealed as is necessary to protect proprietary information.

(d) *Rights of parties.* At a hearing each party shall have the right to:

- (1) Introduce and examine witnesses and submit physical evidence,
- (2) Confront and cross-examine adverse witnesses,
- (3) Present oral argument, and
- (4) Receive a transcript or recording of the proceedings, upon request, subject to the presiding official's orders regarding sealing the record.

(e) *Representation.* Each charged or affected party has a right to represent himself or herself or to retain private counsel for that purpose. The Chief Counsel will represent the Department, unless the General Counsel determines otherwise. The presiding official may disallow a representative if such representation constitutes a conflict of interest or is otherwise not in the interests of justice and may debar a representative for contemptuous conduct relating to the proceedings.

(f) *Ex parte communications.* The parties and their representatives may not make any *ex parte* communications to the presiding official concerning the merits of the allegations or any matters at issue, except as provided in § 354.8 regarding emergency interim sanctions.

§ 354.13 Proceeding without a hearing.

If no party has requested a hearing, the Deputy Under Secretary, within 40 days after the date of service of a charging letter, will submit for inclusion into the record and provide each charged or affected party information supporting the allegations in the charging letter. Each charged or affected party has the right to file a written response to the information and supporting documentation within 30 days after the date of service of the information provided by the Deputy Under Secretary unless the Deputy Under Secretary alters the time period for good cause. The Deputy Under Secretary may allow the parties to submit further information and argument.

§ 354.14 Initial decision.

(a) *Initial decision.* The presiding official, if a hearing was requested, or the Deputy Under Secretary will submit an initial decision to the APO Sanctions Board, providing copies to the parties. The presiding official or Deputy Under Secretary will ordinarily issue the decision within 20 days of the conclusion of the hearing, if one was held, or within 15 days of the date of service of final written submissions. The initial decision will be based solely on evidence received into the record, and the pleadings of the parties.

(b) *Findings and conclusions.* The initial decision will state findings and conclusions as to whether a person has violated a protective order; the basis for those findings and conclusions; and whether the sanctions proposed in the charging letter, or lesser included sanctions, should be imposed against the charged or affected party. The presiding official or Deputy Under Secretary may impose sanctions only upon determining that the preponderance of the evidence supports a finding of violation of a protective order and that the sanctions are warranted against the charged or affected party. In determining whether sanctions are appropriate and, if so, what sanctions to impose, the presiding official or the Deputy Under Secretary will consider the nature of the violation, the resulting harm, and other relevant circumstances of the case.

(c) *Finality of decision.* If the APO Sanctions Board has not issued a decision on the matter within 60 days after issuance of the initial decision, the initial decision becomes the final decision of the Department.

§ 354.15 Final decision.

(a) *APO Sanctions Board.* Upon request of a party, the initial decision will be reviewed by the members of the APO Sanctions Board. The Board consists of the Under Secretary for International Trade, who shall serve as Chairperson, the Under Secretary for Economic Affairs, and the General Counsel.

(b) *Comments on initial decision.* Within 30 days after issuance of the initial decision, a party may submit written comments to the APO Sanctions Board on the initial decision, which the Board will consider when reviewing the initial decision. The parties have no right to an oral presentation, although the Board may allow oral argument in its discretion.

(c) *Final decision by the APO Sanctions Board.* Within 60 days but not sooner than 30 days after issuance of an initial decision, the APO Sanctions Board may issue a final decision which adopts the initial decision in its entirety; differs in whole or in part from the initial decision, including the imposition of lesser included sanctions; or remands the matter to the presiding official or Deputy Under Secretary for further consideration. The only sanctions that the Board can impose are those sanctions proposed in the charging letter or lesser included sanctions.

(d) *Contents of final decision.* If the final decision of the APO Sanctions Board does not remand the matter and differs from the initial decision, it will

state findings and conclusions which differ from the initial decision, if any, the basis for those findings and conclusions, and the sanctions which are to be imposed, to the extent they differ from the sanctions in the initial decision.

(e) *Public notice of sanctions.* If the final decision is that there has been a violation of a protective order and that sanctions are to be imposed, notice of the Department's decision will be published in the *Federal Register*. Such publication will be no sooner than 30 days after issuance of a final decision or after a motion to reconsider has been denied, if such a motion was filed. The Deputy Under Secretary will also provide such information to the ethics panel or other disciplinary body of the appropriate bar associations or other professional associations whenever the Deputy Under Secretary subjects a charged or affected party to a sanction under paragraph (a)(1) of § 354.3 and to any Federal agency likely to have an interest in the matter and will cooperate in any disciplinary actions by any association or agency.

§ 354.16 Reconsideration.

Any party may file a motion for reconsideration with the APO Sanctions Board. The party must state with particularity the grounds for the motion, including any facts or points of law which the party claims the APO Sanctions Board has overlooked or misapplied. The party may file the motion within 30 days of the issuance of the final decision or the adoption of the initial decision as the final decision, except that if the motion is based on the discovery of new and material evidence which was not known, and could not reasonably have been discovered through due diligence prior to the close of the record, the party shall file the motion within 15 days of the discovery of the new and material evidence. The party shall provide a copy of the motion to all other parties. Opposing parties may file a response within 30 days of the date of service of the motion. The response shall be considered as part of the record. The parties have no right to an oral presentation on a motion for reconsideration, but the Board may permit oral argument at its discretion. If the motion to reconsider is granted, the Board will review the record and affirm, modify, or reverse the original decision or remand the matter for further consideration to a presiding official or the Deputy Under Secretary, as warranted.

§ 354.17 Confidentiality.

(a) All proceedings involving allegations of a violation of a protective order shall be kept confidential until such time as the Department makes a final decision under these regulations, no longer subject to reconsideration, imposing a sanction.

(b) The charged party or counsel for the charged party will be granted access to proprietary information in these proceedings, as necessary, under administrative protective order, consistent with the provisions of 19 CFR

353.30 and § 355.20, or their successor regulations.

PART 355—[AMENDED]

4. The authority citation for Part 355 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1303; 19 U.S.C. 2501 note; subtitle IV, parts I, III, and IV of the Tariff Act of 1930, as amended by Title I of the Trade Agreements Act of 1979, Pub. L. 96-39, 93 Stat. 150; sec. 221 and Title VI of the Trade and Tariff Act of 1984, Pub. L. 98-573, 98 Stat. 2948; and Title XVIII, Subtitle B, Chapter 3 of the Tax Reform Act of 1986, Pub. L. 99-514, 100 Stat. 2085.

5. 19 CFR 355.20(e)(2) is revised to read as follows:

§ 355.20 Limited disclosure of certain confidential information under an administrative protective order.

* * * * *

(e) * * *

(2) The imposition of such sanctions shall be in accordance with the procedures set forth in 19 CFR Part 354.

[FR Doc. 88-27253 Filed 11-25-88; 8:45 am]

BILLING CODE 3510-DS-M

[The page contains extremely faint, illegible text, likely bleed-through from the reverse side. The text is organized into several columns and paragraphs, but no specific words or phrases can be discerned.]

Reader Aids

Federal Register

Vol. 53, No. 228

Monday, November 28, 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, NOVEMBER

43999-44166	1
44167-44372	2
44373-44584	3
44585-44852	4
44853-45058	7
45059-45248	8
45249-45442	9
45443-45750	10
45751-45880	14
45881-46078	15
46079-46426	16
46427-46600	17
46601-46842	18
46843-47178	21
47179-47490	22
47491-47656	23
47657-47798	25
47799-47926	28

CFR PARTS AFFECTED DURING NOVEMBER

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:	
5779 (See Proc. 5911)	47413
5787 (See Proc. 5911)	47413
5808 (See Proc. 5911)	47413
5892	44167
5893	44169
5894	45059
5895	45061
5896	45063
5897	45239
5898	45241
5899	45243
5900	45251
5901	45253
5902	45255
5903	45439
5904	45441
5905	45443
5906	45881
5907	45883
5908	47485
5909	47487
5910	47489
5911	47413
5912	47519
5913	47521

Executive Orders:

1557 (Revoked by PLO 6688)	46871
7127 (Revoked in part by PLO 6688)	46871
10421 (Revoked by EO 12656)	47491
11490 (See EO 12657)	47513
11490 (Revoked by EO 12656)	47491
12148 (Amended by EO 12656)	47491
12241 (Amended by EO 12656)	47491
12655	45445
12656	47491
12657	47513
12658	47517

Administrative Orders:

Memorandums:	
Oct. 26, 1988	43999
Notices:	
Nov. 8, 1988	45750
Presidential Determinations:	
No. 89-1 of Oct. 3, 1988	44373
No. 89-2 of Oct. 5, 1988	45249
No. 89-3 of Oct. 13, 1988	44375
No. 89-4 of	

Oct. 20, 1988	44377
No. 89-5 of Oct. 24, 1988	46601
No. 89-6 of Oct. 31, 1988	46427

5 CFR

330	45065
351	45065
550	45885
630	45886
890	45069
1200	46843

7 CFR

2	45257, 46429
26	47657
250	46079
272	44171
275	44171
301	44172, 45071, 46844
354	47799
405	46845
440	46847
441	46847
451	46848, 46849
454	46850
713	47658
760	44001
770	47658
780	45073
905	47660
910	44002, 44585, 45751, 45753, 46603, 47800
928	44551
984	45754
1099	44853
1405	47658
1413	47658
1421	47658
1430	45887
1470	47658
1610	44173
1736	44174
1944	44176
1951	44177, 45755
1956	45887
1980	45257

Proposed Rules:

Ch. III	45484
1c	45661, 46745
26	47720
34	44591
52	45908
300	44199
301	45274
907	44925
908	44925
919	44407
948	44591
971	45767
989	45100

1076.....46875	354.....47723	303.....45913	522.....45759
1106.....44593	522.....44437	433.....44456	558.....44009
1709.....44594	563.....45484	801.....47829	872.....46040
1715.....47820	613.....44438	802.....47829	874.....46040
1718.....44887	614.....44438, 45101	803.....47829	878.....46040
1750.....47394	615.....44438	1028.....45661, 46745	884.....46040
1751.....47394	616.....44438	1031.....44892	886.....46040
1951.....44013	618.....44438	1032.....44892	888.....46040
3015.....44716	619.....44438		892.....46040
3016.....44716			
8 CFR	13 CFR	17 CFR	Proposed Rules:
214.....46850	121.....47663	30.....44856	50.....45678, 46746
274a.....46850	Proposed Rules:	211.....47800	56.....45678, 46746
	125.....47546	Proposed Rules:	103.....45854
9 CFR	143.....44716	1.....46089	182.....44904
11.....44585, 45854		230.....44016	184.....44904
77.....46080	14 CFR	270.....45275	310.....46204
78.....44179	21.....47394, 47664		331.....46190
307.....46429	25.....47664	18 CFR	341.....45774
308.....46429	36.....47394	4.....47525	343.....46204
310.....45888	39.....44156, 44160, 44180,	11.....45758	357.....46194
381.....46855	47670, 47672,	154.....44004, 45758	369.....46204
Proposed Rules:	45892-45897, 46333-	157.....44004, 45758	510.....46976
54.....44200	46444, 46605, 46862-	260.....44004, 45758, 45899	801.....44551
301.....44818	46867, 47179, 47180	271.....44007	
302.....44818	61.....47024	284.....44004, 45758	22 CFR
303.....44818	63.....47024	381.....44182	502.....45079, 47674
305.....44818	65.....47024	382.....46445	Proposed Rules:
306.....44818	67.....44166	385.....44004, 45758	34.....46880
307.....44818	71.....44145, 44586, 44587,	388.....44004, 45758	135.....44716
308.....44818	45076, 45186, 45757,	410.....45260	225.....45661, 46745
312.....44818	46605, 46868, 47181, 47182	420.....45260	226.....44716
314.....44818	73.....45258, 45758	Proposed Rules:	518.....44716
316.....44818	97.....45077, 47183	292.....44458	
317.....44818	99.....44182		24 CFR
318.....44818	121.....44182, 47024	19 CFR	24.....45903
320.....44818	135.....47024, 47362	4.....46081	235.....46084
322.....44818	139.....44588	111.....44186	570.....44186
325.....44818	145.....47362	113.....44186, 45901	885.....45265
327.....44818	150.....44554	353.....47916	904.....44876
331.....44818	156.....46869	354.....47916	905.....44876
335.....44818	217.....46284	355.....47916	913.....44876
381.....44818	241.....46284	Proposed Rules:	960.....44876
	1203.....45259	4.....44459	966.....44876
10 CFR	Proposed Rules:	10.....45485	Proposed Rules:
2.....45447, 47662	Ch. I.....44202, 45771	101.....44459, 46623	14.....44992
50.....45890	21.....45771, 46622	113.....45917	60.....45661, 46745
55.....46603	25.....45771, 46622	123.....44459	85.....44716
70.....45447	39.....44163, 44610, 44612,	141.....45485	100.....44992
73.....45447	45911, 46460-46473,	148.....44459	103.....44992
1013.....44379	46876, 46877	152.....46625, 46626	104.....44992
Proposed Rules:	71.....44613, 45274, 47222,	177.....46474	105.....44992
2.....44411	47223	210.....44463, 44900	106.....44992
19.....45768	73.....45187		109.....44992
20.....44014	1230.....45661, 46745	20 CFR	110.....44992
21.....44594	1270.....44716	361.....45261	115.....44992
50.....44594, 47822		365.....44976	121.....44992
430.....47546	15 CFR	404.....44551	280.....45216
600.....44716	771.....45899	Proposed Rules:	813.....44288
745.....45661, 46745	773.....45899	10.....47829	885.....44288
785.....44602	774.....45899	218.....44477	888.....44616
	775.....44002	404.....45186, 46628	
12 CFR	779.....44855	410.....46628	25 CFR
202.....45756	Proposed Rules:	416.....45186, 46628	102.....44010
203.....47662	Ch. VII.....45912	422.....46628	
229.....44324, 44325, 47524	24.....44716	655.....46093, 46187	26 CFR
329.....47523	27.....45661, 46745		301.....47675
552.....44394	774.....46878	21 CFR	Proposed Rules:
571.....45454		Ch. I.....44861	1.....45917, 45942
614.....45076	16 CFR	177.....44009, 47184	601.....44716
615.....45076	429.....45455	178.....44397, 47185, 47525	
618.....45076	802.....47524	182.....44862	27 CFR
Proposed Rules:	1306.....46828	184.....44862	250.....45266
Ch. V.....44436	1500.....46828	312.....44144	275.....45266
229.....44335, 44343, 44352,	Proposed Rules:	314.....44144	Proposed Rules:
	13.....44014, 44888	520.....45759	5.....47224

28 CFR

2	45903, 46869, 47186, 47187
31	44366, 44370
Proposed Rules:	
2	48950
46	45661, 46745
66	44716

29 CFR

516	45706, 46530
530	45706, 46530
1910	45080, 47188
1978	47676
2610	45904, 47901
2676	45906
Proposed Rules:	
97	44716
524	45657
525	45657
529	45657
1470	44716
1926	45102

30 CFR

15	46748
56	44588
57	44588
75	46768
206	45082, 45760
700	44356
701	45190, 46976, 47378
773	44144, 44694
780	45190, 46976
784	45190, 46976
785	47384
815	45190, 46976
816	45190, 46976
817	45190, 46976
827	47384
914	45459

Proposed Rules:

50	45878
56	45487
57	45487
206	47829
914	47224
931	44202
935	47225

31 CFR

500	44397
515	44398, 47526
Proposed Rules:	
103	45774, 46634

32 CFR

95	45085
159	44877
199	45461
356	46446
651	46322
706	45269
1293	45462
Proposed Rules:	
199	44909
219	45661, 46745
279	44716
806b	45776
863	45777

33 CFR

110	44399
117	46448, 46870
165	44878

334	47802
-----	-------

Proposed Rules:

117	44038, 46885
151	44617
155	44617
158	44617, 46977
334	47226

34 CFR

316	45730
318	45730
Proposed Rules:	
74	44716
80	44716
97	45661, 46745
237	46072
250	46404
251	46411
252	46404
253	46404
254	46404
255	46404
256	46404
257	46404
258	46404
280	45874
307	47466
659	46416
757	44578
758	44578

36 CFR**Proposed Rules:**

251	44144
1206	44716
1207	44716
1250	44203
1254	44203

37 CFR

1	47685, 47803
---	--------------

38 CFR

3	45906, 46606
17	46606
36	44400

Proposed Rules:

1	45944
3	46634, 46635
16	45661, 46745
17	47726
43	44716

39 CFR

111	44187
-----	-------

Proposed Rules:

111	47830
-----	-------

40 CFR

52	44189, 44191, 45763, 46608, 47188, 47189, 47530, 47686, 47689, 47690
60	45764, 46614, 47616
61	45764, 46614, 46976
81	47531
180	44401, 46085, 47534, 47810, 47811
185	44401
186	44401
228	44976
253	46558
261	47692
262	45089
280	44976
281	44976

704	46745
712	46262
716	45656, 46262, 46746

Proposed Rules:

26	45661, 46745
30	44716
33	44716
52	44485, 44487, 44491, 44494, 44495, 44911, 45103, 45285, 46093- 46096, 46636, 47547, 47548, 47730

81	44912
122	47632
180	46098
185	45946
186	45946
228	44617, 44620, 45519, 45948, 47731
261	45106, 45112, 45523, 45948, 47731
270	46474
271	47737
272	47737
403	47632
721	47228
761	45288
795	45289
799	45289, 47228

41 CFR

101-40	47191
101-44	47197
101-45	47534
201-1	47198
201-2	47198
201-23	47198
201-24	47198

42 CFR

57	46546, 46552
405	47199
406	47199
407	47199

Proposed Rules:

50	45781
57	44496
60	44913

43 CFR

4	47693
3160	46798

Proposed Rules:

12	44716
2200	45782
3190	47904

Public Land Orders:

6688	46871
------	-------

44 CFR

8	47210
11	47210
63	44193
64	44193, 46449, 47694, 47695, 47697
65	47812, 47813
67	47814

Proposed Rules:

13	44716
67	44915, 46478, 47831
221	47232

45 CFR

5	47697
303	47708
801	45247

Proposed Rules:

3	46886
---	-------

46	45661, 46745
74	44716
92	44716
603	44716
670	45119
690	45661, 46745
1157	44716
1174	44716
1184	44716
1234	44716
1304	47235
1305	47235
1308	47235
2015	44716

46 CFR

Ch. I	46871
4	47064
5	47064
16	47064
31	44010
70	44010
90	44010
107	44010
188	44010
581	44879

Proposed Rules:

25	44617
221	44206
390	45783, 46977
585	44039
587	44039
588	44039

47 CFR

0	47535
1	44195, 44196
13	46454
15	46615
22	47212
43	44196, 47817
64	47535
73	44197, 44198, 44404, 44405, 45094, 45095, 45479-45482, 46085- 46087, 47213
76	46615
80	46454
90	44144
95	44144, 47711

Proposed Rules:

22	44207
69	47836
73	44208-44210, 44502- 44504, 45127, 45523, 45524, 45948, 46099, 47235
80	44210
90	45128
97	47738

48 CFR

201	46455
215	46455
216	46455
227	44975
242	46455
245	46455
247	46455
252	44975
253	46455
307	44551
332	44551
852	46872
1828	45095
1852	45095

2401.....	46532
2402.....	46532
2406.....	46532
2409.....	46532
2412.....	46532
2413.....	46532
2414.....	46532
2415.....	46532
2416.....	46532
2419.....	46532
2422.....	46532
2424.....	46532
2426.....	46532
2427.....	46532
2432.....	46532
2434.....	46532
2437.....	46532
2442.....	46532
2446.....	46532
2451.....	46532
2452.....	46532
2453.....	46532

Proposed Rules:

14.....	46792
15.....	46792
28.....	44564
47.....	45742
52.....	44564, 45742, 46792
53.....	44564
512.....	47551
546.....	47551
552.....	45293, 47551
932.....	45294
952.....	45294

49 CFR

40.....	47002
199.....	47084
217.....	47102
219.....	47102, 47819
387.....	47542
390.....	47542
391.....	47134, 47542
394.....	47134
395.....	44588, 47542
653.....	47156
1004.....	47219
1041.....	47219
1042.....	47219
1140.....	46087
1152.....	45765
1201.....	46619

Proposed Rules:

Ch. II.....	47554
11.....	45661, 46745
18.....	44716
171.....	45868
172.....	45525, 45868
173.....	45525, 45868
174.....	45868
175.....	45868
176.....	45868
177.....	45868
178.....	45868
179.....	45868
229.....	47557
571.....	44211, 44623, 44627, 45128
574.....	44632
575.....	45527
1135.....	47558
1152.....	47559

50 CFR

17.....	45858, 45861
20.....	44589, 44695

380.....	46872
642.....	45097, 47718
644.....	45098
655.....	45784
658.....	45270, 46745
672.....	44011
675.....	47544

Proposed Rules:

16.....	45788
17.....	45788, 46479
18.....	45788
20.....	45296
33.....	44043
611.....	44047, 46482, 46890
646.....	44975
651.....	44975, 45301, 47299
655.....	45854
663.....	46890

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 November 25, 1988

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office. 115 New units issued during the week are announced on the back cover of the daily **Federal Register** as they become available.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The annual rate for subscription to all revised volumes is \$595.00 domestic, \$148.75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, DC 20402. Charge orders (VISA, MasterCard, or GPO Deposit Account) may be telephoned to the GPO order desk at (202) 783-3238 from 8:00 a.m. to 4:00 p.m. eastern time, Monday—Friday (except holidays).

Title	Price	Revision Date
1, 2 (2 Reserved)	\$10.00	Jan. 1, 1988
3 (1987 Compilation and Parts 100 and 101)	11.00	¹ Jan. 1, 1988
4	14.00	Jan. 1, 1988
5 Parts:		
1-699	14.00	Jan. 1, 1988
700-1199	15.00	Jan. 1, 1988
1200-End, 6 (6 Reserved)	11.00	Jan. 1, 1988
7 Parts:		
0-26	15.00	Jan. 1, 1988
27-45	11.00	Jan. 1, 1988
46-51	16.00	Jan. 1, 1988
52	23.00	Jan. 1, 1988
53-209	18.00	Jan. 1, 1988
210-299	22.00	Jan. 1, 1988
300-399	11.00	Jan. 1, 1988
400-699	17.00	Jan. 1, 1988
700-899	22.00	Jan. 1, 1988
900-999	26.00	Jan. 1, 1988
1000-1059	15.00	Jan. 1, 1988
1060-1119	12.00	Jan. 1, 1988
1120-1199	11.00	Jan. 1, 1988
1200-1499	17.00	Jan. 1, 1988
1500-1899	9.50	Jan. 1, 1988
1900-1939	11.00	Jan. 1, 1988
1940-1949	21.00	Jan. 1, 1988
1950-1999	18.00	Jan. 1, 1988
2000-End	6.50	Jan. 1, 1988
8	11.00	Jan. 1, 1988
9 Parts:		
1-199	19.00	Jan. 1, 1988
200-End	17.00	Jan. 1, 1988
10 Parts:		
0-50	18.00	Jan. 1, 1988
51-199	14.00	Jan. 1, 1988
200-399	13.00	² Jan. 1, 1987
400-499	13.00	Jan. 1, 1988
500-End	24.00	Jan. 1, 1988
11	10.00	July 1, 1988
12 Parts:		
1-199	11.00	Jan. 1, 1988
200-219	10.00	Jan. 1, 1988
220-299	14.00	Jan. 1, 1988
300-499	13.00	Jan. 1, 1988
500-599	18.00	Jan. 1, 1988
600-End	12.00	Jan. 1, 1988
13	20.00	Jan. 1, 1988
14 Parts:		
1-59	21.00	Jan. 1, 1988
60-139	19.00	Jan. 1, 1988
140-199	9.50	Jan. 1, 1988

Title	Price	Revision Date
200-1199	20.00	Jan. 1, 1988
1200-End	12.00	Jan. 1, 1988
15 Parts:		
0-299	10.00	Jan. 1, 1988
300-399	20.00	Jan. 1, 1988
400-End	14.00	Jan. 1, 1988
16 Parts:		
0-149	12.00	Jan. 1, 1988
150-999	13.00	Jan. 1, 1988
1000-End	19.00	Jan. 1, 1988
17 Parts:		
1-199	14.00	Apr. 1, 1988
200-239	14.00	Apr. 1, 1988
240-End	21.00	Apr. 1, 1988
18 Parts:		
1-149	15.00	Apr. 1, 1988
150-279	12.00	Apr. 1, 1988
280-399	13.00	Apr. 1, 1988
400-End	9.00	Apr. 1, 1988
19 Parts:		
1-199	27.00	Apr. 1, 1988
200-End	5.50	Apr. 1, 1988
20 Parts:		
1-399	12.00	Apr. 1, 1988
400-499	23.00	Apr. 1, 1988
500-End	25.00	Apr. 1, 1988
21 Parts:		
1-99	12.00	Apr. 1, 1988
100-169	14.00	Apr. 1, 1988
170-199	16.00	Apr. 1, 1988
200-299	5.00	Apr. 1, 1988
300-499	26.00	Apr. 1, 1988
500-599	20.00	Apr. 1, 1988
600-799	7.50	Apr. 1, 1988
800-1299	16.00	Apr. 1, 1988
1300-End	6.00	Apr. 1, 1988
22 Parts:		
1-299	20.00	Apr. 1, 1988
300-End	13.00	Apr. 1, 1988
23	16.00	Apr. 1, 1988
24 Parts:		
0-199	15.00	Apr. 1, 1988
200-499	26.00	Apr. 1, 1988
500-699	9.50	Apr. 1, 1988
700-1699	19.00	Apr. 1, 1988
1700-End	15.00	Apr. 1, 1988
25	24.00	Apr. 1, 1988
26 Parts:		
§§ 1.0-1-1.60	13.00	Apr. 1, 1988
§§ 1.61-1.169	23.00	Apr. 1, 1988
§§ 1.170-1.300	17.00	Apr. 1, 1988
§§ 1.301-1.400	14.00	Apr. 1, 1988
§§ 1.401-1.500	24.00	Apr. 1, 1988
§§ 1.501-1.640	15.00	Apr. 1, 1988
§§ 1.641-1.850	17.00	Apr. 1, 1988
§§ 1.851-1.1000	28.00	Apr. 1, 1988
§§ 1.1001-1.1400	16.00	Apr. 1, 1988
§§ 1.1401-End	21.00	Apr. 1, 1988
2-29	19.00	Apr. 1, 1988
30-39	14.00	Apr. 1, 1988
40-49	13.00	Apr. 1, 1988
50-299	15.00	Apr. 1, 1988
300-499	15.00	Apr. 1, 1988
500-599	8.00	³ Apr. 1, 1980
600-End	6.00	Apr. 1, 1988
27 Parts:		
1-199	23.00	Apr. 1, 1988
200-End	13.00	Apr. 1, 1988
28	25.00	July 1, 1988

Title	Price	Revision Date	Title	Price	Revision Date
29 Parts:			42 Parts:		
0-99.....	17.00	July 1, 1988	1-60.....	15.00	Oct. 1, 1987
100-499.....	6.50	July 1, 1988	61-399.....	5.50	Oct. 1, 1987
500-899.....	24.00	July 1, 1987	400-429.....	21.00	Oct. 1, 1987
900-1899.....	11.00	July 1, 1988	430-End.....	14.00	Oct. 1, 1987
1900-1910.....	29.00	July 1, 1988	43 Parts:		
1911-1925.....	8.50	July 1, 1988	1-999.....	15.00	Oct. 1, 1987
*1926.....	10.00	July 1, 1988	1000-3999.....	24.00	Oct. 1, 1987
1927-End.....	23.00	July 1, 1987	4000-End.....	11.00	Oct. 1, 1987
30 Parts:			44.....	18.00	Oct. 1, 1987
0-199.....	20.00	July 1, 1988	45 Parts:		
200-699.....	8.50	July 1, 1987	1-199.....	14.00	Oct. 1, 1987
700-End.....	18.00	July 1, 1988	200-499.....	9.00	Oct. 1, 1987
31 Parts:			500-1199.....	18.00	Oct. 1, 1987
0-199.....	12.00	July 1, 1987	1200-End.....	14.00	Oct. 1, 1987
200-End.....	16.00	July 1, 1987	46 Parts:		
32 Parts:			1-40.....	13.00	Oct. 1, 1987
1-39, Vol. I.....	15.00	⁴ July 1, 1984	41-69.....	13.00	Oct. 1, 1987
1-39, Vol. II.....	19.00	⁴ July 1, 1984	70-89.....	7.00	Oct. 1, 1987
1-39, Vol. III.....	18.00	⁴ July 1, 1984	90-139.....	12.00	Oct. 1, 1987
1-189.....	20.00	July 1, 1987	140-155.....	12.00	Oct. 1, 1987
190-399.....	23.00	July 1, 1987	156-165.....	14.00	Oct. 1, 1987
400-629.....	21.00	July 1, 1987	166-199.....	13.00	Oct. 1, 1987
630-699.....	13.00	⁵ July 1, 1986	200-499.....	19.00	Oct. 1, 1987
700-799.....	15.00	July 1, 1988	500-End.....	10.00	Oct. 1, 1987
800-End.....	16.00	July 1, 1987	47 Parts:		
33 Parts:			0-19.....	17.00	Oct. 1, 1987
*1-199.....	27.00	July 1, 1988	20-39.....	21.00	Oct. 1, 1987
200-End.....	19.00	July 1, 1987	40-69.....	10.00	Oct. 1, 1987
34 Parts:			70-79.....	17.00	Oct. 1, 1987
1-299.....	20.00	July 1, 1987	80-End.....	20.00	Oct. 1, 1987
300-399.....	11.00	July 1, 1987	48 Chapters:		
400-End.....	23.00	July 1, 1987	1 (Parts 1-51).....	26.00	Oct. 1, 1987
35.....	9.50	July 1, 1988	1 (Parts 52-99).....	16.00	Oct. 1, 1987
36 Parts:			2 (Parts 201-251).....	17.00	Oct. 1, 1987
1-199.....	12.00	July 1, 1988	2 (Parts 252-299).....	15.00	Oct. 1, 1987
200-End.....	20.00	July 1, 1988	3-6.....	17.00	Oct. 1, 1987
37.....	13.00	July 1, 1988	7-14.....	24.00	Oct. 1, 1987
38 Parts:			15-End.....	23.00	Oct. 1, 1987
0-17.....	21.00	July 1, 1987	49 Parts:		
18-End.....	19.00	July 1, 1988	1-99.....	10.00	Oct. 1, 1987
39.....	13.00	July 1, 1988	100-177.....	25.00	Oct. 1, 1987
40 Parts:			178-199.....	19.00	Oct. 1, 1987
1-51.....	21.00	July 1, 1987	200-399.....	17.00	Oct. 1, 1987
52.....	26.00	July 1, 1987	400-999.....	22.00	Oct. 1, 1987
53-60.....	24.00	July 1, 1987	1000-1199.....	17.00	Oct. 1, 1987
61-80.....	12.00	July 1, 1988	1200-End.....	18.00	Oct. 1, 1987
81-99.....	25.00	July 1, 1987	50 Parts:		
100-149.....	23.00	July 1, 1987	1-199.....	16.00	Oct. 1, 1987
150-189.....	18.00	July 1, 1987	200-599.....	12.00	Oct. 1, 1987
190-399.....	29.00	July 1, 1987	600-End.....	14.00	Oct. 1, 1987
400-424.....	22.00	July 1, 1987	CFR Index and Findings Aids.....	28.00	Jan. 1, 1988
425-699.....	21.00	July 1, 1987	Complete 1988 CFR set.....	595.00	1988
700-End.....	27.00	July 1, 1987	Microfiche CFR Edition:		
41 Chapters:			Complete set (one-time mailing).....	125.00	1984
1, 1-1 to 1-10.....	13.00	⁶ July 1, 1984	Complete set (one-time mailing).....	115.00	1985
1, 1-11 to Appendix, 2 (2 Reserved).....	13.00	⁶ July 1, 1984	Subscription (mailed as issued).....	185.00	1987
3-6.....	14.00	⁶ July 1, 1984	Subscription (mailed as issued).....	185.00	1988
7.....	6.00	⁶ July 1, 1984	Individual copies.....	3.75	1988
8.....	4.50	⁶ July 1, 1984			
9.....	13.00	⁶ July 1, 1984			
10-17.....	9.50	⁶ July 1, 1984			
18, Vol. I, Parts 1-5.....	13.00	⁶ July 1, 1984			
18, Vol. II, Parts 6-19.....	13.00	⁶ July 1, 1984			
18, Vol. III, Parts 20-52.....	13.00	⁶ July 1, 1984			
19-100.....	13.00	⁶ July 1, 1984			
1-100.....	10.00	July 1, 1988			
101.....	23.00	July 1, 1987			
102-200.....	12.00	July 1, 1988			
201-End.....	8.50	July 1, 1987			

¹ Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

² No amendments to this volume were promulgated during the period Jan. 1, 1987 to Dec. 31, 1987. The CFR volume issued January 1, 1987, should be retained.

³ No amendments to this volume were promulgated during the period Apr. 1, 1980 to March 31, 1988. The CFR volume issued as of Apr. 1, 1980, should be retained.

⁴ The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

⁵ No amendments to this volume were promulgated during the period July 1, 1986 to June 30, 1988. The CFR volume issued as of July 1, 1986, should be retained.

⁶ The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.