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Presidential Documents

Title 3—

The President

Proclamation 5931 of January 9, 1989

National Sanctity of Human Life Day, 1989

By the President of the United States of America

A Proclamation

Reverence for human life and recognition of the sanctity of individual life are among the defining characteristics of a just civil order. For century upon century, mankind has struggled to establish such principles in law—not merely as right ideas confirmable by experience, but as self-evident truths that provide the only possible basis for the creation of durable political institutions. Age after age of wars and persecutions, serfdom and slavery, have left bitter reminders of the consequences that everywhere follow a failure to recognize the fundamental dignity and equality of human beings in the sight of God.

Our Nation was born in the midst of a struggle in which these principles were the real field of battle. The United States of America was founded by visionary people who believed, and said forthrightly, that the test of any just political system lay in whether it affirmed the unalienable rights endowed by God, rights that no civil authority was ever free to deny or contravene. In this context, it is no wonder then that the first right proclaimed by our Founders in the Declaration of Independence was that of life, and that the care of human life and happiness, as Jefferson declared in words now inscribed on the marble walls of our national Memorial to him, was held to be the first and only legitimate object of good government.

Today our Nation, economically prosperous and at peace, bears a fresh, dark wound upon its conscience, a wound created by a stark deviation from the course of our national journey. Contrary to the purpose of law, to the character of medicine, to the habit of charity, and to the spirit of our founding, abortion has become routinized in America. No one can mistake abortion for the gentle art of healing. Each day in our land the promise of life is stolen from thousands of the unborn, the first flower of their unique existence crushed forever. But, as many philosophers have pointed out, the effects of such acts of violence are just as profound on those who perform them as on those who undergo them.

Americans are a generous and kindhearted people, a people who strive to strengthen and preserve those delicate bonds of affection that unite the human family and give safe harbor to all its members. We often fail in our tenderness and mercy; but it is not in our nature to choose failure. Rather, we are a people who thirst after justice and will give our all to achieve it and defend it. Most particularly, we are a people who will not settle for a national policy that each year condemns 1.5 million unborn children to an early death and consigns their mothers to exploitation and emptiness. We must and we will answer abortion with loving alternatives like adoption, and we will ensure that our laws preserve and protect the innocent unborn from destruction.

In 1989 America can make a New Beginning as a champion of the most basic civil right of all. We can, as is written in Deuteronomy, choose life, so that we and our descendants may live.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, January 22, 1989, as National

Sanctity of Human Life Day. I call upon all Americans to reflect on their heritage as a free people under God and the duty incumbent upon each of us to recognize the personhood of every individual and to defend the life of every innocent person from the moment of conception until natural death. Let us gather in homes and places of worship during this sixth annual observance of National Sanctity of Human Life Day to offer reparation for the appalling tragedy of abortion and to rededicate ourselves to works of charity and justice in behalf of America's unborn children and their mothers.

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

Ronald Reagan

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Rules and Regulations

Federal Register
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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

9 CFR Part 77

[Docket No. 88-191]

Tuberculosis in Cattle and Bison; State Designation

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are amending the regulations governing the interstate movement of cattle and bison because of tuberculosis by raising the designation of Oregon from a modified accredited state to an accredited-free state. This action is necessary because we have determined that Oregon meets the criteria for designation as an accredited-free state.

DATES: Interim rule effective January 12, 1989. Consolidation will be given only to comments postmarked or received on or before March 13, 1989.

ADDRESSES: Send an original and two copies of written comments to Helene R. Wright, Regulatory Analysis and Development, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 88-191. Comments received may be inspected at Room 1141 of the South Building, 14th and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Senior Staff Veterinarian, Cattle Diseases Staff, VS, APHIS, USDA, Room 734, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7717.

SUPPLEMENTARY INFORMATION:

Background

The tuberculosis regulations (contained in 9 CFR Part 77 and referred to below as the regulations) regulate the interstate movement of cattle and bison because of tuberculosis. The requirements of the regulations concerning the interstate movement of cattle and bison not known to be affected with or exposed to tuberculosis are based on whether the cattle and bison are moved from jurisdictions designated as accredited-free states, modified accredited states, or nonmodified accredited states. The criteria for determining the status of states (the term state is defined to mean any state, territory, the District of Columbia, or Puerto Rico) or portions of states are contained in a document captioned "Uniform Methods and Rules–Bovine Tuberculosis Eradication," 1985 edition, which has been made part of the regulations by incorporation by reference. The status of either states or portions of states is based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis control and eradication program.

Before publication of this interim rule, Oregon was designated in § 77.1 of the regulations as a modified accredited state. However, Oregon now meets the requirements for designation as an accredited-free state. Therefore, we are amending the regulations by removing Oregon from the list of modified accredited states in § 77.1 and adding it to the list of accredited-free states in that section.

Immediate Action

James W. Glosser, Administrator of the Animal and Plant Health Inspection Service, has determined that a situation exists that warrants publication of this rule without prior opportunity for public comment. It is necessary to change the regulations so that they accurately reflect the current tuberculosis status of Oregon as an accredited-free state. This action will provide prospective cattle and bison buyers with accurate and up-to-date information, which may affect the marketability of cattle and bison, since some prospective buyers prefer to buy cattle and bison from accredited-free states.

Since prior notice and other public procedures with respect to this rule are impracticable and contrary to the public interest under these conditions, and because this rule removes a regulatory restriction, there is good cause under 5 U.S.C. 553 to make it effective less than 30 days after publication in the **Federal Register**. We will consider comments postmarked or received within 60 days of publication of this interim rule in the **Federal Register**. Any amendments we make to this interim rule as a result of these comments will be published in the **Federal Register** following the close of the comment period.

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 the review process required by Executive Order 12291.

The groups affected by this action will be certain livestock owners in Oregon, as well as buyers and importers of Oregon cattle. Changing the status of Oregon will improve the marketability of cattle and bison from Oregon, since some prospective cattle and bison buyers prefer to buy from accredited-free states. This will result in a beneficial economic impact on some small entities. However, based on our experience in similar designations of other states, the impact should not be significant.

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.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or

recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

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 9 CFR Part 77

Animal diseases, Bison, Cattle, Transportation, Tuberculosis.

Accordingly, 9 CFR Part 77 is amended as follows:

PART 77—TUBERCULOSIS

1. The authority citation for Part 77 continues to read as follows:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51 and 371.2(d).

§ 77.1 [Amended]

2. In § 77.1, paragraph (2) of the definition for "Modified accredited state" is amended by removing "Oregon".

3. In § 77.1, paragraph (2) of the definition for "Accredited-free state" is amended by adding "Oregon" immediately after "Oklahoma".

Done at Washington, DC, this 9th day of January 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–738 Filed 1–11–89; 8:45 am]

BILLING CODE 3410-34-M

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9 CFR Part 78

[Docket No. 88–204]

Brucellosis in Cattle; State and Area Classifications

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: We are affirming without change an interim rule that amended the brucellosis regulations concerning the interstate movement of cattle by changing the classification of Louisiana from Class C to Class B.

EFFECTIVE DATE: February 13, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Jan Huber, Senior Staff Veterinarian, Cattle Diseases and Surveillance Staff, VS, APHIS, USDA, Room 731, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–5533.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** and effective September 29, 1988 (53 FR 37988–37989, Docket Number 88–144), we changed the brucellosis status of Louisiana by removing it from the list of Class C states in § 78.41(d) and adding to the list of Class B states in § 78.41(c). Comments on the interim rule were required to be postmarked or received on or before November 28, 1988. We did not receive any comments. The facts presented in the interim rule still provide the basis for this rule.

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.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of Louisiana from Class C to Class B reduces certain testing and other requirements governing the interstate movement of cattle from Louisiana. Testing requirements for cattle moved interstate for immediate slaughter or to quarantined feedlots are not affected by this change. Also, cattle from certified brucellosis-free herds moving interstate are not affected by this change.

The groups affected by this action are certain herd owners in Louisiana, as well as out-of-state buyers of Louisiana cattle. Approximately 53,000 cattle are tested for brucellosis in Louisiana each year. Under Class C status, nonvaccinated female cattle born before January 1, 1984 must have two negative brucellosis tests before being moved interstate. Under Class B status, these cattle do not require a second negative brucellosis test. Cattle that would not require this second test under Class B status comprise approximately 10 percent (or 5,300 animals) of the 53,000 cattle tested for brucellosis in Louisiana each year. Since each test costs an average of $7, the state's cattle industry could realize an estimated savings of $37,000 yearly.

We have therefore determined that changing Louisiana's brucellosis status will not significantly affect market patterns, and will not have a significant economic impact on the small entities affected by this rule.

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.

Paperwork Reduction Act

This rule contains no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under 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 9 CFR Part 78

Animal diseases, Brucellosis, Cattle, Hogs, Quarantine, Transportation.

PART 78—BRUCELLOSIS

Accordingly, we are adopting as a final rule, without change, the interim rule amending 9 CFR Part 78 that was published at 53 FR 37988–37989 on September 29, 1988.

Authority: 21 U.S.C. 111–114a–1, 114g, 115, 117, 120, 121, 123–126, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done in Washington, DC, this 9th day of January 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89–674 Filed 1–11–89; 8:45 am]

BILLING CODE 3410-34-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Organization; Conservatorships and Receiverships

AGENCY: Farm Credit Administration.

ACTION: Final rule and affirmation of interim rule.

SUMMARY: The Farm Credit Administration (FCA) Board adopts in final form amendments to the regulations relating to conservatorships and receiverships, but does not respond to the portion of the proposed amendment to § 611.1156(b)(1) relating to the definition of insolvency. The final rule implements provisions of the Farm Credit Act of 1971, as amended by the Agricultural Credit Act of 1987 (Pub. L. 100–233), by permitting the FCA to confirm that insolvency exists through means other than examination; by deleting regulations providing specific direction to the receiver of an association in selling loans; by providing for the protection of equities owned by Farm Credit System (System) borrowers during a receivership; by permitting a System bank or association in receivership to issue preferred stock to the Farm Credit System Financial Assistance Corporation; by making technical changes to eliminate confusion regarding the implementation of joint and several liability on Systemwide and consolidated obligations; and by requiring that certain powers be exercised by the FCA Board as opposed to the FCA or the Chairman of the FCA Board. Comments from the public have been considered and clarifying changes have been made to the proposed rule.

DATE: This regulation shall become effective upon the expiration of 30 days after this publication during which either or both Houses of Congress are in session. Notice of the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:

Eldon Stoehr, Regional Director, Northeast Region, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 (703) 883–4251, TDD (703) 883–4444

or

Joanne P. Ongman, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090 (703) 883–4020, TDD (703) 883–4444

SUPPLEMENTARY INFORMATION: On May 12, 1988 (53 FR 16934) and October 31, 1988 (53 FR 43897), the FCA published for public comment proposed regulations relating to conservatorships and receiverships set forth in 12 CFR Part 611. The comment period for these proposed regulations closed on June 13, 1988, and November 21, 1988, respectively. Additionally, on May 24, 1988, the FCA published certain aspects of the amendments proposed on May 12, 1988, as interim regulations. 53 FR 18810. This action was taken to clarify the legal requirements applicable to receiverships and conservatorships because two System institutions had recently been placed in receivership by the FCA Board. The comment period on the interim regulations closed on June 23, 1988. In this document, the FCA Board responds to the comments received on these proposed and interim regulations and adopts the interim regulations as final regulations without change.

The amendments proposed on May 12, 1988, included revisions to conform 12 CFR Part 611 to the requirements of the Agricultural Credit Act of 1987 (1987 Act) by providing for the protection of equities owned by System borrowers during a receivership; by permitting a System bank or association in receivership to issue preferred stock to the Farm Credit System Financial Assistance Corporation; by making technical changes to eliminate confusion regarding the implementation of joint and several liability on Systemwide and consolidated obligations; and by requiring that certain powers be exercised by the FCA Board as opposed to the FCA or the Chairman of the FCA Board. The FCA received comments on these proposed amendments and the related interim regulations from the Farm Credit Corporation of America (FCCA). The Farm Credit Bank of Baltimore (FCBB) also submitted a comment in which it generally concurred with the FCCA's comments.

Both the FCCA and the FCBB concurred with the change to § 611.1174(c) published in the proposed and interim regulations which deleted provisions relating to the assignment of joint and several liability. While generally concurring with the other amendments proposed on May 12, 1988, the FCCA commented that proposed § 611.1156(a) "* * * exceeds statutory authority in suggesting that an Assistance Board request to FCA 'to initiate action to appoint a receiver' must be conditioned upon an FCA determination that grounds for appointment exist." In response to this comment, the FCA Board has revised § 611.1156(a) to clarify that the Farm Credit System Assistance Board (Assistance Board) could make such a request prior to an FCA determination that grounds exist for the appointment of a receiver. The FCCA also inquired whether the sale of loan assets by receivers of System institutions would be subject to the borrower rights provisions of the Farm Credit Act of 1971, as amended (Act), and the regulations promulgated pursuant to these provisions. This question is discussed in the preamble to recently promulgated borrower rights regulations. 53 FR 35434 (September 14, 1988).

Additionally, the FCCA requested the FCA to publish for comment proposed regulations dealing with the authority of bank receivers to sell loan assets to non-System lenders. The FCA has addressed this concern in further amendments to 12 CFR Part 611 published on October 31, 1988. These proposed amendments related to the sale and transfer of loans of a System institution in receivership and the definition of insolvency stated in § 611.1156(b)(1). The proposed revisions to § 611.1156(b)(1), contained in the implementing regulations for § 4.12(b)(1) of the Act, would also permit the FCA to confirm that an institution is insolvent through means other than examination. The FCA received comments on these additional amendments from the FCCA. The FCBB, the Farm Credit Bank of Louisville and the Louisville Bank for Cooperatives submitted comments in which they concurred with the FCCA's comments.

The FCA did not receive any comments on the proposed amendment dealing with the authority of bank receivers to sell loan assets to non-System lenders. While the FCCA concurred with the proposed amendment to § 611.1156(b)(1) permitting the FCA to confirm that insolvency exists through means other than examination, the FCCA objected to the proposed revision to § 611.1156(b)(1) insofar as it defines insolvency as existing when a System institution is about to exhaust its permanent capital, and treats eligible borrower stock as a liability instead of as equity. In response to these concerns, the FCA Board now adopts only the amendment to § 611.1156(b)(1) permitting the FCA to confirm that insolvency exists through means other than examination and does not yet respond to the portion of the proposed rule relating to the definition of insolvency.

List of Subjects in 12 CFR Part 611

Agriculture, Banks, Banking, Organization and functions (Government agencies), Rural areas.

For the reasons stated in the preamble, Part 611 of Chapter VI, Title 12 of the Code of Federal Regulations is amended to read as follows:

PART 611—ORGANIZATION

1. The authority citation for Part 611 continues to read as set forth below and all other authority citations throughout Part 611 are removed.

Authority: Secs. 1.3, 1.13, 2.0, 2.10, 3.0, 3.21, 4.12, 4.15, 5.0, 5.9, 5.10, 5.17, 7.0–7.13; 12 U.S.C. 2011, 2021, 2071, 2091, 2121, 2142, 2183, 2203.

2221, 2243, 2244, 2252, 2279a–2279f–1; secs. 411 and 412 of Pub. L. 100–233.

Subpart K—Appointment of Conservators and Receivers

§ 611.1155 [Amended]

2. Section 611.1155 is amended by adding the word "Board" after "Farm Credit Administration" in the first sentence.

3. Section 611.1156 is amended by revising paragraphs (a) and (b)(1); by adding the word "Board" after "Farm Credit Administration" each place it appears in paragraphs (b)(4) and (b)(5); and by adding a new paragraph (b)(6) to read as follows:

§ 611.1156 Grounds for appointment of conservators and receivers.

(a) Upon a determination by the Farm Credit Administration Board of the existence of one or more of the factors set forth in paragraph (b) of this section, with respect to any bank, association, or other institution of the System, the Farm Credit Administration Board may, at its discretion, appoint a conservator or receiver for such institution. Further, the Farm Credit System Financial Assistance Board may request the Farm Credit Administration Board to appoint a receiver and, if one or more of the conditions set forth in paragraph (b) of this section are met, as determined by the Farm Credit Administration, may direct the Farm Credit Administration Board to appoint a conservator.

(b) * * *

(1) The institution is insolvent. For purposes of this paragraph, "insolvent" means that the FCA has confirmed that the assets of the institution are less than its obligations to its creditors and others, including its members.

* * * * *

(6) The institution is unable to make a timely payment of principal or interest on any insured obligation (as defined in section 5.51(3) of the Act) issued by the institution individually, or on which it is primarily liable.

§ 611.1157 [Amended]

4. Section 611.1157(a) is amended by removing the words "Chairman of the" in the first sentence and adding the word "Board" after "Farm Credit Administration" the second, third, fourth, and fifth place it appears; paragraph (b) of § 611.1157 is amended by removing the words "Chairman of the" in the first sentence and adding the word "Board" after "Farm Credit Administration" the second place it appears.

§ 611.1158 [Amended]

5. Section 611.1158 is amended by adding the word "Board" after "Farm Credit Administration" each place it appears.

Subpart L—Liquidation of Associations

§ 611.1160 [Amended]

6. Section 611.1160(a) is amended by adding the word "Board" after "Farm Credit Administration" and removing the word "Chairman" and adding in its place the word "Board"; paragraph (b) is amended by adding the word "Board" after "Farm Credit Administration"; paragraph (e) is amended by adding the word "Board" after "Farm Credit Administration" the second place it appears and by removing the word "Chairman" and adding in its place the "Board"; paragraph (f) and (g) are amended by removing the word "Chairman" and adding in its place the word "Board" each place it appears.

§ 611.1161 [Amended]

7. Section 611.1161 is amended by adding the word "Board" after "Farm Credit Administration" first place it appears in the introductory paragraph; paragraph (s) is amended by adding the word "Board" after "Farm Credit Administration".

8. Section 611.1162(b) is amended by adding the word "Board" after "Farm Credit Administration"; and by adding new paragraphs (c) and (d) to read as follows:

§ 611.1162 Preservation of equity.

* * * * *

(c) Notwithstanding paragraphs (a) and (b) of this section, eligible borrower stock shall be retired in accordance with section 4.9A of the Act.

(d) Nothing above shall affect the authority of an association in receivership to issue preferred stock in accordance with Title VI of the Act.

§ 611.1165 [Removed and reserved]

9. Section 611.1165 removed and reserved.

§§ 611.1166, 611.1167 and 611.1168 [Redesignated as §§ 611.1167 611.168 and 611.1169]

10. Sections 611.1166, 611.1167, and 611.1168 are redesignated as §§ 611.1167, 611.1168, and 611.1169, and a new § 611.1166 is added to read as follows:

§ 611.1166 Uninsured accounts.

Upon placing an institution in liquidation, the receiver shall immediately notify every borrower who has an uninsured account (voluntary or involuntary) that the funds will be applied against the outstanding indebtedness of any loans of such borrower unless, within 15 days of such notice, the borrower directs the receiver to otherwise apply such funds in the manner provided for in existing loan documents.

11. Newly redesignated 611.1167(a)(4) is amended by adding the word "Board" after "Farm Credit Administration" and by adding a new paragraph (d) to read as follows:

§ 611.1167 Priority of claims.

* * * * *

(d) Notwithstanding this section, eligible borrower stock shall be retired in accordance with section 4.9A of the Act.

12. Newly redesignated § 611.1168(a) is amended by adding the word "Board" after "Farm Credit Administration"; and by revising paragraph (b) to read as follows:

§ 611.1168 Inventory, examination, audit and reports to stockholders.

* * * * *

(b) The association in receivership shall be examined on an annual basis by the Farm Credit Administration. The association shall be audited by a certified public accountant approved by the Farm Credit Administration at such times as the Farm Credit Administration determines. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the association in receivership.

* * * * *

§ 611.1169 [Amended]

13. Newly redesignated § 611.1169 is amended by removing the words "Chairman of the" in the first sentence; by adding the word "Board" after "Farm Credit Administration" the first and second place it appears; and by removing the words "pursuant to § 617.7090 of this chapter" in the third sentence.

Subpart M—Liquidation of Banks

14. Section 611.1170 is amended in paragraphs (a) and (b) by adding the word "Board" after "Farm Credit Administration"; and in paragraphs (a), (e), (f), and (g) by removing the word "Chairman" and adding in its place the word "Board" each place it appears.

15. Section 611. 1170 is amended by revising paragraph (h) to read as follows:

§ 611.1170 Appointment of receiver.

* * * * *

(h) For purposes of this subpart the term "bank" will include all banks, service corporations chartered under Title IV of the Act, the Federal Agricultural Mortgage Corporation, the Federal Farm Credit Banks Funding Corporation, and the Farm Credit System Financial Assistance Corporation.

16. Section 611.1172 is amended by adding "Board" after "Farm Credit Administration" in paragraph (b) and by adding new paragraphs (c) and (d) to read as follows:

§ 611.1172 Preservation of equity.

* * * * *

(c) Notwithstanding paragraphs (a) and (b) of this section, eligible borrower stock shall be retired in accordance with section 4.9A of the Act.

(d) Nothing in this section shall affect the authority of a bank in receivership to issue preferred stock in accordance with Title VI of the Act.

17. Section 611.1174 is amended by removing paragraph (c); by redesignating paragraphs (d), (e), and (f) as paragraphs (c), (d), and (e), respectively; newly redesignated paragraph (d) is amended by removing the references to "(d)" and adding in their place, "(c)"; by revising newly redesignated paragraph (c)(5); and by adding new paragraph (f) to read as follows:

§ 611.1174 Creditors' claims and priority of claims.

* * * * *

(c) * * *

(5) All claims of holders of consolidated and Systemwide bonds and claims of the other System banks arising from their payments pursuant to section 4.4 of the Act.

* * * * *

(f) Notwithstanding this section, eligible borrower stock shall be retired in accordance with section 4.9A of that Act.

18. Section 611.1175 is amended by revising paragraph (b) to read as follows:

§ 611.1175 Inventory, examination, audit, and reports to stockholders.

* * * * *

(b) The bank in receivership shall be examined on an annual basis by the Farm Credit Administration. The bank shall be audited by a certified public accountant approved by the Farm Credit Administration at such times as the Farm Credit Administration determines. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the bank in receivership.

* * * * *

§ 611.1176 [Amended]

19. Section 611.1176 is amended by removing the word "Chairman" and adding in its place, the word "Board" in the first sentence; by adding the word "Board" after "Farm Credit Administration" the second place it appears; and by removing the words "pursuant to § 617.7090 of this chapter" in the third sentence.

Subpart N—Conservators and Conservatorships of Banks and Associations

20. Section 611.1180 is amended in paragraph (a) by adding the word "Board" after "Farm Credit Administation"; and in paragraphs (d) and (e) by removing the word "Chairman" and adding in its place the word "Board"; and paragraph (f) is revised to read as follows:

§ 611.1180 Appointment of a conservator.

* * * * *

(f) For purposes of this subpart "System institution" will mean all banks, associations, service corporations chartered under Title IV of the Act, the Federal Agricultural Mortgage Corporation, the Farm Credit Banks Funding Corporation, and the Farm Credit System Financial Assistance Corporation.

§ 611.1181 [Amended]

21. Section 611.1181 is amended in paragraphs (b) and (c)(1) by adding the word "Board" after "Farm Credit Administration".

22. Section 611.1182 is amended in paragraph (a) by adding the word "Board" after "Farm Credit Administration" the first place it occurs and by revising paragraph (b) to read as follows:

§ 611.1182 Inventory, examination, audit, and reports to stockholders.

* * * * *

(b) The institution in conservatorship shall be examined by the Farm Credit Administration on an annual basis. The institution shall also be audited by a certified public accountant approved by the Farm Credit Administration at such times as the Farm Credit Administration may determine. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the institution in conservatorship unless otherwise ordered by the Farm Credit Administration.

* * * * *

Date: January 6, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89-778 Filed 1-11-89; 8:45 am]

BILLING CODE 6701-05-M

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12 CFR Parts 612, 614, 615 and 618

Personnel Administration; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; General Provisions

AGENCY: Farm Credit Administration.

ACTION: Interim rule; request for comments.

SUMMARY: In accordance with various Farm Credit Administration (FCA) regulations, Farm Credit institutions (institutions) are currently required to submit certain proposed policies, procedures, programs, and activities to FCA for its approval prior to the institution implementing such policies, procedures, programs and activities. These submissions by the institutions to FCA are referred to collectively herein as "prior approvals". The FCA Board has determined that certain prior approvals are unnecessary in light of recent amendments to the Farm Credit Act of 1971 and Congressional intent, and are inconsistent with FCA's role as an arm's length regulator. The FCA adopts an interim rule eliminating the prior approval portions of the regulations set forth below. Thus, effective immediately, institutions are no longer required to submit to the FCA certain prior approvals as more specifically discussed below. Elimination of these prior approvals does not relieve the institutions of their responsibility to develop and implement such policies, procedures, programs and activities and to operate in a safe and sound manner and in accordance with all applicable laws, rules and regulations. The institutions and such policies, procedures, programs, and activities continue to be subject to examination by the FCA. The FCA solicits comments on the amendments to the regulations.

DATE: This regulation is effective January 6, 1989. Written comments must be submitted on or before March 6, 1989.

ADDRESS: Submit any comments in writing (in triplicate) to Anne E. Dewey, General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the

Office of General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: John C. Moore, Deputy Chief, Financial Analysis and Standards Division, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. (703) 883–4402 TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: The FCA Board has determined that certain prior approvals are unnecessary in light of recent amendments to the Farm Credit Act of 1971 and Congressional intent, and are inconsistent with FCA's role as an arm's length regulator. Accordingly, the FCA adopts an interim rule amending certain regulations by eliminating prior approval language from the regulations. The effect of the amendments to the regulations listed below is that institutions are no longer required to submit the relevant proposed policies, procedures, programs, and activities to the FCA for its prior approval. The prior approvals are deleted to conform the regulations to amendments to the Act and to comply with Congressional intent as evidenced by such amendments. Accordingly, it is the judgment of the FCA Board that the language concerning the prior approvals which is delineated below should be eliminated from the relevant regulations effective immediately.

The Agricultural Credit Act of 1987 (1987 Amendments) which amended the Act specifically eliminated the following prior approvals from the statute: (1) Loss-sharing agreements between and among banks for cooperatives (BCs) and between and among Farm Credit banks (FCBs); (2) the making of "other investments" by FCBs and of certain specific investments by BCs; (3) foreign investments by BCs; and (4) BC deposits for international trade. Public Law 100–233, section 802. Accordingly, the prior approval language in 12 CFR 614.4340(a); 615.5135(b); 615.5143; and 615.5190(b) is eliminated to conform the regulations to the 1987 Amendments. Since the 1987 Amendments eliminated the loss-sharing prior approvals for FCBs and BCs which are the subject matter of 12 CFR 614.4340(a), the FCA Board has interpreted Congressional intent to require eliminating these prior approval for associations as well.

The Farm Credit Amendments Act of 1985 and the Farm Credit Act Amendments of 1986 (1985 and 1986 Amendments) eliminated the following prior approvals from the Act: (1) Bank interest rates and policies; and (2) production credit association (PCA) loans that bear interest rates as determined by the relevant FICB board. Public Law 99–509, section 1033 and Pub. L. 99–205, section 205(b). Since the 1985 and 1986 Amendments specifically eliminated these prior approvals, the FCA has interpreted Congressional intent to require that prior approvals of bank and PCA interest rate programs be eliminated as well. Accordingly, the prior approval language in 12 CFR 614.4280; 614.4320; and 614.4321 is eliminated to conform the regulations to the 1985 and 1986 Amendments.

Consistent with FCA's interpretation of the intent of Congress as evidenced by the deletion of the specific prior approvals discussed above, FCA eliminates from the following regulations the prior approval language which is not specifically required by statute or necessary at this time to ensure FCA's role as an arm's length regulator: 12 CFR 612.2150(a); 612.2150(c); 612.2160(a); 614.4345; 614.4460; 614.4511; 615.5040; 615.5104; and 618.8060.

The FCA Board has determined that it is necessary to implement these amendments to the regulations as quickly as possible to conform the regulations to statutory changes and to Congressional intent. In addition, by eliminating these prior approvals immediately, FCA is emphasizing that institutions are clearly responsible for developing and implementing the relevant policies, procedures, programs and activities, while FCA will continue to examine such matters. Thus, immediate implementation assists FCA in further establishing and fulfilling its role as an arm's length regulator. Furthermore, since these regulations relieve restrictions, the FCA Board finds that notice and public comment prior to the effective date of this rule are impracticable, unnecessary, and contrary to the public interest in this instance. *See* 5 U.S.C. 553(b)(B). For the reasons stated immediately above, the FCA Board, pursuant to 5 U.S.C. 553(d)(1) and 12 U.S.C. 2252(c)(2), finds good cause to make this regulation effective in less than 30 days.

List of Subjects in 12 CFR Parts 612, 614, 615 and 618

Accounting, Agriculture, Archives and records, Banks, Banking, Conflict of Interest, Credit, Foreign trade, Government securities, Insurance, Investments, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

As stated in the preamble, Parts 612, 614, 615 and 618 of Chapter VI, Title 12, Code of Federal Regulations, is amended as follows:

PART 612—PERSONNEL ADMINISTRATION

1. The authority citation for Part 612 continues to read as follows:

Authority: Secs. 5.9 and 5.17; 12 U.S.C. 2243 and 2252.

Subpart B—Standards of Conduct for Directors, Officers, and Employees

§ 612.2150 Employees—prohibited acts.

2. Section 612.2150 is amended by removing the words "and approved by the Farm Credit Administration" in the last sentence of paragraph (a); and in the introductory text of paragraph (c) by removing the words "which have been approved by the Farm Credit Administration".

§ 612.2160 Bank and service organization policies and procedures.

3. Section 612.2160 is amended by removing the words "and shall submit the policies, guidelines, and procedures to the Farm Credit Administration for approval" in the last sentence of paragraph (a).

PART 614—LOAN POLICIES AND OPERATIONS

4. The authority citation for Part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5; 12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5; sec. 413 of Pub. L. 100–233.

Subpart G—Interest Rates and Charges

§ 614.4280 Interest rates.

5. Section 614.4280 is amended by removing the designation for paragraph (a); by removing the words "with the approval of the Farm Credit Administration" in the first sentence of paragraph (a); and by removing paragraph (b).

§ 614.4320 Production credit associations.

6. Section 614.4320 is amended by removing the words "and approved by the Farm Credit Administration" in the first sentence.

§ 614.4321 Interest rate programs.

7. Section 614.4321 is amended by removing the last sentence of the introductory paragraph.

Subpart I—Loss-Sharing Agreement

§ 614.4340 General.

8. Section 614.4340 is amended by removing the words "and with the prior written approval of the Farm Credit Administration," in the first sentence of paragraph (a).

§ 614.4345 Guaranty Agreements.

9. Section 614.4345 is amended by removing the words "with approval of the Farm Credit Administration," and capitalizing the word "Guaranty".

Subpart M—Loan Approval Requirements

§ 614.4460 Loan approval responsibility.

10. Section 614.4460 is amended by removing the words "establishment of a policy under which such loans are to be submitted to the Farm Credit Administration for prior approval," in the second sentence of the introductory text; by removing the words "and the Farm Credit Administration" in the third sentence of the introductory text and also, at the end of the third sentence of the introductory text by removing the words "with a copy to the Farm Credit Administration for post review"; and in paragraphs (f)(1) and (f)(3) by removing the words "and approved by the Farm Credit Administration".

Subpart N—Loan Servicing Requirements

§ 614.4511 Federal land bank association compensation.

11. Section 614.4511 is amended by removing the words "and the Farm Credit Administration" in the first sentence.

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

12. The authority citation for Part 615 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.3, 2.4, 2.5, 2.12, 3.1, 3.7, 3.11, 3.25, 4.3, 4.9, 4.14B, 4.25, 5.9, 5.17, 6.20, 6.26; 12 U.S.C. 2013, 2019, 2020, 2073, 2074, 2075, 2076, 2093, 2122, 2128, 2132, 2146, 2154, 2160, 2202b, 2211, 2243, 2252, 2278b, 2278b–6; sec. 301(a) of Pub. L. 100–233.

Subpart A—Funding

§ 615.5040 Borrowings from financial institutions other than commercial banks.

13. Section 615.5040 is amended by removing the words "only with the approval of the Farm Credit Administration".

Subpart C—Issuance of Bonds, Notes, Debentures and Similar Obligations

§ 615.5104 Debt policy.

14. Section 615.5104 is amended by removing the words "subject to approval by the Farm Credit Administration,".

Subpart D—Other Funding

§ 615.5135 Investment policy.

15. Section 615.5135 is amended by removing the words "subject to the approval of the Farm Credit Administration," in the first sentence of the introductory text of paragraph (b).

Subpart E—Investments

§ 615.5143 Banks for cooperatives.

16. Section 615.5143 is amended by removing the words "and approved by the Farm Credit Administration" in the first sentence.

Subpart G—Deposit of Funds

§ 615.5190 General.

17. Section 615.5190 is amended by removing the words "and approved by the Farm Credit Administration" in the first sentence of paragraph (b).

PART 618—GENERAL PROVISIONS

18. The authority citation for Part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17; 12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252.

Subpart C—Leasing

§ 618.8060 Leasing limitations.

19. Section 618.8060 is amended by removing the words "and the Farm Credit Administration".

Date: January 6, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89–780 Filed 1–11–89; 8:45 am]

BILLING CODE 6705–01–M

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12 CFR Part 614

Loan Policies and Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: On November 8, 1988, the Farm Credit Administration (FCA) deferred the following portions of the borrower rights regulations: (1) That portion of 12 CFR 614.4367(c)(1) which states "* * *, including the effective interest rate;" and (2) paragraph (d)(1) of 12 CFR 614.4367. 53 FR 45073. FCA adopts and publishes a final regulation concerning these previously deferred portions of the borrower rights regulations on disclosures of changes in the effective interest rate.

The final regulation eliminates the previous requirement that qualified lenders disclose the new effective interest rate when such new rate has resulted from an adjustment in the stated contract rate. However, when the stated contract rate is adjusted, borrowers must still be provided with the following disclosures: the new contract rate, the date that the rate is effective, and a statement of any factors other than standard adjustment factors which were taken into account in establishing the new rate. 12 CFR 614.4367(c). In addition, when there has been a change in the amount of stock or participation certificates which borrowers are required to own that modifies the effective interest rate, the final regulation requires that institutions disclose the impact on the new effective interest rate by disclosing *either* the new effective rate, *or* by a representative example.

EFFECTIVE DATE: The regulation shall become effective upon the expiration of 30 days after this publication during which either or both houses of Congress are in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT: Andrea J. Cali, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: On September 14, 1988, FCA published final regulations under Parts 614, 615, and 618 on borrower rights (53 FR 35427), which became effective on October 14, 1988 (53 FR 45073). The borrower rights include, among others, certain disclosure requirements on borrowers' loans specified in the Farm Credit Act of 1971, as amended by the Agricultural Credit Act of 1987 (the Act).

After publication of the final borrower rights regulations, FCA received comments on two portions of the disclosure regulations concerning the effective interest rate. Specifically, the two portions of the regulations required disclosure of the new effective interest rate when the rate has been modified due to: (1) A change in the stated contract rate, or (2) a change in the stock or participation certificates which borrowers must own. Farm Credit System institutions (institutions) expressed concern that, at the time, they were unable to comply with these portions of the regulations and that to

attain compliance in the future would create unnecessary costs for the institutions and not represent meaningful disclosure to borrowers. The institutions explained the main problem as the lack of information in their computer data bases on loan origination fees. *See* 53 FR 45101–45102. In light of these concerns, FCA deferred the two portions of the disclosure regulations and published a supplemental proposed rule and resolicitation of comments concerning disclosures of changes in the effective interest rate (53 FR 45073 and 45101). FCA received comments from three Farm Credit Banks (FCBs), four other institutions, the National Farmers Union (NFU), and the Farm Credit Corporation of America (FCCA) in response to the resolicitation of comments. All comments were considered in writing the final regulation.

The FCCA and one institution commented that since section 4.13(a) of the Act requires disclosures "not later than the time of the loan closing," the subject changes in the effective interest rate which occur *after* loan closing, need not be disclosed by the lenders. Although these commenters recognized that even if section 4.13(a)(4) of the Act (which requires disclosure of "any change in the interest rate") might be interpreted as requiring disclosures *after* loan closing, they asserted that the Act only requires such disclosure of changes in the stated contract rate, not the effective interest rate. Based on this statutory interpretation, FCCA asserted that 12 CFR 614.4367(d) should be eliminated in its entirety. FCA does not agree with this interpretation of the Act. The Act obviously provides for disclosures after loan closing. *See* section 4.13(a)(4) of the Act. In addition, borrowers are entitled to meaningful and timely disclosure and the need for such disclosure does not cease after loan closing.

While further discussing 12 CFR 614.4367(d), FCCA set forth its own interpretation of this section. Section (d) of 12 CFR 614.4367 states, "Each *qualified lender* that takes any action which changes the amount of stock or participation certificates which borrowers are required to own * * *" shall make the appropriate disclosures. (Emphasis added.) Accordingly, FCCA reasoned that any stock changes that the borrower/stockholders, themselves, have authorized (*e.g.*, merger votes which may include stock "ranges") are exempt from the disclosure requirements set forth in 12 CFR 614.4367(d). FCA disagrees with this interpretation. First, the fact that stockholders vote on a merger that may result in a change in the stock or participation certificate requirement, does not mean that the resulting change does *not* constitute action by a qualified lender for the purposes of disclosing the impact of the change in the stock or participate certificate requirement. Although a majority of the borrower/stockholders must authorize the merger plan, the institution's board of directors must also approve the plan. 12 U.S.C. 2279a, 2279b–2, 2279f, and 2279f–1. Thus, the action cannot be characterized as "borrower/stockholder action," as opposed to "institution action" for the purposes of avoiding compliance with 12 CFR 614.4367(d). Second, the purpose of the disclosure regulations is to provide timely and meaningful disclosure to borrowers. This, even if an action were considered to be "borrower/stockholder action," as well as "institution action," the information that is provided to stockholders during a merger transaction, for example, is not necessarily the same information that must be provided pursuant to 12 CFR 614.4367(d) to attain meaningful disclosure. *See* the discussion below. Finally, FCCA has incorrectly focused on the merger, not the change in the stock or participation certificate requirement. It is the change, and not the merger that triggers the disclosure requirements of 12 CFR 614.4367(d).

In their comments, the FCCA, institutions, and the NFU compared FCA's disclosure regulations with those imposed on other financial institutions. As was discussed by some of the commenters, the Federal Reserve Board's implementing regulations for the Consumer Credit Protection Act (the "Truth in Lending Act" or TILA) (12 CFR Part 226) do not require similar subsequent disclosures of changes in the annual percentage rate (APR) for variable rate transactions. Regulations to which other financial institutions are subject, may be useful for comparison. However, comparisons of FCA disclosure regulations to TILA disclosure requirements may not necessarily be instructive since agricultural lending is specifically exempt from TILA. *See* CFR 226.3. Also, since other lenders are not similar in all respects to Farm Credit System (System) lenders, FCA regulations cannot necessarily mirror such other regulations. Although it is beneficial to examine the treatment of APR disclosures, it must be recognized that the effective interest rate is distinctive. For example, in order to calculate the rate, one must include the impact of the amount of stock or participation certificates which borrowers must own, which is not applicable when determining an APR.

In addition to examining the Act and other similar regulations, two major factors were considered in writing the final regulation. Throughout the development of the borrower rights regulations, FCA balanced the rights to which borrowers are entitled against unnecessary costs to the institutions. In this instance, the expense that institutions will incur because of the disclosures must be balanced against the borrowers' right to meaningful disclosure. These two main considerations were discussed by most of the commenters.

The FCCA and the institutions assert that compliance with the deferred portions of the regulations would result in exorbitant costs. Figures from $160,000 for one district to $3,865,000 for the entire System were quoted in the comments. Although the NFU stated that lenders should not be burdened with complex calculations, particularly when the cost involved in providing these calculations would eventually be borne by the borrower, the organization expressed the belief that the administrative burden created by such disclosures may not be as great as lenders claim. Since the institutions must now include loan origination fees in the initial calculations and disclosures concerning the effective interest rate, there is merit to this view. *See* 12 U.S.C. 2199(a)(3). In any event, potential, as well as actual, costs to the lenders (where these can be determined) must be examined and balanced against the meaningfulness of these disclosures.

Most commenters stated that subsequent disclosure (*i.e.*, occurring after loan closing) of the new effective interest rate when there has been a change in the rate due either to a modification of the stated contract rate or the amount of stock or participation certificates which borrowers must own, would not provide meaningful disclosure to borrowers. In addition, these same commenters stated that such disclosure would create unnecessary costs for the lenders. Most commenters stated that such disclosure is not meaningful because it requires lenders to provide the subsequent effective interest rate, including the impact of the loan origination charges again after the time of loan closing. However, as the commenters explained, the loan origination charge is a one-time fee that is only relevant to the time of loan closing when a borrower needs such information to determine the true cost of the loan. The commenters further

asserted that since the fee is non-refundable, any subsequent disclosures concerning the fee do not have an effect on any decision that the borrower may make. FCA recognizes thaat subsequent disclosures (when there has been a change in the stated contract rate) concerning loan origination fees will not necessarily affect a borrower's action. However, whenever an institution assesses additional loan origination fees (*e.g.*, perhaps during a loan or rate renegotiation), FCA considers this to be a new transaction subject to the disclosure requirements found in 12 CFR 614.4367(a).

The NFU found some benefit, in general, in subsequent disclosures of effective interest rates; one institution found benefit in such disclosures only after the stock or participation certificate purchase requirement had been changed, but not after a change in the stated contract rate. Taking these views into account, FCA determines that while meaningful disclosure requires certain notifications concerning the effective interest rate after a change in the stock or participation certificate requirement, it does not require notification of the new effective interest rate that has been modified due to a change in the stated contract rate.

At the time that the stated contract rate has been adjusted, the information that the borrower needs to make an informed decision is the new stated contract rate, as well as the other information that is required to be disclosed by 12 CFR 614.4367(c). Notification of the intitial disclosures at the time of loan closing pursuant to 12 CFR 614.4367(a), and notification of the new stated contract rate once there has been a change in such a rate is adequate.

However, meaningful disclosure concerning a change in the stock or participation certificate requirement requires *at least* notification of the impact of that change on the effective interest rate. FCA agrees with the institution that commented that a "mid-stream" change in the stock or participation certificate requirement, particularly an increase, is of material significance to a borrower. Since the borrower has refinancing options available, a modification of the stock or participation certificate requirement which directly impacts the effective interest rate, may affect a borrower's decision or action. FCA believes that not only does meaningful disclosure require notification of such a change, but in addition it requires that the borrower be notified of the impact on the effective interest rate, since the stock or participation certificate requirement is an integral component of the effective interest rate.

The question then becomes how such disclosure is to be attained. The commenters who recognized the need for such disclosure stated that it is not necessary to provide borrowers with the actual new rate. Rather, they stated that meaningful disclosure may be attained by providing borrowers with a representative example. The NFU suggested that meaningful disclosure may be achieved by providing a borrower with either a standardized example or with a formula so that the borrower can perform his own calculations, provided that the lenders are available to assist the borrower in making such calculations, when the borrower so desires. FCA believes that lenders may provide either a representative example (provided the example is of similar loan type to the actual loan and represents a reasonable, likely change) or the actual new rate to achieve meaningful disclosure and the final regulation has been written accordingly.

List of Subjects in 12 CFR Part 614

Agriculture, Banks, Banking, Credit, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For reasons stated in the preamble, Part 614 of Chapter VI of the Code of Federal Regulations is amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for Part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252; sec. 413 of Pub. L. 110–233.

2. Section 614.4367 is amended by revising paragraphs (c)(1) and (d)(1) to read as follows:

§ 614.4367 Required disclosures—in general.

* * * * *

(c) * * *

(1) The new interest rate on the loan;

* * * * *

(d) * * *

(1) The impact on the effective interest rate by disclosing the new effective interest rate or by a representative example;

* * * * *

Dated: January 6, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89–779 Filed 1–11–89; 8:45 am]

BILLING CODE 6705–01–M

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12 CFR Parts 614, 620 and 621

Loan Policies and Operations; Disclosure to Shareholders; Accounting and Reporting Requirements

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: The Farm Credit Administration (FCA) Board adopts final regulations relating to the Federal Agricultural Mortgage Corporation (FAMC) established by the Agricultural Credit Act of 1987 (Pub. L. 100–233) (1987 Act). The regulations address the content of FAMC's annual report, the examination of FAMC, and the authority of Farm Credit System (System) banks and associations to originate loans for sale to agricultural mortgage marketing facilities (certified facilities or poolers) or to act as certified facilities.

EFFECTIVE DATE: The regulations shall become effective upon the expiration of 30 days after this publication during which either or both Houses of Congress are in session. Notice of effective date will be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

George D. Irwin, Assistant Deputy Director, Office of Financial Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4054.

or

Joanne P. Ongman, Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA. 22102–5090, (703) 883–4020, (703) 883–4444.

SUPPLEMENTARY INFORMATION: On October 11, 1988, the FCA Board published for public comment proposed regulations (53 FR 39609) implementing Title VII of the 1987 Act which added a new Title VIII to the Farm Credit Act of 1971. New Title VIII establishes FAMC as a System institution which will provide a guarantee to investors of the repayment of principal and interest on securities that are backed by, or that represent interests in, certain agricultural real estate loans. The proposed regulations addressed the

content of FAMC's annual report, the examination of FAMC, and the authority of System banks and associations to originate loans for sale to certified facilities and to act as certified facilities.

The comment period closed on November 10, 1988. The FCA received comments from the Farm Credit Corporation of America (FCCA), from the Federal Agricultural Mortgage Corporation, from the American Bankers Association (ABA), and from an attorney in private practice. The Farm Credit Bank of Baltimore also submitted a comment in which it generally concurred with the FCCA's comments. The FCA Board has carefully analyzed and considered those comments that address the proposed regulations, as described in more detail in the following discussion.

In its comments, the FCCA stated that proposed § 614.4910 correctly states the authority of System banks and associations to originate loans for sale to certified facilities and to act as certified facilities. However, to conform the proposed regulation to the terminology used in section 8.5 of the 1971 Act, FCCA suggested that § 614.4910 be revised to state that a System bank or association must be "certified" rather than "designated" by FAMC in order to operate as a certified facility. A minor technical change has been made to § 614.4910 to incorporate this suggestion. FCCA did not provide comment on Parts 620 and 621 which deal with accounting and reporting requirements and the content of FAMC's annual report, respectively, on the basis that these were "more appropriately left to the FAMC management and Board."

The ABA's comments supported the concept of full disclosure in accordance with those rules of the Securities and Exchange Commission (SEC) referenced in the proposed regulations. However, regarding the proposal that FAMC's annual report consist of certain forms and reports prepared according to SEC requirements, the ABA suggested that FCA more clearly indicate which of these documents relating to certified facilities are to be included in FAMC's annual report. FCA believes that the incorporation of SEC requirements by reference provides a clear indication. Since FAMC is a recently established corporation, it is too early to assess whether these referenced reporting requirements can be narrowed or modified without eliminating information needed by FCA to monitor FAMC's safe and sound operation. As noted in the preamble to the proposed regulation, FCA may adjust these requirements in the future if its regulatory experience indicates that such adjustment is necessary to provide for safe and sound operations. 53 FR 39609 (1988).

While FAMC characterized the proposed regulations as "a fair and appropriate use of the authority of the Farm Credit Administration," it suggested several revisions. FAMC suggested that proposed § 621.20(a) be revised to permit FAMC's offering circular to be substituted for the requirement of a filing a registration statement prepared according to the specifications of the Securities Act of 1933 (Securities Act). This suggestion has not been incorporated into the final regulation. To properly monitor the safe and sound operation of FAMC, including the contingent liability of FAMC on its outstanding guarantees, it is necessary to specify the content of the filing made by FAMC with FCA, and the reference to SEC requirements provides this specification. Since counsel to FAMC is of the opinion that FAMC is exempt from the registration requirements of the Securities Act, content requirements would not exist for the document submitted to FCA pursuant to § 621.20(a) if this specification were deleted without substitution of other content requirements.

With respect to poolers, FAMC commented that the requirement that the annual report include those reports that poolers have filed or would have filed under the Securities Exchange Act of 1934 (Exchange Act) is "overreaching and burdensome," for those poolers not otherwise required to file with SEC under the Exchange Act. According to FAMC, adequate information is available from either the Securities Act registration statement, or, where no registration statement is required, from the offering circular used in issuing FAMC-guaranteed securities. FCA believes that a need exists for information throughout the time an FAMC guarantee is outstanding on any security backed by a loan pool. Disclosure pursuant to the Securities Act, however, relates primarily to information as it exists at the time a security is initially guaranteed. It is the Exchange Act which deals with disclosure after a security has been issued and guaranteed. Therefore, to delete the requirement for Exchange Act reporting would not satisfy the need to monitor the quality of loan pools backing a security subsequent to the date a FAMC guarantee is obtained. Accordingly, the requirement for reporting consistent with the Exchange Act is retained in the final regulation. Moreover, the reporting burden on poolers as a group is minimized by requiring them to file reports based on SEC requirements. As FAMC acknowledges in its comments, "many" of the poolers will be subject to the Exchange Act, and only in "rare instances" will Securities Act registration not be required. *See also* FAMC Offering Circular, pg. 28 (November 23, 1988) (stating that poolers are not exempt from either Securities Act or Exchange Act reporting for mortgage-backed securities).

A final comment made by FAMC was that the requirement in § 620.40 that it prepare and distribute an annual report to shareholders is unnecessary since the Exchange Act already requires FAMC to undertake this activity. In addition, FAMC suggested deletion of the requirement in § 620.40 that the annual report be provided to shareholders "within 90 days of the end of its fiscal year." The final regulation retains § 620.40 to ensure that shareholders receive an annual report in a timely manner. Moreover, 90 days is the same time period imposed upon other System institutions for distribution of annual reports to their shareholders. 12 CFR 620.2(a).

The comment from the attorney in private practice addressed § 621.20(d), which requires a legend to appear on the first page of FAMC's annual report stating that FCA has not reviewed the report. This individual expressed concern that this statement implied that FCA was unwilling to review FAMC's annual report. In fact, the purpose of this legend is simply to make the public aware that FCA does not review or approve the report prior to the time it is made available to the public. Section 621.22(a) expressly prohibits any false or misleading statements in, or material omissions from, FAMC's annual report, and § 621.20(b) requires a report from an independent public accountant to be made a part of the annual report. If violations of this regulation occur, § 621.22(c) specifically provides that an enforcement action may be taken by FCA. Finally, other technical changes and minor clarifications have been made, including substituting the word "completeness" for "relevance" in § 621.20(d).

List of Subjects in 12 CFR Parts 614, 620 and 621

Accounting, Agriculture, Banks, banking, Credit, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

For the reasons stated in the preamble, Parts 614, 620 and 621 of Chapter VI, Title 12 of the Code of

Federal Regulations are amended as follows:

PART 614—LOAN POLICIES AND OPERATIONS

1. The authority citation for Part 614 continues to read as follows:

Authority: Secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C, 4.14D, 4.14E, 4.18, 4.19, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.7, 7.8, 7.12, 7.13, 8.0, 8.5; 12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2096, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2207, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279b–1, 2279b–2, 2279f, 2279f–1, 2279aa, 2279aa–5; sec. 413 of Pub. L. 100–233.

2. Part 614 is amended by adding a new Subpart R to read as follows:

Subpart R—Secondary Market Authorities

§ 614.4910 Basic authorities.

(a) Any bank or association of the Farm Credit System, except a bank for cooperatives, with direct lending authority may originate agricultural real estate loans for sale to one or more certified agricultural mortgage marketing facilities under Title VIII of the Act.

(b) Any bank or association of the Farm Credit System, except a bank for cooperatives, may operate as an agricultural mortgage marketing facility under Title VIII of the Act, either acting alone or jointly with other banks and/or associations, if so certified by the Federal Agricultural Mortgage Corporation.

PART 620—DISCLOSURE TO SHAREHOLDERS

3. The authority citation for Part 620 is revised to read as set forth below and all other authority citations throughout Part 620 are removed.

Authority: Sec. 5.17, 5.19, 8.11; 12 U.S.C. 2252, 2254, 2279aa–11; sec. 424 of Pub. L. 100–233.

4. Part 620 is amended by adding a new Subpart E to read as follows:

Subpart E—Report to Shareholders of Federal Agricultural Mortgage Corporation

§ 620.40 Content of report to shareholders of Federal Agricultural Mortgage Corporation.

The Federal Agricultural Mortgage Corporation shall prepare and distribute to its shareholders, within 90 days of the end of its fiscal year, the equivalent of the annual report to shareholders required by section 14 of the Securities Exchange Act of 1934, as described in Part 621, Subpart C of these regulations.

PART 621—ACCOUNTING AND REPORTING REQUIREMENTS

5. The authority citation for Part 621 continues to read as set forth below and all other authority citations throughout Part 621 are removed.

Authority: Secs. 5.17, 8.11; 12 U.S.C. 2252, 2279aa–11.

Subpart B—Reports of Condition and Performance

6. Section 621.10 is amended by revising paragraph (a) to read as follows:

§ 621.10 Applicability and purpose.

(a) Each institution of the Farm Credit System, including the Federal Agricultural Mortgage Corporation, shall prepare and file such reports of condition and performance as may be required by the Farm Credit Administration.

* * * * *

7. Section 621.11 is revised to read as follows:

§ 621.11 Content and standards—general rules.

Each institution of the Farm Credit System, including the Federal Agricultural Mortgage Corporation, shall prepare reports of condition and performance:

(a) In accordance with all applicable laws, regulations, standards, and such instructions and specifications and on such media as may be prescribed by the Farm Credit Administration;

(b) In accordance with generally accepted accounting principles and such other accounting requirements, standards, and procedures as may be prescribed by the Farm Credit Administration; and

(c) In such manner as to facilitate their reconciliation with the books and records of reporting institutions.

8. Part 621 is amended by adding a new Subpart C to read as follows:

Subpart C—Annual Report of Condition of the Federal Agricultural Mortgage Corporation

Sec.

621.20 Form and content.
621.21 Delivery.
621.22 Prohibited conduct and penalties.
621.23 Safe harbor provision.
621.24 Other periodic reports.

Subpart C—Annual Report of Condition of the Federal Agricultural Mortgage Corporation

§ 621.20 Form and content.

The annual report of condition to be prepared by the Federal Agricultural Mortgage Corporation (FAMC) shall consist of the following:

(a) For both the stock issued by FAMC and the securities issued by certified facilities which are guaranteed by FAMC:

(1) The forms for registration (17 CFR Part 239) that FAMC and certified facilities have filed or would have filed if required to register under the Securities Act of 1933 (Securities Act);

(2) The forms for registration, the annual and current reports filed with the Securities and Exchange Commission (SEC), the annual report to security holders, and the statements of directors, officers, and principal shareholders required by sections 12, 13, 14 and 16 of the Securities Exchange Act of 1934 (Exchange Act), prepared on the appropriate SEC forms (17 CFR Part 249), that FAMC and cetified facilities have filed or would have filed under the Exchange Act if FAMC and the certified facilities were required to make these filings;

(3) Where a form to be submitted pursuant to paragraphs (a) (1) or (2) of this section specifies that the information required by an item in the SEC Regulation S–K (17 CFR Part 229) or S–X (17 CFR Part 210) should be furnished, such information shall be included; and

(b) The report of the independent public accountant required by section 8.11(c) of the Act;

(c) In addition to the infromation expressly required by this section, such additional material information as to make the required statements not misleading.

(d) The following legend to be included on the first page of the annual report of condition in capital letters and bold face type, to advise the public that the Farm Credit Administration has not reviewed the information contained therein: "*This annual report of condition has not been reviewed, or confirmed for accuracy or completeness, by the Farm Credit Administration.*"

§ 621.21 Delivery.

(a) Three complete copies of the annual report shall be filed with the Chief Examiner, Farm Credit Administration, within 90 days after the end of the fiscal year covered by the report. Each annual report shall include

a certification of correctness which meets the requirements of § 621.12.

(b) FAMC, on receiving a request for an annual report of condtion, shall promptly mail or otherwise furnish to the requestor a copy of the most recent annual report described in § 621.20.

§ 621.22 Prohibited conduct and penalties.

(a) The FAMC and each officer, director, employee, agent or other person participating in the affairs of FAMC shall not, directly or indirectly:

(1) Disclose or cause to be disclosed false or misleading information in the annual report of condition, or omit or cause the omission of pertinent or required information in the annual report of condition; or

(2) Represent that the Farm Credit Administration, or any employee thereof, has passed upon the accuracy or completeness of the annual report of condition.

(b) For purposes of this section, a person "participating in the affairs of FAMC" includes, but is not limited to, any person who provides or reviews information contained in, or directly or indirectly assists in the preparation of, the annual report of condition.

(c) Conduct which violates paragraph (a) of this section also may serve as the basis for enforcement action by the Farm Credit Administration under Title V, Part C, of the Act. This includes, but is not limited to, the assessment of civil money penalties against FAMC or any officer, director, employee, agent or other person participating in the affairs of FAMC who violates this section.

§ 621.23 Safe harbor provision.

The provisions of § 621.22(c) shall apply to all parts of the annual report of condition, including statements concerning future economic performance, management's plans and objectives for future operations, and financial forecasts, except that § 621.22(c) shall not apply to such forward-looking statements when it is shown by the person involved or FAMC that such statements were included with a reasonable basis or in good faith.

§ 621.24 Other periodic reports.

The provisions of Subpart C shall apply to quarterly and such other periodic reports that FAMC may elect to prepare.

Date: January 6, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89-777 Filed 1-11-89; 8:45 am]

BILLING CODE 6705-01-M

12 CFR Part 615

Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: On April 5, 1988 the Farm Credit Administration Board (Board) proposed amendments to Subparts A, B, C, and O of Part 615, which govern the funding of Farm Credit System (System) institutions by means of issuance of securities. The proposed amendments were necessary to conform the current regulations with certain amendments to the Farm Credit Act of 1971 (Act), made by the Agricultural Credit Act of 1987 (1987 Act), Pub. L. 100-233, which was enacted on January 6, 1988. The Board determined that these amendments to the regulations should be proposed for public comment and after receiving some comments, on September 28, 1988, resolicited comments. The comment period established by the resolicitation of comments ended on November 4, 1988. After reviewing the proposed rule in the light of comments received, and incorporating changes which reflect comments received, the Board adopts a final rule.

EFFECTIVE DATE: This regulation shall become effective upon the expiration of 30 days from publication during which either or both houses of Congress is in session. Notice of effective date will be published.

FOR FURTHER INFORMATION CONTACT:

Larry W. Edwards, Director, Special Examination Division, Office of Examination, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4225, TDD (703) 883-4444

or

James M. Morris, Attorney, Office of General Counsel, Farm Credit Administration, McLean, Virginia 22102-5090, (703) 883-4020, TDD (703) 883-4444.

SUPPLEMENTARY INFORMATION: The present amendments (53 FR 16963, May 12, 1988, 53 FR 39099, October 5, 1988) are necessary to conform the regulations with certain amendments to the Farm Credit Act of 1971 (Act), made by the Agricultural Credit Act of 1987 (1987 Act) Pub. L. 100-233, which was enacted on January 6, 1988. On April 5, 1988 the Board proposed amendments to Subparts A, B, C, and O of Part 615, and requested public comment. Comments were received from the Farm Credit System banks in the Springfield, Baltimore and Texas Districts, the Central Bank for Cooperatives, and the Farm Credit Corporation of America. After reviewing the proposed rule and incorporating changes reflecting comments received, on September 28, 1988 the Board resolicited comments on the proposed rule. In response to the resolicitation of comments, comments were received from the Farm Credit System banks in the Louisville and Baltimore Districts. The Board now adopts a final rule.

Subpart A of Part 615 contains regulations that define the funding activities of the banks of the Farm Credit System and the role of the Federal Farm Credit Banks Funding Corporation (Funding Corporation). The only comment concerning proposed amendments to the regulations contained in Subpart A was received in response to the resolicitation of comments, from the Farm Credit Banks of Louisville (Louisville), which commented that § 615.5030(a) needed to be reworded in order to make it clear that each bank's board must authorize that bank's commercial borrowing. Since the System bank's boards of directors cannot act jointly in one resolution, the Board believes the meaning to be clear, but revises the wording to make that meaning more explicit. In addition, the Board revises the wording of § 615.5010(a) to more closely follow the wording of § 4.9 of the Act.

Subpart B of Part 615 contains regulations concerning the collateral required to support obligations issued by Farm Credit System banks. Comments concerning proposed amendments to Subpart B were initially received from the Farm Credit Corporation of America (FCCA) and the Farm Credit System banks in the Springfield District. In addition, in response to the resolicitation of comments, comments were received from the Farm Credit System banks in the Louisville District.

FCCA commented that proposed § 615.5050 might be read to imply a requirement that promissory notes given in conventional banking transactions be collateralized. Regulations of Subpart B of Part 615 are meant to protect investors in bonds, notes, debentures, and similar obligations by setting minimum standards for collateral required to support those types of obligations issued by Farm Credit System banks. These standards are not meant to require that all credit extended to a Farm Credit System institution from whatever source be similarly collateralized, nor to restrict commercial banks and other creditors from making their own credit decisions in private

lending transactions. Accordingly, § 615.5050(a) has been revised to delete the words "all other known and recorded liabilities."

In addition, in response to the resolicitation of comments, Louisville, noting that the Farm Credit System Financial Assistance Corporation (FAC) is issuing uncollateralized debt, commented that § 615.5050(a) should be revised to permit the Farm Credit System to issue uncollateratized securities. However, § 4.3(c) of the Act requires that "any note, bond, debenture or similar obligation" issued by any Farm Credit System bank be collateralized. The Agricultural Credit Act of 1987 amended § 4.3(c) of the Act by deleting the words "long-term," making it clear that all obligations issued by Farm Credit System banks, regardless of maturity, must be collateralized. FAC is not a Farm Credit System bank, subject to the collateral requirements of § 615.5050(a), but, rather, is expressly authorized by § 6.26 of the Act to issue "uncollateralized bonds, notes, debentures, and similar obligations." Farm Credit System banks are not authorized to issue uncollateralized securities. Accordingly, the Board does not make the suggested revision to § 615.5050(a).

Finally, the wording of § 615.5050(a) has been revised to more closely follow the wording of section 4.3(c) of the Act, and to provide that cash equivalents approved by the Farm Credit Administration may serve as collateral.

The Farm Credit System banks in the Springfield District (Springfield commented concerning proposed § 615.5050(c). Springfield suggested that the collateral value of loans and acquired property should be their "net value less allowance for losses," and that the reference to "recovery value" in § 615.5050(c)(2) should be replaced with "net realizable value." Section 615.6050(c) is now being revised to clarify the method for determining the value of collateral. The terms "recovery value" and "investment value" are eliminated. The revised § 615.5050(c)(1) provides that, in general, the collateral value of a loan is the unpaid balance of the loan, less any appropriate allowance for losses. Revised § 615.5050(c)(2) provides that the collateral value of loans in the process of liquidation or foreclosure, judgments, and sales contracts is the unpaid balance of the loans, judgments or contracts, less any appropriate allowance for losses. Revised § 615.5050(c)(3) provides that the collateral value of a restructured loan is the unpaid balance of the loan, less any appropriate allowance for losses. Section 615.5050(c)(4) is redesignated as § 615.5050(c)(5) and a new § 615.5050(c)(4) provides that the collateral value of property acquired in the liquidation of loans is the book value, determined in accordance with generally accepted accounting practices adjusted for any allowance for losses. In order to accurately reflect the value of the collateral, the allowance for losses must be updated on an ongoing basis.

In response to the resolicitation of comments, Louisville commented that § 615.5050(c)(4) does not specify the collateral value of acquired property sold or otherwise disposed of. Section 615.5050(c)(2), as revised, provides for the valuation of all sales contracts, including sales contracts for acquired property, if such sales are financed by the bank.

FCCA suggested that the proposed regulation could be read to eliminate secured interbank loans from eligible collateral. In response to the comment, the Board is adding § 615.5050(c)(6) to specifically state that a secured interbank loan may serve as collateral for obligations issued by the bank making such loan, provided that the loan is adequately secured by assets which, if held by the lending bank, would have been eligible collateral. In computing its eligible collateral, the borrowing bank is prohibited from counting the assets securing the loan. A new § 615.5045 provides definitions for "cost," "market value," "secured interbank loan," and "unpaid balance," as these terms are used in subpart B.

In response to the resolicitation of comments, Louisville commented that § 615.05050(c)(5), which excludes from collateral the excess of any loan over the "maximum amount authorized under the Act or Part 614 of these regulations," should be revised to exclude the excess of any loan over the maximum amount authorized under the Act and "those provisions of the regulations strictly adhering to the amounts set by the Act." Section 4.3(c) of the Act requires that each Farm Credit System bank hold as collateral "notes and obligations representing *loans made under this Act*" (emphasis added). That portion of a loan which exceeds maximum limitations contained in the Act or in any FCA regulation made pursuant to the Act, is properly excluded from collateral. The Board does not make the suggested revision, as the regulations conform to the provisions of the Act.

FCCA commented that the words "or association" should be added after the word "bank" each time it appears in § 615.5060(a). FCCA also suggested that a reference to section 1.7(a) of the Act be added. The Board is making these revisions in the language of § 615.5060(a) to clarify that the entire paragraph is meant to apply not only to banks, but also to those associations which may have direct real estate lending authority.

Louisville requested that a *de minimis* exception for small real estate mortgage loans be added to § 615.5060(a). Section 1.10 of the Act requires that real estate mortgage loans be secured by a first lien. Section 615.5060(a) provides a grace period for obtaining evidence of the first lien. Although the Board believes it is appropriate to continue to provide such a grace period for obtaining evidence of the first lien, the Board does not feel it is appropriate to dilute the statutory requirement that a first lien exist.

Subpart C of Part 615 contains regulations governing the issuance of notes, bonds, debentures, and similar obligations by Farm Credit System institutions. Subpart C was revised to reflect new responsibilities of the Funding Corporation which were previously exercised by the Farm Credit System finance committee. Comments were received from the Farm Credit System banks in the Baltimore District, the Farm Credit System banks in the Texas District, the Central Bank for Cooperatives, and FCCA concerning the proposed amendments to regulations contained in Subpart C.

FCCA indicated concern that reference to sales of securities to "members of the general public" in § 615.5100 (a) through (c) might be interpreted to preclude private placement of securities. The Board agrees and has deleted the references in § 615.5100 to "members of the general public."

Section 615.5101(b) requires that each debt obligation be authorized by a resolution of the board of directors of the issuing Farm Credit System banks. FCCA expressed concern that this regulation could be read to require that the banks adopt a specific resolution for each issue of debt. At present, each bank's board of directors authorizes Systemwide obligations by a periodic resolution which states a maximum amount of obligations which may be issued. The proposed regulation does not require a change in this practice, but does require that each obligation of whatever kind be authorized by an appropriate resolution of the board of directors of each issuing bank. The frequency of resolutions consistent with the duty of directors or exercise their judgment effectively is left to the determination of the board of directors of the issuing bank. The introductory

paragraph of the proposed regulation is clarified by deleting the words "issuance of" and inserting an exception referring to the provisions of section 4.2(e) of the Act.

Section 615.5101(e)(1) requires consultation by Farm Credit System representatives with the Secretary of Treasury. FCCA suggested that, in order to avoid uncertainty, FCA should, in its regulation, expressly designate the Funding Corporation as the Farm Credit System's representative for this purpose. The FCA Board does not agree with the FCCA suggestion. The decision whether to delegate this responsibility to the Funding Corporation is a management decision for the Farm Credit System banks.

The Farm Credit System banks in the Texas District and the Central Bank for Cooperative raised a concern that § 615.5102(a) might be read to imply that the Funding Corporation has authority to approve the amount, maturities, rates of interest, terms and conditions of individual bank obligations. The FCA Board amends § 615.5102(a) to clarify that this aspects of the Funding Corporation's authority is limited to joint, consolidated and Systemwide obligations.

The Farm Credit System banks in the Texas District (Texas) also expressed concern that the revision of § 615.5102(a) not imply that the Funding Corporation has absolute authority over the funding operations of individuals banks. Texas points out that the former law provided that the finance committees determined each bank's participation in joint, consolidated and Systemwide debt issues. Texas suggested that the phrase "taking into consideration the needs of the individual System banks" be added after the word "Act." The Board does not make this revision of § 615.5102(a), but does revise the wording of § 615.5101(a) to make these provisions more consistent. Section 615.5102(a), as originally proposed, basically restates § 4.9. Section 4.9 of the Act and § 615.5102(a) both include the words "acting for the banks of the Farm Credit System." Sensitivity to the needs of the banks is also built into the Funding Corporation's structure, since four of the members of its board of directors are required to be current or former directors of System banks, and three are required to be Chief Executive Officers or presidents of Farm Credit System banks. Section 615.5102 was not meant to change the relationship of the Funding Corporation with the Farm Credit System banks. It is not the intent of this section of the regulation to further define the relationship that exists between the Funding Corporation and the Farm Credit System banks. Although it is correct that the Funding Corporation does not have absolute authority over the funding of the banks, the amendment of § 615.5102(a) suggested by Texas is deemed unnecessary in light of the overall tenor of this section. Furthermore, it is to be noted that § 4.9(b)(2) of the Act provides that the Funding Corporation shall, with Farm Credit Administration approval, establish "conditions of participation" in issuances of joint, consolidated or Systemwide obligations. If a bank were to fail to meet such conditions, it could be excluded from participation in such issuances.

The FCCA requests clarification of §§ 615.5101(d) and 615.5102(c), which require FCA approval of each issue of debt. FCCA is concerned that these sections might be interpreted to preclude the current FCA method of approving guidelines for sales of daily discount notes. At present, the Farm Credit System banks utilize several different marketing strategies, each requiring different FCA approval methods to provide necessary program monitoring and to enable the Funding Corporation to market the debt instruments. The Board believes that the method of FCA's approval should continue to have flexibility to adjust to the Farm Credit System banks' funding program and does not prescribe in § 615.5101 or § 615.5102 only one method of FCA approval of the issuance of securities.

In order to clarify FCA approval responsibility for all debt issues, the Board is revising § 615.5101(d) to eliminate the cross-reference to § 615.5102.

The Farm Credit System banks in the Baltimore District commented initially that proposed changes in Part 615 did not appear to affect the mode of operations of its Puerto Rican subsidiary and the Farm Credit Bank of Baltimore submitted the same comment in response to the resolicitation of comments. Both comments were addressed to the application of the regulation to a particular institution. The Board does not express any opinion about such comments. Each Farm Credit institution must determine for itself how the proposed regulation affects it.

Subpart O of Part 615 contains regulations governing the form in which Farm Credit securities may be issued. FCCA suggested that the listing of denominations in § 615.5450 is more reflective of definitive securities than a mature book-entry system. The Board agrees that specific mention of denominations other than a minimum denomination is unnecessary. However, consistent with a book-entry system, a minimum multiple amount is specified. The revised regulation deletes paragraph (b) of the proposed regulation and redesignates paragraphs (c) and (d) as paragraphs (b) and (c). FCCA commented that § 615.5450(b) (as redesignated) should be revised to provide for issuance of consolidated notes, debentures or similar obligations, as well as consolidated bonds, in book-entry form. The Board is making this revision in § 615.5450(b) and a similar revision in § 615.5450(a), in order to standardize procedures for issuance of Systemwide and consolidated debt securities in book-entry form.

It is unnecessary to add additional language to § 615.5450(c) (as redesignated), as suggested by FCCA, in order to permit delegation of approval of issuance of securities in definitive form, since such authority may generally be delegated.

Finally, the Board has made other minor editorial and technical changes in the regulations contained in Subparts A, B, C, and O of Part 615.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, banking, Government securities, Investments, Rural areas.

For the reasons stated in the preamble, Part 615 of Chapter VI, Title 12 of the Code of Federal Regulations is amended as follows:

PART 615—FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

1. The authority citation for Part 615 continues to read as follows:

Authority: Secs. 3.11, 3.25, 4.3, 4.9, 4.14B, 5.9, 5.17, 6.20, 6.26, 12 U.S.C. 2132, 2146, 2154, 2160, 2202b, 2243, 2252, 2278b, 2278b–6; Sec. 301(a) of Pub. L. 100–233.

Subpart A—Funding

2. Section 615.5000, 615.5010, and 615.5030 of Part 615 are revised to read as follows:

§ 615.5000 General responsibilities.

(a) The System banks, acting through the Federal Farm Credit Banks Funding Corporation (Funding Corporation), have the primary responsibility for obtaining funds for the lending operations of the System institutions.

(b) The System's funding operations have a significant impact upon the investment community, the general public, and the national economy in

both the volume and the manner by which funds are raised. The Farm Credit Administration supervises compliance with the statutory collateral requirements for the debt obligations issued. The Chairman of the Farm Credit Administration, under policies adopted by the Board, consults with the Secretary of the Treasury concerning the System's funding activities, pursuant to section 5.10 of the Act.

§ 615.5010 Funding Corporation.

(a) The Funding Corporation shall issue, market, and handle the obligations of the banks issued under section 4.2 (b) through (d) of the Act and interbank or intersystem flow of funds as may from time to time be required, and, upon request of the banks, shall handle investment portfolios. The Funding Corporation shall maintain accurate and timely records. The System banks shall provide for the sale of such obligations through the Funding Corporation by negotiation, offer, bid, or syndicate sale, and for the delivery of such obligations by book entry, wire transfer, or such other means as may be appropriate.

(B) The interaction of the System with the financial community shall be conducted principally through the Funding Corporation. The Funding Corporation shall be subject to regulation and examination by the Farm Credit Administration.

§ 615.5030 Borrowings from commercial banks.

(a) Each System bank board, by resolution, shall authorize all commercial bank borrowings by that System bank.

(b) The Financial Assistance Corporation may borrow from commercial banks with the approval of the Farm Credit Administration.

3. Subpart B of Part 615, consisting of §§ 615.5045 through 615.5090, is revised to read as follows:

Subpart B—Collateral

615.5045 Definitions.
615.5050 Collateral requirements.
615.5060 Special collateral requirement.
615.5090 Reduction in carrying value of collateral.

Subpart B—Collateral

§ 615.5045 Definitions.

(a) "Cost" means the actual amount paid for any asset.

(b) "Market value" means the price at which a willing seller would sell to a willing buyer, neither under any compulsion to buy or sell.

(c) "Unpaid balance" means total principal and accrued interest owed.

(d) "Secured interbank loan" means a loan from one Farm Credit System bank to another Farm Credit System bank, secured by assets of the borrowing Farm Credit System bank.

§ 615.5050 Collateral requirements.

(a) Each bank shall have on hand at the time of issuance of any notes, bonds, debentures, or other similar obligations, and at all times thereafter maintain, free from any lien or other pledge, assets consisting of notes and other obligations representing loans made under the authority of the Act, real or personal property acquired in connection with loans made under the Act, obligations of the United States or any agency thereof direct or fully guaranteed, other bank assets (including marketable securities) approved by the Farm Credit Administration, cash, or cash equivalents approved by the Farm Credit Administration, in an aggregate value equal to the total amount of notes, bonds, debentures, or other similar obligations outstanding for which the bank is primarily liable.

(b) The collateral value of eligible investments (as defined in § 615.5140) shall be the lower of cost or market value.

(c)(1) Except as otherwise provided in this paragraph, the collateral value of notes and other obligations representing loans made under the authority of any Farm Credit Act shall be the unpaid balance of such loans adjusted for any allowance for loan losses (except as provided for in § 615.5090).

(2) The collateral value of loans in process of liquidation or foreclosure, judgments, and sales contracts shall be the unpaid balance of such loans, judgments, and contracts adjusted for any allowance for losses.

(3) The collateral value of loans which have been restructured by any action, such as an extension, deferment, or partial release, shall be the new unpaid balance of the loans adjusted for any allowance for losses.

(4) The collateral value of property acquired in the liquidation of loans shall be the book value of such property adjusted for any allowance for losses.

(5) Collateral shall not include the amount of any loan that exceeds the maximum amount authorized under the Act or Part 614 of these regulations.

(6) Collateral may include the collateral value of secured interbank loans, computed as provided in § 615.5050(c)(1), provided that the assets securing the loan could serve as collateral supporting the issuance of obligations under § 615.5050(a). In computing its eligible collateral, the borrowing bank shall not count the assets securing such loan.

(d) Each bank shall have procedures which will ensure that the bank is in compliance with the statutory requirements for maintenance of collateral. Such procedures shall include provisions for:

(1) Adequate safekeeping facilities;

(2) Methods to determine that debt instruments meet all requirements of law and regulations;

(3) A report signed by an authorized bank officer at each regular meeting of the board of directors certifying the eligibility and the adequacy of collateral. Items to be reported will include but not be limited to the total amount of eligible collateral, amount of ineligible loans, amount of deductions, and the amount of excess collateral; and

(4) Written procedures and practices to ensure that there will be a high degree of accuracy in protecting and accounting for the collateral.

§ 615.5060 Special collateral requirement.

(a) If the counsel for a System bank or association has determined, in writing, that bank or association procedures provide sufficient safeguards to assure that a real estate mortgage loan, within the meaning of section 1.7(a) of the Act, made by the bank or association will be secured by a first lien, or its equivalent, on the borrower's interest in the primary real estate security, an attorney lien certification need not be obtained at the time a note is accepted for collateral. However, the note shall be withdrawn from collateral upon the expiration of 1 year from the date of loan closing, unless, before the end of such period, an attorney has certified that the interest of the bank or association in the primary real estate security for the loan is a first lien on the borrower's interest or its equivalent from a security standpoint.

(b) A loan participation agreement to which a System bank or association is a participant and involving a loan originated by another lender shall constitute an obligation meeting the collateral requirements of § 615.5050(a).

§ 615.5090 Reduction in carrying value of collateral.

When the bank or Farm Credit Administration determines that a loan did not conform to the requirements of the law or regulations at the time the loan was closed, such loan shall be withdrawn from collateral until the cause of ineligibility is remedied. When a loan has been classified as a loss loan, the bank shall adjust the collateral value of the loan accordingly.

Subpart C—Issuance of Bonds, Notes, Debentures and Similar Obligations

4. Sections 615.5100, 615.5101, and 615.5102 are revised to read as follows:

§ 615.5100 Authority to issue.

The Act authorizes each bank of the System, subject to the collateral requirements of section 4.3(c) of the Act, to issue:

(a) Notes, bonds, debentures, or other similar obligations;

(b) Consolidated obligations, together with any or all banks organized and operating under the same title of the Act;

(c) Systemwide obligations, together with other banks of the System; and

(d) Investment bonds to the authorized purchases subject to the limitations contained in the regulations set forth in Subpart D.

§ 615.5101 Requirements for issuance.

Except as provided in section 4.2(e) of the Act, each debt obligation shall meet the following requirements:

(a) Each debt obligation shall be issued through the Federal Farm Credit Banks Funding Corporation acting for System banks.

(b) Each debt obligation shall be authorized by resolution of the board(s) of directors of the issuer(s). Each participating bank shall provide, in its authorizing resolution, for its primary liability on the portion of any consolidated or Systemwide obligation issued on its behalf and be jointly and severally liable for the payment of any additional sums as called upon by the Farm Credit Administration, in accordance with section 4.4 of the Act, in the event any bank primarily liable therefor is unable to pay.

(c) Each issuance of debt obligations shall meet the collateral requirements set forth in Subaprt B.

(d) Each issuance of debt obligations shall be approved by the Farm Credit Administration.

(e)(1) Consultation with the Secretary of the Treasury required by 31 U.S.C. 9108 shall be conducted by System representatives and shall have occurred prior to each debt issuance.

(2) Under policies adopted by the Board of the Farm Credit Administration, the Chairman will consult with the Secrtary of the Treasury on a regular basis concerning the exercise by the System of the powers conferred under section 4.2 of the Act.

§ 615.5102 Issuance of debt obligations through the Funding Corporation.

(a) The amount, maturities, rates or interest, terms and conditions of participation by the System banks in each issue of joint, consolidated or Systemwide obligations shall be determined by the Funding Corporation established pursuant to section 4.9 of the Act, acting for the banks of the System, subject to the approval of the Farm Credit Administration in accordance with § 615.5102.

(b) The Funding Corporation shall plan and develop funding guidelines, priorities, and objectives based upon the asset/liability management policies of the System institutions and the requirements of the market. The guidelines, priorities, and objectives shall be designed to ensure that the debt marketing responsibilities of the Funding Corporation will continue to provide flexibility for the banks and are fiscally sound.

(c) For all debt issuances conducted by the Funding Corporation, the specific prior approval of the Farm Credit Administration must be obtained prior to the distribution and sale of the obligation pursuant to section 4.9 of the Act.

5. Section 615.5105 is amended by revising paragraph (b) to read as follows:

§ 615.5105 Consolidated Systemwide notes.

* * * * *

(b) Prices shall be on a discount yield basis or as determined by the Funding Corporation.

* * * * *

Subpart O—Issuance of Farm Credit Securities

6. Section 615.5450 is revised to read as follows:

§ 615.5450 Book entry and definitive notes and bonds.

(a) The System banks operating under the same title of the Army may issue consolidated notes, bonds, debentures, and other similar obligations dated on or after January 1, 1978, in book-entry form, in denominations of $1,000 or multiples thereof. There are still outstanding consolidated bonds of the Federal land banks dated before January 1, 1979, in definitive form in denominations of $1,000, $5,000, $10,000, $50,000, $100,000, and $500,000.

(b) The System banks may issue consolidated Systemwide notes, bonds, debentures, or other similar obligations in book-entry form, in denominations of $1,000 or multiples thereof for issues with an original maturity over 1 year and 1 month and $5,000 or multiples thereof for issues with an original maturity of under 1 year and 1 month.

(c) Consolidated and consolidated Systemwide bonds and discount notes may be issued in definitive form as determined to be appropriate by the Funding Corporation and as approved by the Chairman of the Farm Credit Administration.

§§ 615.5451 through 615.5453 [Removed and reserved]

7. Sections 615.5451 through 615.5453 are removed and reserved.

8. Sections 615.5460 is amended by revising paragraphs (b) and (c) to read as follows:

§ 615.5460 Definition of terms for book-entry issuance of Farm Credit securities.

* * * * *

(b) "Banks of the Farm Credit System" means all of the Farm Credit Banks or all the banks for cooperatives, or all of the banks of the System.

(c) "Farm Credit securities" means consolidated notes, bonds, debentures, or other similar obligations of the System banks and Systemwide notes, bonds, debentures, or similar obligations issued under the Farm Credit Act of 1971, or laws repealed thereby, the completion and delivery of which is or has been undertaken by a Reserve Bank as agent of the banks of the System.

* * * * *

§ 615.5497 [Removed and reserved]

6. Section 615.5497 is removed and reserved.

Date: January 6, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89-781 Filed 1-11-89; 8:45 am]

BILLING CODE 6705-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9200]

Removatron International Corp. et al.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This Final Order prohibits, among other things, the Boston, Mass. sellers of an electronic device called "Removatron", from making unsubstantiated claims about the product and requires clinical testing as substantiation for future permanency claims.

DATES: Complaint issued September 30, 1985. Final Order issued November 4, 1988.[1]

FOR FURTHER INFORMATION CONTACT: David Fitzgerald, FTC/H-403, Washington, DC 20580. (202) 326-3206.

SUPPLEMENTARY INFORMATION: In the Matter of Removatron International Corporation and Frederick E. Goodman. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely Or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.10-5 Knowingly by advertising agent; § 13.85 Government approval, action, connection or standards; § 13.85-35 Government endorsement; § 13.170 Qualities or properties of product or service; § 13.170-28 Depilatory; § 13.190 Results; § 13.205 Scientific or other relevant facts; § 13.210 Scientific tests. Subpart—Claiming Or Using Endorsements Or Testimonials Falsely Or Misleadingly: § 13.330 Claiming or using endorsements or testimonials falsely or misleadingly; § 13.330-90 United States Government: § 13.330-90(g) Federal Communications Commission. Subpart—Corrective Actions And/Or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records; § 13.533-45(a) Advertising substantiation; § 13.533-45(k) Records, in general; § 13.533-50 Maintain means of communication; § 13.533-53 Recall of merchandise, advertising material, etc. Subpart—Misrepresenting Oneself And Goods—Goods: § 13.1590-20 Federal Trade Commission Act; § 13.1632 Government endorsement or recommendation; § 13.1730 Results; § 13.1740 Scientific or other relevant facts; § 13.1762 Tests, purported. Subpart—Neglecting, Unfairly Or Deceptively, To Make Material Disclosure: § 13.1895 Scientific or other relevant facts.

List of Subjects in 16 CFR Part 13

Hair-removal devices, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45, 52)

Final Order

Commissioners: Daniel Oliver, Chairman, Terry Calvani, Mary L. Azcuenaga, and Andrew J. Strenio, Jr.

In the matter of Removatron International Corporation, a corporation, and Frederick E. Goodman, individually and as an officer of Removatron International Corporation.

[1] Copies of the Complaint, Initial Decision, Opinion of the Commission, Statements, etc. are available from the Commission's Public Reference Branch, H-130, 6th Street and Pennsylvania Avenue, NW., Washington, DC 20580.

I.

It is ordered that Respondents Removatron International Corporation, a corporation, its successors and assigns, and its officers, and Respondent Frederick E. Goodman, individually and as an officer of Removatron International Corporation, and Respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, labeling, advertising, offering for sale, sale or distribution of the Removatron epilator or any other hair removal device, as "device" is defined in the Federal Trade Commission Act, or other hair removal product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing in any manner, directly or by implication, that:

A. Any such hair removal device or other hair removal product, or any treatment employing any such device, will or may achieve permanent hair removal or hair removal on a long-term and not temporary basis, or is otherwise effective, using those words or words of similar import or meaning, unless, at the time of the making of such representation, Respondents possess and rely upon competent and reliable scientific evidence that substantiates such representation; provided, however, that for purposes of this Order, "competent and reliable scientific evidence" is defined as adequate and well-controlled, double-blind clinical testing conforming to acceptable designs and protocols and conducted by a person or persons qualified by training and experience to conduct such testing.

B. The Removatron device or any other RFE tweezer-type epilation device or any treatment employing any such device is intended to or is able to remove hair, using those words or words of similar import or meaning, unless the representations clearly and conspicuously disclose the following statement:

"IMPORTANT: There is no reliable evidence that [name of device treatments] provides anything more than *temporary* hair removal"; provided, however, that in any written materials this disclosure shall be in typeface at least as large as the largest typeface in the label, advertising, or any document, and in any multipage documents the disclosure shall appear on the cover or first page, and provided further that this provision shall terminate after five (5) years from the date on which this Order becomes effective.

C. The Removatron device or any other RFE tweezer-type epilation device, or any treatment employing such device, is FCC-approved, using those words or words of similar import or meaning, unless the representations clearly and conspicuously disclose that the FCC has only approved the use of a certain radio frequency by such device and has not approved the safety or effectiveness of such device or the safety or effectiveness of any treatment employing such device.

II

It is further ordered that Respondent Removatron International Corporation, a corporation, its successors and assigns, and its officers, and Respondent Frederick E. Goodman, individually and as an officer of Removatron International Corporation, and Respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacture, labeling, advertising, offering for sale, sale or distribution of the Removatron epilator or any other hair removal device, as "device" is defined in the Federal Trade Commission Act, or other hair removal product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from misrepresenting the existence, contents, validity, results, conclusions, or interpretations of any test or study.

III

It is further ordered that Respondents shall: Within ninety (90) days after the date of service of this Order, send by first-class mail, a copy of this Order and a notice that the purchaser shall immediately cease using any Removatron advertising or promotional materials containing representations prohibited by parts I and II of this Order, to each purchaser of any of Respondents' hair removal devices since January 1, 1976, who is identifiable from Respondents' sales records, testimonial letters, mailing lists or other documents containing an address or telephone number for that purchaser. Such advertising and promotional materials include, but are not limited to, any writing, audio tape or other material which employs such words as "permanent," "effective," "forever," "long-term," or "words," or which compares the device to electrolysis or distinguishes it from temporary hair removal devices or products.

IV

It is further ordered that Respondents, their successors and assigns, shall maintain for at least three (3) years from the date of the last dissemination of each representation which is subject to this Order, and make available to the Federal Trade Commission upon request, complete and accurate records demonstrating compliance with this Order, including but not limited to the following:

A. Advertisements and labeling and promotional materials for any hair removal device or other hair removal product, and such records as will show when and where each advertisement was published;

B. Tests, studies, surveys, affidavits, letters, complaints, articles or other materials substantiating, contradicting, or otherwise relevant to the validity of any such representation;

C. Such business records as will demonstrate notification to purchasers pursuant to paragraph III of this Order; and

D. Sales invoices or such other business records as will disclose the name, address, and date of purchase for each purchaser of a hair removal device from Respondents.

V

It is further ordered that Respondents shall distribute a copy of this Order to all present and future personnel, agents and representatives having sales, advertising, or policy responsibilities with respect to the subject matter of this Order and that Respondents shall secure from each person a signed and dated statement acknowledging receipt of said Order.

VI

It is further ordered that Respondents shall notify the Commission at least thirty (30) days prior to the effective date of any proposed change in the corporate Respondent such as dissolution, assignment or sale resulting in the emergency of a successor corporation, the creation or dissolution of subsidiaries or any change in the corporation which may affect compliance obligations arising out of this Order.

VII

It is further ordered that, for a period of ten (10) years from the date of service of this Order, the individual Respondent shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment involving the advertising, offering for sale or sale of any hair removal device or other hair removal product, or any treatment employing such device or other product, and with each such notice include his new business address and a statement of the nature of the business or employment in which he is newly engaged as well as a description of his duties and responsibilities in connection with such business or employment.

By the Commission, Commissioners Azcuenaga and Strenio concurring in part and dissenting in part.

Donald S. Clark,

Secretary.

[FR Doc. 89-723 Filed 1-11-89; 8:45 am]

BILLING CODE 6759-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. 88N-0308]

Patient Labeling Requirements for Progestational Drug Products; Technical Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its requirements in its regulation for labeling directed to the patient for progestational drug products. This action will update the regulation to reflect changes made in the NDA Rewrite and changes in the revised guideline texts for professional and patient labeling for prescription progestational drug products, which are published elsewhere in this issue of the **Federal Register**.

DATES: Effective January 12, 1989; written comments by February 13, 1989.

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

FOR FURTHER INFORMATION CONTACT: Adele S. Seifried, Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 22, 1985 (50 FR 7452), FDA adopted comprehensive new regulations governing the submission and review of new drug and antibiotic applications ("the NDA Rewrite"). Among other changes, the NDA Rewrite revised and renumbered the section regarding supplements for changes that may be made before FDA approval of new drug applications (NDA's) (formerly 21 CFR 314.8, now 21 CFR 314.70). The agency is now revising the regulation for patient labeling for progestational drug products (21 CFR 310.516(g)) to reflect this change.

The current requirement for patient labeling for progestational drug products was published as part of a drug efficacy study implementation (DESI) notice in the **Federal Register** of July 22, 1977 (42 FR 37646).

Elsewhere in this issue of the **Federal Register**, FDA is publishing revised guideline labeling texts for progestational drug products. Therefore, the agency is revising § 310.516(f) by removing reference to the previous guideline labeling. This regulation does not impose new substantive requirements but merely represents a minor technical revision of the labeling regulations already in place. The revision is intended to assist both NDA holders and FDA in processing labeling submitted for progestational drug products. Thus, the agency has determined for good cause that notice, public procedure, and delayed effective date are impracticable, unnecessary, and contrary to the public interest. However, to allow interested persons an opportunity to comment on this final rule, FDA is providing a 30-day comment period.

This final rule becomes effective on January 12, 1989. If comments are received which necessitate further changes, FDA will publish a revised regulation.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(11) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

In accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96-354), the agency has carefully analyzed the economic consequences of this final rule. This final rule is merely an editorial amendment of an existing rule that will have no economic consequences, and the agency has determined that it is, therefore, not a major rule as defined in Executive Order 12291. Further, the agency certifies that this final rule will not have a significant impact on a substantial number of small

entities, as defined by the Regulatory Flexibility Act.

Comments

Interested persons may, on or before February 13, 1989, submit to the Dockets Management Branch (address above) written comments regarding this final rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Such comments will be considered in determining whether amendments, modificiations, or revisions to the final rule are warranted. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 310

Administrative practice and procedure, Drugs, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 310 is amended as follows:

PART 310—NEW DRUGS

1. The authority citation for 21 CFR Part 310 continues to read as follows:

Authority: Secs. 501, 502, 503, 505, 701, 704, 705, 52 Stat. 1049–1053 as amended, 52 Stat. 1055–1056 as amended, 67 Stat. 477 as amended, 52 Stat. 1057–1058 (21 U.S.C. 351, 352, 353, 355, 371, 374, 375); 5 U.S.C. 553; 21 CFR 5.10 and 5.11.

2. Section 310.516 is amended by revising paragraphs (f) and (g) to read as follows:

§ 310.516 Progestational drug products; labeling directed to the patient.

* * * * *

(f) The Food and Drug Administration has available guideline patient labeling for progestational drug products that includes information responsive to all items specified in paragraph (b) of this section. This labeling was published in a separate notice appearing in the **Federal Register** of January 12, 1989. Any person may rely on this labeling as complying with paragraph (b) of this section.

(g) Holders of approved new drug applications for progestational drug products that are subject to the requirements of this section shall submit supplements under § 314.70(c) of this chapter to provide for the labeling required by paragraph (a) of this section.

Dated: December 23, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–712 Filed 1–11–89; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Piperazine Adipate Powder; Piperazine Adipate Tablet

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting the approval of two new animal drug applications (NADA's) held by Carson Chemicals, Inc. The NADA's provide for (1) use of piperazine adipate powder as an anthelmintic in horses, dogs, and cats, and (2) use of piperazine adipate tablets as anthelmintics in dogs, puppies, cats, and kittens. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA's.

EFFECTIVE DATE: January 23, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of two NADA's sponsored by Carson Chemicals, Inc., P.O. Box 466, New Castle, IN 47362–0466. NADA 9–821 provides for use of piperazine adipate tablets as an anthelmintic in dogs, puppies, cats, kittens, and NADA 9–951 provides for use of piperazine adipate powder as an anthelmintic in drinking water, feed, or as a drench in horses, dogs, and cats. Because the firm is no longer the sponsor of any approved NADA's, 21 CFR 510.600(c) is amended by removing the firm's name and drug labeler code from the list of sponsors of approved NADA's. This document also removes 21 CFR 520.1801a(d) and 520.1801c, which reflect the approvals.

List of Subjects

21 CFR Part 510

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

21 CFR Part 520

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing the entry "Carson Chemicals, Inc." and in paragraph (c)(2) by removing the entry "011769."

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

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

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

§ 520.1801a [Amended]

4. Section 520.1801a *Piperazine adipate powder* is amended by removing paragraph (d) and reserving it.

§ 520.1801c [Removed]

5. Section 520.1801c *Piperazine adipate tablet* is removed and reserved.

Dated: January 3, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89–629 Filed 1–11–89; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Parts 510 and 524

Animal Drugs, Feeds, and Related Products; Triethanolamine Polypeptide Oleate-Condensate Otic Solution

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of a new animal drug application (NADA) held by the Purdue Frederick Co. The NADA provides for use of triethanolamine polypeptide oleate-condensate otic solution in dogs and cats to help remove excess or

impacted earwax. In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA 12–817 at the sponsor's request.

EFFECTIVE DATE: January 23, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of NADA 12–817 sponsored by the Purdue Frederick Co., 100 Connecticut Ave., Norwalk, CT 06856. The NADA provides for use of Cerumenex-V Drops (triethanolamine polypeptide oleate-condensate otic solution) in dogs and cats to help remove excess or impacted earwax. As required by the withdrawal of approval, this document removes 21 CFR 524.2542.

In addition, because the firm is no longer sponsor of any approved NADA's, 21 CFR 510.600 is amended by removing the firm from the list of sponsors of approved NADA's.

List of Subjects

21 CFR Part 510

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

21 CFR Part 524

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 524 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: Secs. 512, 701(a) (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in paragraph (c)(1) by removing "The Purdue Frederick Co." and in paragraph (c)(2) by removing "000034."

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

3. The authority citation for 21 CFR Part 524 continues to read as follows:

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

§ 524.2542 [Removed]

4. Section 524.2542 *Triethanolamine polypeptide oleate-condensate otic solution* is removed.

Dated: January 3, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89–630 Filed 1–11–89; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 520 and 522

Animal Drugs, Feeds, and Related Products; Dichlorophene and Toluene Capsules, Trifluomeprazine Tablets, Pyrilamine Maleate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to remove those portions of the regulations reflecting approval of three new animal drug applications (NADA's) sponsored by Norden Laboratories, Inc. The NADA's provide for use of Paracide (dichlorophene/toluene) Capsules, Nortran (trifluomeprazine) Tables, and Histosol (pyrilamine maleate) Injectable. Elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of the NADA's at the request of the sponsor.

EFFECTIVE DATE: January 23, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the **Federal Register**, FDA is withdrawing approval of Norden Laboratories' NADA's 7–404, 12–746, and 45–628. NADA 7–404 provides for use of Histosol (pyrilamine maleate) Injectable in horses for treating conditions in which antihistaminic therapy may alleviate some signs of disease. NADA 12–746 provides for use of Nortran (trifluomeprazine) Tablets in dogs for tranquilization and chemical restraint. NADA 45–628 provides for use of Paracide (dichlorophene/toluene) Capsules in dogs and cats as an anthelmintic. As required by the withdrawal of approval, this document removes the sponsor's drug labeler code from 21 CFR 520.580(b)(1) and 522.2063(b). In addition, this document removes 21 CFR 520.2560.

List of Subjects in 21 CFR Parts 520 and 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Veterinary Medicine, Parts 520 and 522 are amended as follows:

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

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

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

§ 520.580 [Amended]

2. Section 520.580 *Dichlorophene and toluene capsules* is amended in paragraph (b)(1) by removing "011519."

§ 520.2560 [Removed]

3. Section 520.2560 *Trifluomeprazine tablets* is removed.

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

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

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

§ 522.2063 [Amended]

5. Section 522.2063 *Pyrilamine maleate injection* is amended in paragraph (b) by removing the phrase "Nos. 000061 and 011519" and replacing it with "No. 000061."

Dated: January 3, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89–631 Filed 1–11–89; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of an NADA from G.D. Searle and Co. to CEVA Laboratories, Inc.

EFFECTIVE DATE: January 12, 1989.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1415.

SUPPLEMENTARY INFORMATION: CEVA Laboratories, Inc., 7101 College Boulevard, Suite 610, Overland Park, KS 66210, has informed FDA that it is now sponsor of NADA 97–037 (Syncro-Mate-B®—norgestomet implant and estradiol valerate/norgestomet injectable solution), formerly held by G. D. Searle and Co. The sponsor change was confimed by G. D. Searle and Co. CEVA Laboratories, Inc., is sponsor of approved NADA 134–930, which is codified in 21 CFR 522.850(b) and provides for the same drug for the same conditions of use. The agency is amending 21 CFR 522.850(b) to reflect the change in sponsor.

List of Subjects in 21 CFR Part 522

Animal drugs.

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

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

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

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

§ 522.850 [Amended]

2. Section 522.850 *Estradiol valerate and norgestomet in combination* is amended in paragraph (b) by removing the phrase "000014 and".

Dated: January 4, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 89–632 Filed 1–11–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

31 CFR Part 103

Amendments to the Bank Secrecy Act Regulations Regarding Recordkeeping Requirements by Casinos

AGENCY: Departmental Offices, Treasury.

ACTION: Final rule.

SUMMARY: On April 7, 1988, Treasury published in the **Federal Register** (53 FR 11513) proposed amendments to the Bank Secrecy Act regulations regarding the retention of player rating records and certain computer information by casinos. After review of the comments received, Treasury is issuing a final rule that adopts the original proposals, with one minor change in wording.

EFFECTIVE DATE: The amendments are effective as of February 13, 1989.

ADDRESS: Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: Amy G. Rudnick, Director, Office of Financial Enforcement, Office of the Assistant Secretary (Enforcement), Department of the Treasury, Room 4320, 1500 Pennsylvania Avenue NW., Washington, DC 20220, (202) 566–8022.

SUPPLEMENTARY INFORMATION: The Bank Secrecy Act, Pub. L. No. 91–508, (codified at 12 U.S.C. 1829b, 12 U.S.C. 1951 *et seq.*, and 31 U.S.C. 5311–5324), authorizes the Secretary of the Treasury to require financial institutions to keep records and file reports that the Secretary determines have a high degree of usefulness in criminal, tax, and regulatory matters. Pursuant to 31 U.S.C. 5312(a)(2)(U), the Secretary has designated certain casinos as "financial institutions" for purposes of the Bank Secrecy Act. *See* 31 CFR 103.11(g)(7). The Secretary has imposed particular recordkeeping requirements on these casinos. *See* 31 CFR 103.36.

The notice published in the **Federal Register** on April 7, 1988 (53 FR 11513) proposed two amendments to the current recordkeeping requirements. Treasury is adopting the proposals as a final rule. The second enumerated amendment provides that casinos subject to the Bank Secrecy Act regulations must retain the records which they use for monitoring their customers' gaming activity. A minor change in wording has been made to the second amendment. In maintaining the same word used elsewhere in the regulations, the word "player's" has been deleted, and the word "customer's" has been substituted therefor.

The third enumerated amendment adds a requirement that casinos which input, retain, or store information on computer disk, tape, or other machine-readable media must retain such information in machine-readable form. The third amendment goes on to require that casinos retain the indexes, books, file descriptions, programs, and similar materials which would enable a person readily to access and review the records that are required to be made and retained under the Bank Secrecy Act regulations and are kept in machine-readable form. In accordance with § 103.38(d) of the regulations, the machine-readable media and accompanying indexes, books, etc. must be kept for a period of five years.

Pursuant to these new amendments, if a casino keeps track of a customer's gaming activity by inputting all or some of the data from a "rating card" (see "Discussion of Comments," below) on that player into a computer, even for a short period of time, such data must be retained in machine-readable form. For purposes of the final rule, the term "machine-readable" means capable of being read by the automated data processing system used by the casino. The data may be transferred to other computer disks, magnetic tapes, or machine-readable media and may be retained off-line.

It is emphasized that the final rule requires neither the rating of players nor the purchase or rental of automated data processing systems to comply with the recordkeeping requirements of §§ 103.33 and 103.36. Otherwise stated, the rule requires rating records to be retained, if they are made, and requires computer information to be retained, if such information contains, in whole or in part, a record required to be made and kept under the Bank Secrecy Act regulations.

Discussion of Comments

Few comments on the proposed amendments were received. Comments regarding the second enumerated amendment generally attempted to caution Treasury about the inexactness of the documents which casinos use to monitor their customers' gaming activity. These documents, which casinos must retain for a period of five years under the new rule, are frequently referred to as "player rating forms," "player rating records," or "player rating cards." They are used to keep track of customers' play, and ultimately become internal marketing tools for the casinos.

Treasury concludes that the records overall are sufficiently accurate to use them for Bank Secrecy Act purposes. Given the lack of other records which would reflect cash activity of customers on the casino floor, Treasury finds a high degree of criminal, tax, and regulatory utility in the retention of rating forms. Treasury expresses no opinion, explicitly or implicitly, as to their accuracy for any other purpose.

The Internal Revenue Service, in performing compliance examinations pursuant to 31 CFR 103.46, can be expected to review player rating forms to determine whether reports, as required under § 103.22(a)(2), have been filed. If, in the course of an examination, a player rating card that reflects a cash buy-in exceeding $10,000 on one customer is discovered, Treasury would expect that a report on that transaction has been filed. It would be incongruous for the casino to argue that it need not treat the rating record made by its employee as determinative of whether it should have filed a report, on the ground that the record might have been inaccurate. The point is that the casino has in its possession evidence that one of its employees, a rater, had perceived that a customer engaged in a transaction exceeding $10,000 in currency. In sum, Treasury expects casinos to file reports on all transactions they believe involve more than $10,000, as reflected in the retained rating records.

The third enumerated amendment is intended to lessen significantly the amount of time in reviewing specific records required of casinos under the Bank Secrecy Act regulations for compliance examination and law enforcement purposes. Comments regarding this amendment dealt with the costs and burdens of reprogramming automated data processing systems and of providing information from the systems to Bank Secrecy Act compliance examiners and enforcement personnel. Some commenters incorrectly assumed that the information must be retained in a fashion that would make the information "most easily" retrievable, *e.g.*, chronologically, by player's name, etc., when it is requested during an examination or pursuant to a § 103.61 administrative summons.

The proposed rule did not, and was not intended to, suggest the manner in which the information is to be retained. The proposed rule, and now the final rule, simply state that, if a Bank Secrecy Act record, in whole or in part, is input into, or stored or retained in, an automated data processing system, that record (or portion thereof) must be retained in machine-readable form. It is the corresponding requirement—that pertinent indexes, books, programs, record layouts, file description, etc. be retained—which permits ready access to the machine-readable information. Any reprogramming needed to meet these requirements is viewed as minimal by Treasury.

The information and accompanying indexes, programs, file descriptions, etc., must be kept for five years. One commenter suggested that it might need 130 reels of magnetic tape to maintain five years of player rating information. According to the commenter, if player rating information over a five year period were requested on a named customer, the casino's own computer would have to be devoted to processing all 130 reels, thereby detracting its devotion to in-house business use.

It is expected that, as they have in the past, Internal Revenue Service personnel involved in Bank Secrecy Act examinations and enforcement and the casinos will be able to reach mutually acceptable terms on the time and manner of retrieving computer information in this rather extreme case. A goal would be to obtain the information as expeditiously as possible, with the least inconvenience to the casino. Also, it is important to consider that, if necessary, the reels and pertinent documentation may be obtained by a § 103.61 summons, removed from the casino, then processed by the government agents themselves.

One commenter suggested that, without requiring a specified manner of storing the computer information (*e.g.*, by date, customer name, etc.), thereby commensurately requiring processing of numerous reels, Treasury has ignored the requirement that the Bank Secrecy Act records be "readily accessible." Treasury disagrees. Again, certain accompanying information (instructions, programs, record layouts, etc.) that exists when the computer information is prepared makes the computer information readily accessible. Still, Treasury would not discourage any casino from keeping its computer information in a manner that is more readily accessible than other manners. It is assumed that each casino would balance the costs and burdens of developing more readily accessible records against the costs and burdens of running various numbers of reels to provide requested information, or providing the machine-readable media for the examiners themselves to process off-site.

Finally, regardless of the manner in which the stored computer information is organized, virtually any computer retention format would make Bank Secrecy Act records far more readily accessible than they currently are, *i.e.*, by pouring through the great volumes of paper records themselves.

Conclusion

For the reasons discussed above, the amendments are adopted as proposed, except that, in the second amendment, the word "player's" is deleted, and the word "customer's" is substituted therefor.

Executive Order 12291

This final rule is not a major rule for purposes of Executive Order 12291. It is not anticipated to have an annual effect on the economy of $100 million or more. It will not result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions. It will not have any 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 foreign markets. A Regulatory Impact Analysis therefore is not required.

Regulatory Flexibility Act

It is hereby certified under section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this final rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3504(h)) under control no. 1505–0087. The estimated annual burden associated with the collection of information in this rule is approximately 4.1 hours per recordkeeper.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Department Clearance Officer, Department of the Treasury, Room 2224, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220, and to the Office of Management and Budget, Washington, D.C., 20503, Attention: Desk Officer for the Departmental Offices, Department of the Treasury.

Drafting Information

The principal author of this document is the Office of the Assistant General Counsel (Enforcement). However, personnel from other offices participated in its development.

List of Subjects in 31 CFR Part 103

Authority delegation, Banks, banking, Currency, Foreign banking, Investigation, Law enforcement, Reporting and recordkeeping requirements, Taxes.

Amendment

31 CFR Part 103 is amended as set forth below.

PART 103—[AMENDED]

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

Authority: Pub. L. No. 91–508, Title I, 84 Stat. 1114 (12 U.S.C. 1829(b), 1951–1959); and the Currency and Foreign Transactions Reporting Act, Pub. L. No. 91–508, Title II, 84 Stat. 1118, as amended (31 U.S.C. 5311–5324).

2. Section 103.36 is amended by adding a new paragraph (b)(8) to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(b) * * *

(8) All records which are prepared or used by a casino to monitor a customer's gaming activity.

* * * * *

3. Section 103.36 is further amended by adding at the end a new paragraph (c) to read as follows:

§ 103.36 Additional records to be made and retained by casinos.

* * * * *

(c)(1) Casinos which input, store, or retain, in whole or in part, for any period of time, any record required to be maintained by § 103.33 or this section on computer disk, tape, or other machine-readable media shall retain the same on computer disk, tape, or machine-readable media.

(2) All indexes, books, programs, record layouts, manuals, formats, instructions, file descriptions, and similar materials which would enable a person readily to access and review the records that are described in § 103.33 and this section and that are input, stored, or retained on computer disk, tape, or other machine-readable media shall be retained for the period of time such records are required to be retained.

Dated: December 8, 1988.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 89–695 Filed 1–11–89; 8:45 am]

BILLING CODE 4810–25–M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS INGRAHAM

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Under Secretary of the Navy has (1) determined that USS INGRAHAM (FFG–61) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate, and (2) has directed that certain corrections be made to the tables in the existing Part 706. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: December 27, 1988.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332–2400 Telephone number: (202) 325–9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Under Secretary of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS INGRAHAM (FFG–61) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), pertaining to the arc of visibility of the forward masthead light; Annex I, section 2(a)(i), pertaining to the height above the hull of the forward masthead light; and Annex 1, section 3(b), pertaining to the horizontal relationship of the sidelights to the forward masthead light, without interfering with its special function as a Navy ship. The Under Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided that USS INGRAHAM (FFG–61) is a member of the FFG 7 class of vessels for which certain exemptions, pursuant to 72 COLREGS, Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to USS INGRAHAM (FFG–61).

Notice is also provided that the Under Secretary of the Navy has determined that the existing tables of 32 CFR 706.2 should be revised to correct certain errors contained therein.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on USS INGRAHAM (FFG–61) in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

Accordingly, 32 CFR Part 706 is amended as follows:

PART 706—[AMENDED]

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by removing the following ships:

USS LAWRENCE	DG–4
USS SPRAGUE	FFG–16
USS LEWIS B. FULLER	FFG–23
USS VANDERGRIFT	FFG–48
USS AFFRAY	MSO–511
(blank)	NR–1
USS SAM HOUSTON	SSBN–609
USS JOHN MARSHALL	SSBN–611
USS RHODE ISLAND	SSBN–730

3. Table One of § 706.2 is amended by adding the following ships:

Vessel	Number	Distance in meters of forward masthead light below minimum required height. section 2(a)(i), Annex I
* * * * * * *		
USS LAWRENCE	DDG-4	2.45
* * * * * * *		
USS LEWIS B. PULLER	FFG-23	1.6
* * * * * * *		
USS VANDEGRIFT	FFG-48	1.6
* * * * * * *		
USS INGRAHAM	FFG-61	1.37
* * * * * * *		
USS AFFRAY	MSO-511	3.5
NR-1	NR-1	2.7
* * * * * * *		
USS SAM HOUSTON	SSN-609	3.73
USS JOHN MARSHALL	SSN-611	3.73
* * * * * * *		
USS HENRY M. JACKSON	SSBN-730	3.70
* * * * * * *		

4. Table Four of § 706.2 is amended by removing from the existing paragraph 7 the following ships:

USS JOHN A. MORRE	FFG-19
USS LEWIS B. FULLER	FFG-23
USS VANDERGRIFT	FFG-48

5. Table Four of § 706.2 is amended by adding to the existing paragraph 7 the following ships:

* * * * * * *	
USS JOHN A. MOORE	FFG-19
* * * * * * *	
USS LEWIS B. PULLER	FFG-23
* * * * * * *	
USS VANDERGRIFT	FFG-48
* * * * * * *	
USS INGRAHAM	FFG-61

6. Table Four of § 706.2 is amended by removing from the existing paragraph 8 the following ships:

USS LEWIS B. FULLER	FFG-16	
USS VANDERGRIFT	FFG-48	
USS CLIFTON SPRAGUE	FFG-16	(*Second* listing *only*)
USS JOHN A. MORRE	FFG-19	
USS ANTRIM	FFG-20	(*Second* listing *only*)
USS FLATLEY	FFG-21	

7. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following ships:

Vessel	Number	Distance of side-lights forward of masthead light in meters
* * * * * * *		
USS JOHN A. MOORE	FFG-19	2.75
* * * * * * *		
USS FLATLEY	FFG-21	2.75
* * * * * * *		
USS LEWIS B. PULLER	FFG-23	2.75
* * * * * * *		
USS VANDEGRIFT	FFG-48	2.75
* * * * * * *		

Vessel	Number	Distance of side-lights forward of masthead light in meters
USS INGRAHAM	FFG-61	2.19

Date: December 27, 1988.
Approved:
H. Lawrence Garrett, III,
Under Secretary of the Navy.
Date: January 5, 1988.

[FR Doc. 89-616 Filed 1-11-89; 8:45 am]
BILLING CODE 3810-AE-M

Department of the Air Force

32 CFR Part 863

Leasing USAF Aircraft and Related Equipment to Nongovernment Organizations

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: This part outlines USAF policies and procedures for the provision of leasing USAF aircraft and related equipment to nongovernment organizations. It establishes the responsibilities for evaluating lease requests, obtaining necessary approvals, and negotiating and administering lease agreements. It is intended to accelerate the evaluation, approval and negotiation processes associated with these lease requests.

EFFECTIVE DATE: February 13, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Kattner, SAF/AQCM, Washington, DC 20330-1000, telephone (202) 695-4982.

SUPPLEMENTARY INFORMATION: The Department of the Air Force published this proposed rule in the **Federal Register** on November 14, 1988 (53 FR 45777). No comments were received.

The Department of the Air Force has determined that this regulation is not a major rule as defined by Executive Order 12291, is not subject to the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), and does not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511).

List of Subjects in 32 CFR Part 863

Aircraft, Government contracts, Government property.

Therefore, 32 CFR, Chapter VII, Subchapter F, is amended to add Part 863 to read as follows:

PART 863—LEASING USAF AIRCRAFT AND RELATED EQUIPMENT TO NONGOVERNMENT ORGANIZATIONS

Sec.
863.0 Purpose.

Subpart A—Policy and Responsibilities

863.1 Leasing policy.
863.2 SAF/AQ responsibilities.
863.3 AFSC responsibilities.
863.4 AFLC responsibilities.

Subpart B—Basic Terms and Conditions

863.5 Authorized uses.
863.6 Lease charges.
863.7 No cost to the USG.
863.8 Risk of loss.
863.9 Indemnification of the USG.
863.10 Maintenance responsibilities.
863.11 Inspection responsibilities.
863.12 USG support.
863.13 Terminating the lease agreement.
863.14 DSAA and State Department approvals.
863.15 Flights for dignitaries.
863.16 Air show participation plan clause.

Subpart C—Lease Requests and Evaluation

863.17 Request initiation.
863.18 SPO or ALC.
863.19 HQ AFSC or HQ AFLC.

Subpart D—Coordination and Approval Process

863.20 Air Staff coordination.
863.21 Secretariat approval process.
863.22 Processing time.

Subpart E—Lease Negotiation and Administration

863.23 AFSC lease negotiation.
863.24 AFLC lease negotiation.
863.25 Delegation of lease administration.
863.26 Lessee compliance.
863.27 Lessee payments.

Authority: 10 U.S.C. 2667.

Note.—This part is derived from Air Force Regulation (AFR) 70-10.

Part 806 of this chapter states the basic policies and instructions governing the disclosure of records and tells members of the public what they must do to inspect or obtain copies of the material referenced herein.

§ 863.0 Purpose.

This part outlines United States Air Force (USAF) policies and procedures for leasing USAF aircraft and related equipment to nongovernment organizations (such as, American manufacturers) under 10 U.S.C. 2667. The intended uses of the leased assets might include, but are not necessarily limited to, participation in national and international trade or air shows, foreign military sales or direct foreign sales demonstrations, independent research and development efforts by defense firms, and direct or indirect support of United States Government (USG) contracts. This part does not apply to military leases of USG property to foreign governments or international organizations (such as, North Atlantic Treaty Organization) under Chapter 6 of the Arms Export Control Act. This part establishes the responsibilities for evaluating lease requests, obtaining approvals, and negotiating and administering the lease agreements. This part applies to the Office of the Secretary of the Air Force, the Air Staff, Air Force Systems Command (AFSC), and Air Force Logistics Command (AFLC). This part requires coordination with the USAF operational commands, the Air Force Reserve, and the Air National Guard when their assets are under consideration for lease. It implements DOD Instructions 7230.7, January 29, 1985 (32 CFR Part 288), and 7230.8, June 9, 1976.

Subpart A—Policy and Responsibilities

§ 863.1 Leasing policy.

10 U.S.C. 2667 provides the Secretary of the Air Force the authority to lease assets under the control of the USAF to nongovernment organizations. When the Secretary considers it advantageous for the United States, leases may be approved under such terms and conditions the Secretary considers will promote the national defense or be in the public interest. The statute provides that the property must be under the control of the department; not for the time needed for public use; and not excess property. Typically, the USAF does not lease assets which are otherwise available from commercial sources.

§ 863.2 SAF/AQ responsibilities.

(a) The Secretary of the Air Force delegated the statutory authority to approve leases to the Assistant Secretary of the Air Force for Acquisition (SAF/AQ). Since final leasing authority rests at the secretariat level, field and staff elements must take care not to preempt or prejudice the Secretary's authority to determine

whether a proposed lease is advantageous to the United States and what terms and conditions will be considered as promoting the national defense or being in the public interest.

(b) SAF/AQ determines whether a lease request from a nongovernment organization or from a command on behalf of a nongovernment organization meets the general guidelines of this part. Furthermore, SAF/AQ ensures that the Air Staff (HQ USAF/LE, PR, XO, CC), the Office of the Secretary of the Air Force (SAF/AC, PA, GC), Defense Security Assistance Agency (DSAA), and USAF operational commands, the Air Force Reserve, or Air National Guard when their assets are potential lease candidates have coordinated, as necessary, before recommending that SAF/AQ sign a Determination and Finding (D&F). This document designates which command, normally AFSC or AFLC, will negotiate and execute the lease agreement and outlines the basic terms and conditions which must be contained in the lease. SAF/AQ makes the determination if it is unclear whether AFSC or AFLC should assume a particular leasing action. The determination and finding format for authority to lease United States government property is shown below.

Determination and Finding Format

The Department of the Air Force (USAF) proposes to lease aircraft to for a period. (Describe the details of the proposed lease activity.) As consideration for the lease, the lease will contain the following additional terms and conditions:

(1) The leased property shall not be transferred, encumbered, or used for other purposes without the written consent of the Secretary of the Air Force.

(2) The leased property shall be furnished "as is" without any warranty, express or implied, as to serviceability, fitness for use, or other matters.

(3) The lessee shall pay the United States Government (USG) all rent, costs, and charges associated with the use of the leased property while under lease according to 32 CFR Part 288 and this Determination and Finding.

(4) The lessee shall maintain the leased property during the term of the lease in a safe and serviceable condition according to prescribed USAF standards or pay the full cost of any such maintenance accomplished by the USG.

(5) Support provided by the USG, if any, shall be on a noninterference, reimbursable basis, including use of support aircraft, equipment, and facilities. The availability of such support, and the computation of any associated charges or costs, will be according to applicable Department of Defense directives and instructions and USAF regulations and manuals.

(6) The lessee shall be responsible for all costs relating to the leased property during the term of the lease including, without limitation, expenses of operation, maintenance, display, demonstration, ferrying, transportation, support, and protection.

(7) The lessee shall not include any charges or costs resulting from the lease authorized hereby directly or indirectly in any USG contract, except to the extent authorized under the Federal Acquisition Regulations.

Optional (7) Except as otherwise authorized under the Federal Acquisition Regulations, the lessee shall not include any charges or costs resulting from the lease authorized hereby directly or indirectly in any USG contract except for DOD contracts expressly requiring use of the leased property and then only to the extent that such costs are properly allocable to such contracts and reimbursable according to the terms thereof. Costs charged to the USG respecting the leased property under any such contracts will not exceed the lessee's costs under the lease.

(8) The lessee shall assume the risk of loss, damage, or destruction to the leased property. The risk will be covered by insurance on the depreciated value of the property or, with the USG's approval, the lessee may be self-insured.

(9) The lessee shall indemnify and hold the USG, its agents, officers, and employees harmless from any and all loss and liability (whether in tort or contract) which might arise in connection with the lease because of: (a) Injury or death of personnel of the USG, the lessee, or third parties; and (b) damage to or destruction of property of the lessee or third parties, and leased property, support equipment, or other property of the USG. The lessee shall obtain insurance adequate to cover all such liabilities.

(10) The lessee shall return all leased property to the USAF, at such place as is designated by the contracting officer, in the same condition as when accepted, fair wear and tear expected. If the USAF determines that any of the leased property was not returned in such condition, or has not been maintained according to prescribed USAF standards, the lessee shall reimburse the USAF for the cost of returning such property to its proper condition.

Optional (10) The lessee shall return all leased property to the USAF, at such place as is designated by the contracting officer, in the same condition and configuration as when accepted, fair wear and tear expected. If the USAF determines that any of the leased property was not returned in such condition or configuration, or has not been maintained according to prescribed USAF standards, the lessee shall reimburse the USAF for the cost of returning such property to its proper condition and pre-lease configuration.

(11) The lease may be revocable by the USAF at any time. The lease may be terminated by the lessee at any time upon 15 days prior written notice, subject to the lessee's residual responsibilities under the lease (to return leased property, to pay all costs resulting from the lease, to indemnify and hold harmless the USG, etc.).

(12) The lessee shall assume responsibility that may be imposed by other Government agencies for certification and registration of the leased property and for payment of any taxes or other charges thereon.

Optional (13) During the term of the lease, the lease status of the leased property may be interrupted from time to time by the USAF and the property made available for other USG activities under USG contracts with the lessee. During such periods, the property will revert to Government-Furnished Property status under the applicable USG contract. Any doubt as to the status of the leased property at any particular time will be resolved in favor of lease status.

Optional (14) The lessee shall secure necessary Defense Security Assistance Agency and State Department clearances prior to commencement of any demonstration or evaluation flights for representatives of foreign governments.

Optional (15) Orientation flights for United States Congressional and news media representatives and orientation and evaluation flights for foreign nationals shall be subject to approval according to Department of Defense Regulation 4515.13R.

Optional (16) The lessee planning to fly leased aircraft at the air show shall prepare an air show plan for the USAF's approval which provides information on: scheduled use of the leased property; qualifications and duties of lessee personnel attending the air show; intended and contingency flight profiles; provisions for ensuring adequate preflight crew rest and for ensuring proper preflight briefings and postflight debriefings; and provisions for obtaining a visual record, and flight data recorder coverage (if aircraft is so equipped) of practice and show flight demonstrations, and orientation flights. USG approval of, or involvement in, such plan shall not diminish the lessee's assumption of risk of loss and liability in connection with the lease.

Pursuant to Title 10, United States Code, Section 2667, I find that the property to be leased is under the control of the USAF; it is not excess property as defined by Section 472 of Title 40, United States Code; but it is not for the time needed for public use. I consider the above described lease of such property to be advantageous to the United States and such terms to be in the public interest.

The Commander, , or designee, is authorized to execute a lease according to this Determination and Finding.

§ 863.3 AFSC responsibilities.

AFSC evaluates lease requests, determines asset availability, and negotiates approved leases. When a prospective lessee desires to lease an asset being acquired or managed by a System Program Office (SPO), that SPO evaluates the lease request, makes its recommendation to HQ AFSC/PKC, and negotiates the lease agreement, if approved by SAF/AQ.

§ 863.4 AFLC responsibilities.

AFLC evaluates lease requests, determines asset availability, and

negotiates approved leases. When a prospective lessee requests the lease of an asset managed by AFLC or an asset under the control of any of the USAF operational commands, the AFLC Air Logistics Center (ALC) most familiar with the asset evaluates the lease request and makes its recommendation to HQ AFLC/PM. The Wright-Patterson Contracting Center (WPCC) negotiates the lease agreement, if approved by SAF/AQ.

Subpart B—Basic Terms and Conditions

§ 863.5 Authorized uses.

The lease agreement will specify what uses may be made of the leased property. The authorized uses of the leased property need not support a USG contract or requirement. The lease may limit or specify the location of lease performance.

§ 863.6 Lease charges.

(a) Lease charges are comprised of rent, reimbursement of any out of pocket expense to the USG, and other costs which the lessee must pay according to the terms of the lease. Pursuant to 32 CFR Part 288, User Charges, rent must include charges for depreciation and interest on investment. These charges may be assessed on a daily, monthly, or yearly basis as determined appropriate by the cotnracting officer. For example, if the lease period is short term or if the leased property is being modified in such a way as to preclude its return to the USAF for immediate use to satisfy a USG mission requirement, charge rent during the entire lease term. However, if the lease period is long term and lease activities are actually intermittent rather than continuous, charge rent only during those times the leased property is actually in use by the lessee or unavailable for USAF use. (*Note.*—Periods of use are defined in the lease.)

(b) It may be appropriate to assess flying-hour charges if an aircraft is leased. Flying hour charges can be assessed for depot maintenance, replenishment spares, base support, etc., depending on the leasing situation. If an operational aircraft is leased, payment of depot maintenance and replenishment spares charges would be in order. If the lessee is authorized under the lease to obtain spare parts from the supply system, the lessee should either pay the spares flying-hour charges or reimburse the USG the cost of the spare part plus the cost of providing it.

(c) Leases should include a charge for general and administrative expenses of the USG. The contracting officer should assess a charge of 10 percent of all other lease charges to recoup the USG's general and administrative expenses.

(d) SAF/ACCS sets depreciation, interest on investment, and flying-hour charges. When the specific item to be leased is identified, these rates may be based on supplemental information from the SPO or ALC as to the property's acquisition cost, replacement cost, age, major modifications, salvage value, etc. When the specific item is not identified or actual costs are unknown, use reasonable estimates. The contracting officer is authorized to communicate directly with SAF/ACCS in determining rental charges. Also assess rent for pieces of support equipment which the lessee may require to support the major items of leased property. In such cases, SAF/ACCS may recommend the use of the rates set forth in the Use and Charges clause in the Federal Acquisition Regulation for rental computation.

(e) When the lease activity being pursued by the lessee is of particular interest to the USG, the contracting officer may arrange to receive a technical report from the lessee. The value of the report, as established by the contracting officer, can represent a credit against rental charges otherwise due under the lease. Such a credit must not exceed the rental charges owed by the lessee.

§ 8637. No cost to the USG.

The lessee is responsible for all rent, costs and charges relating to the leased property during the lease. Generally, the lessee may not include any charges or costs resulting from the lease directly or indirectly in any USG contract or subcontract. Exceptions may be approved for contracts for foreign military sales, for independent research and development costs, international air show costs and in other limited cases where specific USG contracts or programs benefit from the lease activities or when otherwise authorized by law.

§ 863.8 Risk of loss.

The lessee must agree to assume the risk of loss, damage, or destruction of the leased property during the period of the lease. This applies when equipment or an aircraft is leased whether a lessee or USAF operator or pilot is operating the equipment or acting as pilot in command. The lessee must obtain insurance to cover the insurable value of the leased property, unless the contracting officer agrees that the lessee may be self-insured.

§ 863.9 Indemnification of the USG.

The lessee must agree to hold harmless and indemnify the USG, its agents, employees, and officers from any and all loss and liability. The lessee must obtain insurance adequate to cover all such liabilities.

§ 863.10 Maintenance responsibilities.

The lessee must maintain the leased property during the lease period according to standards established by the USG or pay the cost of maintenance accomplished by the USG.

§ 863.11 Inspection responsibilities.

The contracting officer should ensure appropriate inspections are performed by contract administration services personnel or others during lease performance and by the activity receiving the property after lease performance to determine whether the lessee maintained and leased property according to USAF standards.

§ 863.12 USG support.

Any support provided the lessee by the USG will be on a noninterference, cost-reimbursable basis. This applies to material, facilities, support aircraft, and crewmembers.

§ 863.13 Terminating the lease agreement.

The USG may terminate the lease at any time and at no cost. The lessee may terminate the lease upon prior written notice to the contracting officer and subject to its residual responsibilities under the lease (payment of charges, return of the leased property, etc.). In long-term leases it may be appropriate to provide for periodic interruptions of the lease so the leased property can be returned to the USG to satisfy its requirements.

§ 863.14 DSAA and State Department approvals.

When a lessee poroposes to demonstrate the leased property to representatives of foreign governments or international organizations or to participate in international air shows, the lessee must secure DSAA approval and obtain export license clearance from the State Department. If the lessee knows the details of the proposed demonstration or evaluation at the time the lease request is submitted, SAF/AQ will obtain DSAA coordination when processing the lease request to the SAF/AQ for approval. If these details are unknown at the time of the lease request, then the lessee must obtain DSAA approval by separate request through HQ USAF/PRI (Directorate of International Programs) channels.

§ 863.15 Flights for dignitaries.

The lessee must get prior approval for flights if one of the authorized uses of a leased aircraft is orientation flights for foreign nationals or dignitaries, including members of Congress and representatives of the US news media (see DOD Regulation 4515.13R).

§ 863.16 Air show participation plan clause.

Leases authorizing participation in an international air show must contain a provision requiring the lessee to obtain prior USAF approval of its plans for conducting flight operations and providing adequate crew rest. The provision also requires the lessee to describe its demonstration flight profiles. Leases for international air shows require compliance with Part 862 of this chapter. The Air Show Participation Plan clause is shown below.

Air Show Participation Plan Clause

(a) Prior to any flight performed for demonstration, exhibition, practice, or evaluation purposes at a scheduled international air show as authorized elsewhere in this lease, the Lessee shall obtain the approval of the Director of Operations and Readiness, Headquarters, USAF (AF/XOO), for an Air Show Participation Plan covering the following:

(1) Detailed schedule of planned use of the leased aircraft.

(2) The name (or names) and qualifications of the pilot (or pilots) who are scheduled to fly the aircraft in practice, deployment or redeployment, and air show flights.

(3) Specific information on the qualifications of other crewmembers who may be needed.

(4) The names, qualifications, and exact duties of contractor supervisory personnel who may take part in any way in the management and control of the USAF aircraft while it is leased.

(5) The intended flight profiles planned for:

(i) Favorable weather conditions (specify favorable weather conditions for subject aircraft).

(ii) Weather conditions less than favorable but above the air show minimums, AFRs 60–16 and 60–18, and the aircraft handbook (Technical Order) limitations.

(iii) Alternate modified profiles for both weather conditions that would be flown if air show authorities limit flight time due to scheduling problems.

(6) Provisions for ensuring adequate preflight crew rest for the pilot (or pilots) and other crewmembers. This must include the way in which the flightcrews (pilots) will be isolated from potential marketing or other pressures that may be expected in the internal air show environment.

(7) Specific schedule and attendees at preflight planning, preflight briefings, and postflight debriefings.

(8) Provisions for providing a visual record of all practice flights and air show demonstrations (16mm film or three-fourth inch video tape).

(9) Provisions for providing maximum flight data recorder coverage (if subject aircraft is normally flight data recorder equipped) of all practice flights and air show flight demonstrations.

(10) Provisions for ensuring the pilot who flies the aircraft wears suitable flight clothing for maneuvers to be performed (such as, anti-g suit).

(11) The Air Show Participation Plan as submitted for such required approval shall specify each nonstandard configuration of the aircraft to be leased and shall list each item of equipment or stores intended to be incorporated in or used to support the leased aircraft that is not part of the USAF standard equipment or approved stores list.

(b) Lessee's initial proposal and any revised proposals for such Air Show Participation Plan are to be submitted to the cognizant Systems Program Office or Plant Representative Office according to Part 862 of this chapter.

(c) The provisions of such Air Show Participation Plan as so approved shall be complied with by the Lessee as regards all air show demonstrations, exhibition, and evaluation flights performed with the leased property during the term of this lease, at or in the general vicinity of the air show location, and shall also be complied with regarding all practice and pilot qualification flights performed during the term of this lease in preparation for such demonstration, exhibition, or evaluation flights.

(d) The Lessee shall permit the Contract Monitor or a delegate, as appointed by the United States Government (USG) for this lease, to monitor air show participation under this lease, and to have access to the leased aircraft during the entire period of air show participation and during all periods of practice or qualification for such air show participation as authorized under this lease, together with access to the maintenance and staging areas used for such participation or practice.

(e) The Contract Monitor shall be considered an element of USAF support, the costs of which are charged to the Lessee as lease support costs.

(f) The Lessee shall submit to the Contracting Officer, within thirty days after the completion of such air show participation authorized under this lease, a lease completion report outlining and explaining any problems encountered in and during the performance of the lease as regards such aircraft practice and participation flights, together with recommended procedures and procedural changes to improve the safety of USAF aircraft leased for air show participation under future leases. If no such problems are encountered, a negative report shall be submitted. The Lessee shall also, upon the written request of the Contracting Officer, and at no cost to the USG under this lease, provide the USG with copies (duplicate) of all visual record and of the flight recorder data of all practice flights and air show demonstrations as called for in the foregoing paragraphs.

(g) The Lessee shall also advise the cognizant System Program Director of its proposed participation in static displays or flights demonstrations at the air show, and shall ensure that appropriate Lessee personnel are available, at the time and place designated by the System Program Director, to receive a cautionary prebriefing on the military security requirements and other sensitive areas related to the leased aircraft and equipment.

(h) It is mutually understood and agreed that the sole purpose of this clause is to give the USG full knowledge of the intended use of the leased property and an opportunity to observe the Lessee's compliance with its proposed plan. Lessee acknowledges and agrees that the USG makes no warranty that the approve plan is safe and that the USG assumes no risk of loss or liability to third parties that may arise despite the Lessee's adherence to the approve plan. This clause creates no exceptions to the Lessee's obligations to assume risk of loss and third party liability, including obtaining insurance, as set out fully in the clauses elsewhere in this lease.

Subpart C—Lease Requests and Evaluation

§ 863.17 Request initiation.

The prospective lessee initiates the lease request and submits it to the appropriate SPO or ALC responsible for the items described under the lease. The lease request must contain, as a minimum, the following information:

(a) Identification of the property to be leased (including tail numbers or part numbers, if known).

(b) Purpose of the lease.

(c) Proposed start date and duration.

(d) Proposed location(s) of the lease activity.

(e) Expected benefits to the lessee.

(f) Expected benefits to the USG.

(g) Statement as to nonavailability of suitable commercial items.

(h) Other pertinent facts (flights for dignitaries, for example).

§ 863.18 SPO or ALC.

When the SPO or ALC receives a request to lease USAF assets, they evaluate the request for the benefits to the USG and the lessee and the availability of the property during the proposed lease period. Also, they address the appropriateness of the intended use of the property and any limitations on reservations which should be imposed on such use. If the property requested for lease is assigned to an operational command, the SPO or ALC coordinates with that command then sends the request through contracting channels to command headquarters.

§ 863.19 HQ AFSC or HQ AFLC.

Command headquarters review each lease request and prepare a draft Secretarial D&F. The command then

forwards the lease package consisting of the lease request, the D&F, and other supporting data with an endorsement to SAF/AQC for approval. The command forwards lease packages requesting participation in an international air show to HQ USAF/XOO (with an information copy to SAF/AQC).

Subpart D—Coordination and Approval Process

§ 863.20 Air Staff coordination.

Coordination requirements depend on the intended use of the leased items and whether the items are developmental or operational. SAF/AQC coordinates with HQ USAF/XOO, PRI, and LEY, as necessary. SAF/AQC coordinates with HQ USAF/PRP on the use of aerospace vehicles counted in the USAF inventory. If the proposed lease is for participation in an international air show, follow Part 862 of this chapter. **Note:** HQ USAF/XOO approves the lessee's international air show plans, including flight profiles. HQ USAF/PRI coordinates on requests involving demonstrations of leased property to representatives of foreign governments.

§ 863.21 Secretariat approval process.

Secretariat coordination and approval involves offices of diverse responsibilities. SAF/PA coordinates on air show lease requests. SAF/ACCS reviews all requests and provides rental charge guidance to the contracting officer. The DSAA approves all requests involving potential sales to foreign governments and organizations. In all cases SAF/GC reviews lease requests and D&Fs. SAF/AQ gives final approval on all lease requests.

§ 863.22 Processing time.

The coordination and approval process for a routine lease request usually takes four weeks. Prospective lessees and the commands should plan on a minimum of four weeks for approval of the D&F once a lease request reaches the SAF/AQC. Lease requests received with insufficient lead time may be returned without action.

Subpart E—Lease Negotiation and Administration

§ 863.23 AFSC lease negotiation.

The AFSC SPO responsible for an item which is approved for lease must negotiate the lease according to the signed D&F. The office which negotiates a lease is also responsible for amending it and recommending renewal, if appropriate. The SPO is also responsible for working with SAF/ACCS to determine the appropriate lease charges.

§ 863.24 AFLC lease negotiation.

WPCC negotiates leases of equipment no longer being acquired by AFSC. WPPC also amends leases and recommends renewal, if appropriate. The Secretarial D&F sets the basic terms and conditions which must be incorporated into the lease. WPCC works with SAF/ACCS to establish the proper lease charges.

§ 863.25 Delegation of lease administration.

After negotiation, the SPO or WPCC delegates the lease to the cognizant contract administration office for administration. However, if the lease is to be performed overseas, the contracting officer may retain administration.

§ 863.26 Lessee compliance.

The contract administration activity must make sure that the lessee is complying with all the terms and conditions of the lease. The lessee must follow maintenance requirements, obtain necessary approvals keep use records upon which rental charges may be calculated, and pay rental and other charges according to the lease agreement.

§ 863.27 Lessee payments.

Payments for rental (including depreciation and interest on investment) must be returned to miscellaneous receipts of the US Treasury. Payments for flying-hour charges and reimbursement for support or services provided by the USG may be credited to the appropriation of the activity to which the leased property is assigned or which provided the support or service. If the lessee is authorized to obtain material from the supply system, it can only be provided on an as available, reimbursable basis. The contracting officer provides instructions to the lessee and appropriate accounting and finance office on handling payments.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-618 Filed 1-11-89; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-88-77]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, North Carolina

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule with request for comments.

SUMMARY: At the request of the United States Marine Corps, the Coast Guard is issuing a temporary rule to govern the operation of the drawbridge across the Atlantic Intracoastal Waterway, mile 240.7, at Camp Lejeune, North Carolina. This rule is being issued to limit bridge openings during daylight hours in order to allow the contractor for the Marine Corps, owner of the bridge, to make structural repairs to the bridge, while still providing for the reasonable needs of navigation.

Because of the length of time this temporary rule will be in effect, the Coast Guard requests comments on the rule. The temporary rule may be changed based on comments received.

DATES: This temporary rule is effective from January 2, 1989, to February 10, 1989, unless amended or terminated before that date. Comments on the temporary rule must be received on or before January 20, 1989.

ADDRESS: Comments should be mailed to Commander (ob), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704-5004. The comments received will be available for inspection and copying at Room 507 at the above address between 8:00 a.m., and 4:00 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, (804) 398-6222.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their name and address, identify the bridge, and give reasons for any recommended changes to the temporary rule. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

Drafting Information

The drafters of this notice are Linda L. Gilliam, Project Officer, and LCDR Robin K. Kutz, Project Attorney.

Discussion of Temporary Rule

At the request of the United States Marine Corps, owner of the drawbridge at Camp Lejeune, North Carolina, the Coast Guard is issuing a temporary rule governing the operation of the drawbridge across the Atlantic Intracoastal Waterway, mile 240.7, at Camp Lejeune. The contractor for the

work has indicated that closed periods will be necessary during daylight hours in order to accomplish additional structural repair work to correct deficiencies noted during earlier repair periods. In order to replace the worn parts of machinery the bridge must remain in the closed position. The work is scheduled to begin on January 2, 1989, and to be completed by February 10, 1989. The Marine Corps has requested that the drawbridge remain closed from January 2, 1989, to January 6, 1989, Monday through Friday, 24-hours a day with bad weather dates of January 9, 1989, to January 13, 1989. They also have requested two four-hour closures daily, Monday through Friday, January 9, 1989, to February 10, 1989, with openings between 12:00 noon and 1:00 p.m. for vessels waiting to pass through the bridge.

The two major commercial waterway users known to transit this portion of the AICWW have been contacted. They have expressed their objections to the bridge being closed for 5 days, and have inquired as to whether the drawbridge could be opened at least once a day. It was explained to them that once the large shaft that moves the gears is removed, it will be impossible for the draw to open. The other waterway users that require openings of this drawbridge are recreational boaters. Due to the repair schedule occurring in January and February, very few boaters will be inconvenienced, since the boating season tapers off in late November.

Since these repairs are necessary to the maintenance of the bridge, I find that good cause exists for publishing this temporary rule without publication of a notice of proposed rulemaking and for making it effective in less than 30 days. Publishing a notice of proposed rulemaking and delaying the effective date is impractical, since the winter months are the opportune time to do this work.

Federalism Assessment

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

Economic Assessment and Certification

This temporary rule is considered to be non-major under Executive Order 12291 and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). While the temporary rule may have some economic impact on commercial navigation, the impact is expected to be minimal. Therefore, a full regulatory evaluation is considered unnecessary. This conclusion is based on the fact that the major commercial waterway users have been notified of the bridge closure in order to schedule their transits around the closed periods.

Since the economic impact of this temporary rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATIONS REGULATIONS

1. The authority citation in Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. A new paragraph (b)(7) is temporarily added to § 117.821 to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albemarle Sound to Sunset Beach, North Carolina.

* * * * *

(b) * * *

(7) The Camp Lejeune bridge, mile 240.7, near Jacksonville, NC, shall open on signal, except that:

(i) The draw need not open from 8:00 a.m., January 2, 1989, to 5:00 p.m. January 6, 1989.

(ii) In the event of inclement weather affecting the ability to conduct repairs during the period January 2–6, 1989, the draw need not open from January 9, 1989 to January 13, 1989.

(iii) From January 9, 1989, to February 10, 1989, the draw need not open from 8:00 a.m. to 12:00 noon, and from 1:00 p.m. to 5:00 p.m., Monday through Fridays.

* * * * *

This rule is effective from January 2, 1989, until February 10, 1989, or until the scheduled repairs are completed, whichever occurs first.

Dated: January 5, 1989.

A.D. Breed,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 89–745 Filed 1–11–89; 8:45 am]

BILLING CODE 4910-14-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. 1

[FCC 88-342]

Commission Policy Regarding Terrain Shielding in the Evaluation of Television Translator, Television Booster and Low Power Television Applications

AGENCY: Federal Communications Commission.

ACTION: Petition for partial reconsideration of policy statement.

SUMMARY: This action affirms the waiver policy guidelines adopted by the Commission in the Policy Statement regarding the consideration of terrain shielding in the Low Power Television Service with the limited modification that Low Power Television Service applications requesting waiver of the application acceptance standard will be identified on Commission Public Notices announcing proposed grants in order to give notice to parties interested in filing petitions to deny.

EFFECTIVE DATE: February 13, 1989.

FOR FURTHER INFORMATION CONTACT: Keith A. Larson, Low Power Television Branch, FCC, telephone (202) 632–3894.

SUPPLEMENTARY INFORMATION: The Policy Statement was published on May 2, 1988 at 53 FR 15557.

Memorandum Opinion and Order

Adopted: October 27, 1988. *Released:* December 15, 1988.

By the Commission:

1. The Commission has under consideration a Petition for Partial Reconsideration filed May 26, 1988, by the Association of Maximum Service Telecasters, Inc. and the National Association of Broadcasters ("Petitioners") of the Commission action taken in a *Policy Statement*, 3 FCC Rcd 2664 (1988).

2. In this *Policy Statement*, the Commission established a limited waiver policy regarding the consideration of terrain shielding in the Low Power Television Service ("LPTV").[1] We set forth general guidelines on when we would consider terrain shielding requests to waive the LPTV application acceptance standards and provided general guidance for the submission of such requests. To summarize, waivers must be secured where proposed LPTV facilities would

[1] All references to "LPTV" include television translators and television boosters, unless otherwise specified.

be predicted, under these standards, to cause prohibited interference to authorized full-service television, television translator and low power television stations. Such requests must be supported by a terrain study showing that the proposed facility would not be likely to interfere at the protected contour of such stations because of the intervening terrain. Alternatively, a less rigorous terrain showing is acceptable when the licensee, permittee or applicant of a potentially affected station [2] assents to the waiver in a written statement attesting to its belief that terrain shielding would preclude objectionable interference. The *Policy Statement* did not propose standards for incorporating terrain shielding into regular application processing procedures. Rather, it provided for the submission of terrain profiles to be evaluated by the Commission staff on a case-by-case basis. Consideration of terrain shielding is limited to those applications that are not mutually exclusive with other applications, where mutual exclusivity is determined by the interference protection criteria in § 74.707 of the Commission's Rules. Terrain shielding is not taken into account in deciding whether two applications are mutually exclusive. It is not considered when raised for the first time by applicants in petitions for reconsideration or applications for review of staff actions. Finally, LPTV permits and licenses issued pursuant to terrain waivers are expressly conditioned to remind licensees and permittees of their responsibility to eliminate any interference caused to those stations predicted to receive interference without terrain consideration.

3. While the Petitioners generally support our more flexible terrain policy and its safeguards against interference, they fault the *Policy Statement* for not disclosing specific methods to be used by the Commission staff in its evaluation of terrain studies. They acknowledge the difficulty in selecting standard methodology because of the wide variability of terrain effects on interference predictions. Nevertheless, they seek further clarification concerning methods, models and formulas that are used in staff evaluations. They contend that our case-by-case treatment of terrain, without standard methods, is haphazard and could possibly result in the erosion of the technical quality of television service. They suggest, therefore, that it is premature to implement our LPTV terrain policy until uniform prediction standards can be developed in a rulemaking proceeding.

4. We agree with the Petitioners that there is generally merit in having standards for predicting the effects of terrain on signal propagation, and the Commission has an ongoing effort in this regard. Uniform prediction standards would obviate the need for a case-by-case waiver policy and lessen the administrative impact of specialized staff evaluations. Nevertheless, we do not believe that the public interest would be served by further delaying any consideration of terrain shielding pending the completion of a possibly lengthy rulemaking proceeding.[3] The *Policy Statement* expressed our reasons for adopting and implementing a limited waiver policy. Our experience with application processing has convinced us that it is very difficult to authorize additional television translator or LPTV service in certain areas of the country without consideration of terrain shielding, particularly in parts of the Rocky Mountain states. Repeated attempts to file acceptable applications in some of these areas have failed. The expressed desire for additional television service and our mandate to provide for this service wherever possible fully justify our limited consideration of terrain shielding at this time.

5. We are confident that our terrain policy will not result in interference to existing television reception. The provisions in the *Policy Statement* and the secondary status of all stations in the LPTV service are ample safeguards against this. First, we have limited the scope of our terrain waiver policy and described in as much detail as possible guidelines for the submission of terrain waiver showings. Second, the approval of a waiver request at the acceptance stage of application processing means only that the application can be proposed for grant in a Commission Public Notice. Interested parties then have an opportunity to file a petition to deny the application, disputing the applicant's terrain waiver submission. The grant of an application with a waiver is not made until the issues and materials presented in such petitions are fully considered. Finally, as noted above, LPTV permits and licenses with terrain waivers are granted with the express condition that LPTV operators must eliminate any objectionable interference caused to the potentially affected stations.

6. Our case-by-case evaluation of the terrain waiver showings will not depend solely on the use of a single standard prediction method. It affords the administrative flexibility to select from among available prediction models one that applies to the topographic features in each case.[4] Our evaluation considers all information provided by the applicant, *e.g.*, letters of assent, terrain profiles and any related analysis and any additional information we may request of applicants such as topographic maps. Ultimately, the decision to grant an application involving a terrain waiver rests on engineering analysis, taking into account all pertinent information, including interference studies filed with any petitions to deny. The first step in the evaluation is a determination that an applicant's terrain submission includes a sufficient number of well-placed terrain profiles to enable analysis over the entire sector of the protected contour where interference is predicted, without terrain shielding. Applicants are directed to provide additional profiles deemed necessary for the evaluation. The nature of the profile analysis depends on the conditions depicted by the profile; for example, the height and slope of terrain obstructions and the distances between the proposed LPTV antenna site, another station's protected contour and the obstruction. In the least difficult cases, where the site is located on or near the base of a large mountain between it and the protected contour, determinations of signal blockage might be made by inspection of the terrain profile. The more difficult cases involve close inspection of the profile in order to select an applicable analytical model and to determine the relevant input

[2] Potentially affected stations include authorized full-service television, low power television and television translator stations, and those proposed in earlier filed LPTV or translator applications that are cut-off from further competing applications. *See Policy Statement*, 3 FCC Rcd at 2665.

[3] Over the years, the Commission has engaged in studies of the effects of terrain irregularities on signal propagation; however, it has not reached the stage of commencing a rulemaking proceeding from which to establish terrain prediction standards.

[4] For example, the following references treat the effects of radio wave propagation over irregular terrain: Bullington, K. (1947), "Radio propagation at frequencies above 30 megacycles," Proc. IRE 35, p. 1122; Rice, P.L., A.G. Longley, K.A. Norton and A.P. Barsis (1967), "Transmission loss predictions for tropospheric communication circuits," NBS Tech. Note 101, Vols. I and II (revised); Longley, A.G. and P.L. Rice (1968), "Prediction of tropospheric radio transmission loss over irregular terrain—a Computer Method-1968," ESSA Tech. Report ERL 79—ITS 67; Hufford, G.A., A.G. Longley and W.A. Kissick (1982), "A guide to the use of the ITS irregular terrain model in the area prediction mode," NTIA Report 82-100. In addition, § 73.684 of the Commission's Rules describes a prediction method based on terrain roughness. Prediction methods found in other reference materials may also be used in the evaluation of terrain showings.

parameters of the model. The output normally is either a predicted field strength at the protected contour or a terrain obstruction loss, from which this field strength can be calculated. In some cases, a second prediction method may be used to confirm the conclusion of the first. The analysis also will include a comparison of our findings and those in an applicant's terrain study and, at a later stage of processing, the findings in petitions to deny alleging predicted interference from the proposed facility. Our analysis will, of course, be part of the public record and available for scrutiny. Finally, most of the terrain waiver requests submitted in the June 1988 LPTV application filing window involve antenna site locations in those mountainous areas, where, prior to the establishment of the LPTV service, thousands of noninterfering television translator stations were authorized on the basis of similar engineering analysis. In view of these factors, we believe that our determination not to specify an evaluation method will not result in degraded television reception.

7. In addition, the Petitioners ask that our LPTV terrain shielding policy be modified in certain respects.[5] First, they suggest a two-step process to assist the Commission in developing a full record before granting waivers of the acceptance standards. They ask that LPTV applicants be required to give notice of their waiver requests to all potentially affected stations and, second, that our Public Notices identify applications for which waivers of the acceptance standards have been requested. We agree with the second suggestion and will identify these applications on our notices announcing acceptance and proposed grant. This should give adequate notice to parties interested in filing petitions to deny. However, we will not require LPTV applicants to notify potentially affected stations in advance of or concurrent with the filing of their applications. Such a requirement is unnecessary given our decision to identify terrain waiver applications in our Public Notices. We also believe that, generally, applicants will seek to strengthen their waiver showings by attempting to obtain the assent of potentially affected stations and, thus, give voluntary notice of their intentions. Also, we do not wish to impose an additional burden on all applicants who believe that a terrain waiver is necessary, since not all applications with waiver requests will fall under the limited scope of our policy and will not be considered; *i.e.*, applications that are mutually exclusive with other applications and those applications that meet our acceptance standards without the need to consider terrain shielding.

8. Second, the Petitioners take issue with our provision for a less rigorous terrain study in cases where assent has been obtained, contending that assent alone is not sufficient to demonstrate the prevention of interference to the viewers of the assenting station. The Petitioners ask that we require the more rigorous study (accurately depicted terrain profiles) whether or not assent has been obtained. We disagree and affirm our view that, generally, a potentially affected station's belief that interference would not be likely to occur should weigh sufficiently to eliminate the need for an elaborate terrain study. Where assent is obtained, the less rigorous study serves to demonstrate the general character of existing terrain conditions, indicating the presence of mountains or other natural terrain conditions between the proposed LPTV facility and the protected contour of the assenting station. We would view the licensee of a station predicted to receive interference as a highly interested party, concerned about the preservation of the quality of its signal. It would be in the self-interest of a station licensee to assess carefully the prospect of interference from a proposed LPTV facility before giving its concurrence that interference would not be likely to occur. In our view, this informed judgment of an interested party, with knowledge of local terrain conditions, should generally suffice as adequate support for the waiver. Under these circumstances, the additional burden involved in submitting the more rigorous terrain study is not justified. In any event, we note that our provisions pertaining to assent and less stringent terrain waiver study are policy guidelines which do not bind us from requiring, at our discretion, a more extensive terrain study where the facts warrant.

9. Finally, although requested by the Petitioners, we will not require disclosure or a certification by the LPTV applicant that payments have or have not been made to the assenting station. Broadcast stations may incur various expenses in deciding whether or not to give assent, particularly in evaluating the likelihood of objectionable interference. We will not second-guess a station's intentions in passing these expenses to the party seeking the assent. We view this as a private matter to be negotiated among the parties, and we will not review, nor require disclosure of the financial terms of assent agreements, if any. We do not believe that disclosure of payments is necessary to ensure that viewers are not adversely affected. We again emphasize that a broadcast station's assent in no way absolves LPTV licensees of their responsibility to eliminate any objectionable interference caused to the viewers of the assenting station. *See* § 74.703(b) of the Commission's Rules. In this regard, we note that a broadcast station's assent to an LPTV station's terrain proposal will not be dispositive of interference issues. The Commission, either on its own motion or through the complaint process, remains ready to examine each case to ensure that viewers will not be affected adversely by objectionable interference. Regardless of the terms of any private agreement, the Commission will enforce its interference rules. We note that our decision is limited to circumstances involving terrain shielding for a secondary service and does not sanction the concept of "negotiating" for interference rights in other contexts.

10. In summary, our *Policy Statement* adopted reasonable guidelines for the submission and evaluation of terrain-related waiver requests, which, we believe, are sufficient to insure against the interference concerns raised by the Petitioners. Therefore, except as noted, we are not persuaded by Petitioners' arguments that the changes requested in their petition would serve the public interest, and we affirm the provisions adopted in the *Policy Statement*.

11. Accordingly, it is ordered, That the Petition For Partial Reconsideration filed by the Association of Maximum Service Telecasters, Inc., and the National Association of Broadcasters, is granted insofar as Commission Notices of proposed LPTV grants will identify applications requesting waiver of the acceptance standards, and is denied in all other respects.

[5] The Petitioners submit that terrain shielding arguments should not be accepted for the first time in response to petitions to deny or informal objectives because this practice would unjustifiably shift the "burden of proof" from the applicant requesting a terrain shielding waiver to the potentially affected station. All LPTV applications proposed for grant must either meet or seek waiver of the acceptance standards for interference protection. Therefore, the Petitioners evidently are referring to interference issues not covered by these standards, such as alleged interference beyond the standard protected signal contours. An LPTV applicant has the right, under section 309(d)(1) of the Communications Act of 1934, as amended, to file an opposition rebutting the arguments raised in a petition to deny. An applicant should be permitted to introduce any argument necessary to defend the grantability of its application. In this context, terrain shielding arguments have never been disallowed, and we find no reason to do so now.

12. It is further ordered, That copies of this Memorandum Opinion and Order shall be sent Certified Mail-Return Receipt Requested to the parties named herein.

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 89-645 Filed 1-11-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 0

[FCC 88-391]

Revision of the Delegations of Authority to Chief, Private Radio Bureau

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted a rule to increase the delegations of authority to Chief, Private Radio Bureau. The Chief, Private Radio Bureau, is given the authority to make nonsubstantive changes and minor clarifying and conforming changes to the Rules relating to the private radio services.

EFFECTIVE DATE: December 2, 1988.

FOR FURTHER INFORMATION CONTACT: Terry Romine, Policy and Planning Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-6497.

SUPPLEMENTARY INFORMATION:

1. The Commission's *Order*, adopted December 2, 1988, and released amends the delegations of authority to the Chief, Private Radio Bureau to include the authority to make nonsubstantive changes and minor clarifying and conforming changes to our Rules relating to the private radio services.

2. The delegations of authority to the Chief, Private Radio Bureau are found in §§ 0.331 through 0.337 of the Commission's Rules, 47 CFR 0.331-0.337. Structurally, the delegations of authority are similar to those of the other chiefs of the operating bureaus. Bureau chiefs are permitted to exercise all functions described in the relevant function section of 47 CFR Part 0, Subpart A, except for specified functions that can be performed only by the Commission. The proscribed actions, for the most part, involve matters raising novel questions of law, fact, or policy. Where there is established precedent, however, the bureau chiefs are free to act. By amending the delegations to the Chief, Private Radio Bureau to allow nonsubstantive changes to the Rules as well as minor clarifying and conforming changes to be made without Commission action, the Commission and the Private Radio Bureau will be able to carry out the provisions of the Communications Act more efficiently and effectively.

3. Prior notice and comment procedures are not required because the amendments herein pertain only to internal agency procedures and practices. *See* 5 U.S.C. 553(b)(A), 47 CFR 1.412(b)(5).

4. Since a Notice of Proposed Rule Making is not required, the Regulatory Flexibility Act, Pub. L. 93-354, does not apply.

5. Authority for this action is contained in sections 4(i), 5(c)(1), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 155(c)(1), and 303(r).

6. In view of the above, it is ordered that Part 0 of the Commission's Rules is amended as set forth below.

7. It is further ordered that because it deals only with internal Commission practice and procedure this Order is effective upon Adoption by the Commission. *See* 5 U.S.C. 553(d), 47 CFR 1.427(b).

List of Subjects in 47 CFR Part 0

Federal Communications Commission organization and functions.

Amendatory Text

A. Part 0 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 0—[AMENDED]

8. The authority citation for Part 0 continues to read:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155.

9. Section 0.331 is amended by revising paragraph (a)(1) to read as follows:

§ 0.331 Authority delegated.

(a) * * *

(1) Notices of proposed rule making and of inquiry, final orders in rule making proceedings and inquiry proceedings, and reports arising from any of the foregoing, except such orders involving nonsubstantive revisions to the rules, or orders involving changes clarifying a rule based on established Commission precedent, or conforming one rule within Part 1, Subpart F, and Parts 80 through 97 with another rule, or conforming any of these rules to formally adopted international convention or agreement where novel questions of policy or law are not involved.

* * * * *

Federal Communications Commission.
Donna R. Searcy,
Secretary.
[FR Doc. 89-644 Filed 1-11-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 1

[General Docket 87-551; FCC 88-401]

Amendment of Part 1 of the Commission's Rules Concerning Radiofrequency Radiation Compliance of FM Booster Stations

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: This item amends Part 1 of the Commission's Rules and Regulations to minimize potential environmental impact from FM booster stations. Previously such stations were categorically excluded from the provisions of § 1.1307(b) of the Commission's Rules dealing with compliance with radiofrequency radiation health and safety standards. This exclusion was based on the relatively low power limitations that formerly applied for FM boosters. However, as a result of a 1987 Commission action, FM boosters can now transmit using powers of up to 20 kilowatts, and a categorical exclusion from § 1.1307(b) is, therefore, no longer warranted. This amendment adds Part 74, Subpart L, to the list of rule parts to which § 1.1307(b) applies. FM translators still subject to the lower power limitations (1 or 10 watts) will continue to be categorically excluded. This amendment has been adopted as part of the Commission's responsibilities under the National Environmental Policy Act of 1969 to minimize environmental impact from FCC-regulated facilities.

EFFECTIVE DATE: March 6, 1989.

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

FOR FURTHER INFORMATION CONTACT: Dr. Robert Cleveland, Office of Engineering and Technology, FCC, (202) 653-8169.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order*, General Docket 87-551, FCC 88-401, Adopted December 9, 1988, and Released December 29, 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 contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Public reporting burden for this collection of information is estimated to vary from 1 to 24 hours per response with an average of 2 hours 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 the burden, to the Federal Communications Commission, Office of Managing Director, Washington, DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503.

Summary of Report and Order

1. Under the terms of the National Environmental Policy Act (NEPA), the Commission is required to ensure appropriate environmental evaluation of actions it takes that may significantly affect the human environment. The Commission has previously adopted rules (47 CFR 1.1301 *et seq.*) to provide for environmental processing of applications for facilities that might have environmental impact.

2. One of the major categories of potential environmental impact from FCC-regulated services is possible human exposure to radiofrequency (RF) radiation from transmitting sources. Therefore, in 1985, the Commission adopted a *Report and Order* (50 FR 11151, 1985) to provide specifically for routine evaluation for environmental RF radiation from certain FCC-authorized facilities and services. This was followed by a *Second Report and Order* (52 FR 13240, 1987) further defining FCC policy and providing for categorical exclusion of certain facilities. The Commission's policy on compliance with RF radiation standards is set out in § 1.1307(b) of the Rules.

3. FM booster stations are a special class of FM translators that retransmit signals of a full service FM broadcast station to areas normally unable to receive satisfactory service due to terrain obstructions. Until 1987, FM booster stations were limited to output powers of 10 watts or less. However, the Commission adopted a *Report and Order* (52 FR 31398, 1987) amending part 74 of the FCC's Rules to permit substantial increases in power for these stations.

4. FM translators, including booster stations, were previously categorically excluded from evaluation for RF radiation under § 1.1307(b) based on the previous lower power limitations. However, because of the relaxation in power limitations it appeared that a categorical exclusion was no longer warranted. Allowable output powers can now be as high as 20 kilowatts. Therefore, we previously proposed (52 FR 49032, 1987) to add Subpart L, Part 74, of the Rules to the list of rule sections to which § 1.1307(b) applies.

5. This *Report and Order* amends § 1.1307(b) to provide for of evaluation of environmental RF radiation from FM booster stations licensed under Part 74, Subpart L. FM translator stations whose power levels continue to be limited to 10 watts or less will not be affected by this rule amendment and will continue to be categorically excluded from § 1.1307(b).

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

Ordering Clauses

Accordingly, it is ordered that, effective March 6, 1989, Part 1 of the Commission's Rules and Regulations, Chapter I of Title 47 of the Code of Federal Regulations, is amended as set forth below and that this amendment will be applicable to applications filed on or after this effective date.

This action is taken pursuant to the provisions of sections 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

List of Subjects in 47 CFR Part 1

Practice and procedure, National Environmental Policy Act, Radiofrequency radiation.

Rule Changes

Part 1, Chapter I, of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: Secs. 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), and 303(r).

2. In § 1.1307, the note in paragraph (b) is revised as follows:

§ 1.1307 Actions which may have a significant environmental effect, for which environmental assessments (EAs) must be prepared.

* * * * *

(b) * * *

Note to paragraph (b): Paragraph (b) shall apply to facilities and operations licensed or authorized under Parts 5, 25, 73, 74 (Subparts A, G, and L (FM boosters only)), and 80 (ship earth stations only). Facilities and operations licensed or authorized under all other Parts, Subparts, or sections of the Commission's Rules shall be categorically excluded from consideration under paragraph (b), unless such exclusion is superseded by actions taken by the Commission under the provisions of paragraph (c) or (d) of this section.

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–646 Filed 1–11–89; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 87–378, RM–5927]

Radio Broadcasting Services; Saint Robert, MO

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots FM Channel 243A to Saint Robert, Missouri, in response to a petition for Reconsideration filed by Keven A. Barton ("petitioner"). A Report and Order was issued in this proceeding on April 29, 1988 dismissing the rule making for lack of interest. According to petitioner timely comments were filed but never received by the Commission. Petitioner's late filed comments have been accepted for the purpose of allotting FM Channel 243A to Saint Robert, Missouri, as that community's first FM Broadcast station. The coordinates for Channel 243A are 37–49–41 and 92–10–39. With this action, this proceeding is terminated.

DATES: Effective February 13, 1989; the window period for filing applications will open on February 14, 1989; and close on March 16, 1989.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87–378, adopted November 16, 1988, and released December 28, 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.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Missouri is amended by adding Saint Robert, Channel 243A.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-651 Filed 1-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 87-326; RM-5778]

Radio Broadcasting Services; Ephrata, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 222C2 for Channel 240A at Ephrata, Washington, and modifies the license of Station KGDN(FM) to specify operation on the higher class channel, as that community's first wide coverage area FM service at the request of Read Broadcasting. In addition, this document allots Channel 230C2 to Ephrata, as a second local FM service, at the request of Randy Boruff. Both channels can be allotted in compliance with § 73.207 of the Commission's Rules. The current transmitter site of Station KGDN(FM) can be used for the upgrade at coordinates 47-19-14 and 119-34-21. Channel 230C2 requires a site restriction of 10.9 kilometers (6.8 miles) south of the community at coordinates 47-13-16 and 119-31-12. Concurrence has been obtained from the Canadian government. With this action, this proceeding is terminated.

DATES: Effective February 13, 1989. The window period for filing applications for Channel 230C2 at Ephrata, Washington, will open on February 14, 1989, and close on March 16, 1989.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 87-326, adopted November 30, 1988, and released January 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Washington, by adding Channels 222C2 and 230C2 and deleting Channel 240A at Ephrata.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-650 Filed 1-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

MM [Docket No. 88-169; RM-6216]

Radio Broadcasting Services; Burns, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 270C2 to Burns, Wyoming, as that community's first FM service, at the request of Gary Albarez. A site restriction of 12.5 kilometers (7.8 miles) southwest of the city is required at coordinates 41-07-05 and 104-28-08. With this action, this proceeding is terminated.

DATES: Effective February 13, 1989. The window period for filing applications will be open on February 14, 1989, and close on March 16, 1989.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-169, adopted November 30, 1988, and released January 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended, under Wyoming, by adding Channel 270C2 at Burns.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-649 Filed 1-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-168, RM-6217]

Radio Broadcasting Services; Pine Bluffs, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 287C2 to Pine Bluffs, Wyoming, as that community's first FM service, at the request of Robert Jason. The allotment can be made consistent with the Commission's minimum spacing requirements at reference coordinates 41-10-42 and 104-03-48. With this action, this proceeding is terminated.

DATES: Effective February 13, 1989. The window period for filing applications will open on February 14, 1989, and close on March 16, 1989.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-168, adopted November 30, 1988, and released January 3, 1989. The full text of

this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended under Wyoming, by adding Pine Bluffs, Channel 287C2.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-648 Filed 1-11-89; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 54, No. 8
Thursday, January 12, 1989

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.

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 862 3085]

Alamo Rent-A-Car, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, the Fort Lauderdale, Fla. rental company to disclose charges that are mandatory or are not reasonably avoidable to every consumer who inquires about the prices.

DATES: Comments must be received on or before March 13, 1989.

ADDRESS: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Avenue, NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Michael J. Bloom, New York Regional Office, Federal Trade Commission, 2243 Federal Bldg., 26 Federal Plaza, New York, NY 10278. (212) 264–1207.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

List of Subjects in 16 CFR Part 13

Automobiles, Rental cars, Trade practices.

Agreement Containing Consent Order To Cease and Desist

The Federal Trade Commission having initiated an investigation of certain acts and practices of Alamo Rent-A-Car, Inc., a corporation, hereinafter sometimes referred to as proposed respondent, and it now appearing that proposed respondent is willing to enter into an agreement containing an order to cease and desist from the use of certain acts and practices being investigated,

It is hereby agreed by and between Alamo Rent-A-Car, Inc., by its duly authorized officers, and its attorneys and counsel for the Federal Trade Commission that:

1. Proposed respondent Alamo Rent-A-Car, Inc., is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Florida, with its headquarters located at 110 South East Sixth Street, Fort Lauderdale, Florida 33301.

2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint here attached.

3. Proposed respondent waives:

a. Any further procedural steps;

b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

d. All claims under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondents, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondent's address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the proposed complaint and order contemplated hereby. Proposed respondent understands that once the order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. Proposed respondent further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

I.

For the purposes of this order, all required disclosures shall be made in a clear and conspicuous manner.

It is ordered that respondent Alamo Rent-A-Car, Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with the promotion, offering for rental or rental of any vehicle, in or affecting commerce, as commerce is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

A. Failing to disclose to consumers, in connection with any discussion or inquiry relating to the price of a contemplated rental, all airport surcharges or fees that are applicable to the contemplated rental or are not reasonably avoidable by consumers.

B. Failing to disclose to consumers, in connection with any discussion or inquiry relating to the price of a contemplated rental, all fuel charges that are applicable to the contemplated rental and are not reasonably avoidable by consumers.

C. Failing to disclose to consumers, in connection with any discussion or inquiry relating to the price of a contemplated rental, any other charges sought to be imposed in connection with a contemplated rental which are mandatory or which are not reasonably avoidable by consumers.

II.

It is further ordered that respondent shall for a period of three (3) years distribute, or cause to be distributed, a copy of this order to all present and future operating divisions, subsidiaries, franchisees, dealers, and managerial employees.

III.

It is further ordered that, for a period of ten (10) years, respondent shall notify the Commission at least thirty (30) days prior to any proposed change in its corporate status that may affect compliance obligations arising out of this order, such as dissolution, assignment of its business, or the emergence of a successor corporation.

IV.

It is further ordered that respondent shall, within sixty (60) days after service upon it of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Alamo Rent-A-Car, Inc. ("Alamo").

The proposed consent order has been placed on public record for sixty (60) days for comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns representations as to the price of car rentals made by Alamo's agents in response to consumer inquiries. Consumers generally receive price representations when they call Alamo's "800" number for information and to make reservations. The Commission's complaint charges that the price representations made by Alamo's telephone agents often deceive consumers because they omit certain applicable charges, thus substantially understating the actual cost of renting a vehicle.

Specifically, the complaint charges that in oral presentations in response to consumers' telephone inquiries to Alamo's "800" number, Alamo's agents have, in numerous instances, stated prices for Alamo's car rental services without disclosing the existence and amount of a mandatory fuel charge, and the existence and amount of a mandatory airport surcharge or fee. The airport surcharge or fee is imposed on consumers who travel from certain airport locations to one of Alamo's rental stations in one of Alamo's shuttle vehicles.

The complaint further states that the existence and amounts of an applicable fuel charge and airport surcharge would be material to consumers. The representation of a price for a contemplated rental, in connection with a discussion or inquiry, without disclosure of these charges is an unfair or deceptive act or practice.

The consent order contains provisions designed to remedy these deceptive omissions of applicable charges. Part I of the order essentially requires that Alamo cease and desist from failing to disclose to consumers, in connection with any discussion or inquiry relating to the price of a contemplated rental, all airport surcharges or fees that are not reasonably avoidable by consumers. The order further provides that Alamo cease and desist from failing to disclose, in connection with any consumer inquiry as to price, all fuel charges that are not reasonably avoidable by consumers. Similarly, the order provisions require that Alamo cease and desist from failing to disclose, in connection with any discussion of inquiry relating to the price of a rental, any other charges sought to be imposed in connection with the rental that are mandatory or are not reasonably avoidable by consumers.

Part II of the order requires Alamo, for a period of three (3) years, to distribute a copy of the order to all present and future operating divisions, subsidiaries, franchisees, dealers, and managerial employees.

Part IV requires Alamo to file a compliance report within sixty (60) days after service of this Order.

The purpose of this analysis is to facilitate public comment on the proposed order and is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Donald S. Clark,

Secretary.

[FR Doc. 89-724 Filed 1-11-89; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 305

Energy Costs and Consumption Information Used in Labeling and Advertisting of Consumer Appliances

AGENCY: Federal Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Appliance Energy Conservation Amendments of 1988 [1] ("NAECA 88") was enacted on June 28, 1988. Its purposes are to increase energy efficiency in the nation and to reduce the regulatory burden on the fluorescent lamp industry by establishing a single federal standard for the minimum energy efficiency of fluorescent lamp ballasts.

NAECA 88 adds fluorescent ballasts to the list of appliances in the Energy Policy and Conservation Act ("EPCA"), as amended by the National Appliance Energy Conservation Act of 1987 ("NAECA 87"),[2] for which the Department of Energy ("DOE") must establish minimum efficiency standards. In addition, NAECA 88 requires DOE to establish ballast testing procedures and requires the Commission to promulgate ballast labeling requirements.

In today's Notice, the Federal Trade Commission ("the Commission") seeks

[1] Pub. L. 100-357, 102 Stat. 671.

[2] 42 U.S.C. 6291 *et seq.*

comment on a proposal to add fluorescent lamp ballasts to the list of products covered by the Commission's Appliance Labeling Rule ("the Rule"),[3] and related disclosure requirements.

DATES: Written comments must be submitted on or before February 13, 1989.

Persons desiring a public hearing on the proposed amendments should advise the Presiding Officer by no later than February 2, 1989. If hearings are scheduled, the date and time of the hearings, as well as the date for submission of prepared witness statements and exhibits, will be announced in a subsequent Notice.

ADDRESS: Written comments and requests for public hearings should be submitted to Henry B. Cabell, Presiding Officer, Federal Trade Commission, Washington, DC 20580, 202–326–3642. Written comments should be submitted, when feasible and not burdensome, in five copies.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, 202–326–3035, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

Background

Fluorescent lamp ballasts are electrical devices that start and operate fluorescent lamps. Ballasts operate at various levels of energy efficiency. The standards set in NAECA 88 will phase out the least efficient ballasts. The remaining ballasts, which all manufacturers make, are typically ten to fifteen percent more efficient. The more efficient ballasts run cooler, last longer and deliver the same quantity and quality of light.

Since it is estimated that approximately ten percent of the nation's electricity is consumed by fluorescent lighting, most of which is installed in office and institutional buildings,[4] there is a tremendous opportunity for energy savings. The American Council for an Energy Efficient Economy ("ACEEE") in Washington, DC, estimates that there are over fifty million new ballasts sold each year. Each higher efficiency ballast saves ten to twenty-four watts. ACEEE estimates that NAECA 88 will reduce the need for new electric generating capacity by 7,000 megawatts.

The initial cost of the more efficient ballasts is slightly higher, and the typical payback will take approximately two years. But ACEEE estimates that, because ballasts last from twelve to fifteen years, NAECA 88 will save consumers eleven billion dollars by the year 2000 and sixteen billion dollars by the year 2010. There will be additional savings because of the reduced cooling load in buildings and the reduced need to build new power plants.

NAECA 88 Requirements

Standards and Testing

NAECA 88 amends EPCA/NAECA 87 [5] by establishing minimum energy efficiency standards for fluorescent lamp ballasts. The standards will apply only to the four most commonly used fluorescent lamp ballasts, which make up approximately 85% of the ballast market.[6] The standards will take effect in phases, with manufacturers of ballasts having to comply with respect to ballasts manufactured after January 1, 1990, sold after April 1, 1990 or incorporated into lamps by April 1, 1991. NAECA 88 also directs DOE to establish a testing procedure for ballasts. The labeling rules the FTC must prescribe, however, are not dependent upon DOE's promulgation of this procedure.

Labeling

NAECA 88 directs the Federal Trade Commission to amend the Appliance Labeling Rule to require disclosure that ballasts meet the minimum efficiency standards set by NAECA 88. The legislation specifically requires that the disclosure be in the form of a capital letter "E" printed within a circle on the ballast and on the packaging of the ballast or the lamp containing the ballast.[7] Further, NAECA 1988 gives the Commission the option to require that any information required on the label also be disclosed in any printed matter displayed or distributed at the point of sale of such ballasts. Sec. 2(d)(3), 102 Stat. 673.

The Commission is required by the statute to have the amendments in place by July 1, 1989. The rule, however, will only apply to products manufactured on or after January 1, 1990. Under section 336(a) of EPCA,[8] the Commission must prescribe amendments to its Appliance Labeling Rule in accordance with the notice-and-comment requirements of section 553 of the Administrative Procedure Act,[9] except that interested persons must be afforded an opportunity for a hearing.

Proposed Amendments

Although NAECA 88 adds fluorescent lamp ballasts to the list of covered products under EPCA, its substantive requirements are significantly more limited than those for the other products covered by the Rule. To prevent the new status of fluorescent lamp ballasts as a "covered product" from triggering other requirements of the existing Rule, the Commission proposes a number of minor amendments to adjust the Rule. These minor amendments, which reconcile the Rule's existing labeling requirements with the simplified approach taken with fluorescent lamp ballasts, are to the following sections of the Rule:

Section 305.1(a) Scope of the Regulations in this Part
Section 305.2 (n), (o) and (p) Definitions
Section 305.3(j) Description of Covered Products to Which This Part Applies
Section 305.4(e)(2) Prohibited Acts
Section 305.5 and (i) Determinations of Estimated Annual Energy Cost and Energy Efficiency Rating
Section 305.10(a) Ranges of Estimated Annual Energy Costs and Energy Efficiency Ratings
Section 305.16 Required Testing by Designated Laboratory
Section 305.18 (i) and (j) When the Rule Takes Effect.

The minor changes to these sections are identified in Section G of this Notice, which contains the text of the proposed amendments. A discussion of the substantive amendments and other substantive considerations appears below.

Section 305.8 Submission of Data

Section 326 of EPCA, which is unchanged by the NAECA 88 amendments, requires manufacturers of covered products to submit to the Commission "relevant" energy usage data and starting serial numbers pertaining to their products.[10] These

[3] 16 CFR Part 305.

[4] S. Rep. No. 100–345, 100th Cong., 2d Sess. 2 (1988).

[5] NAECA 87 set minimum energy efficiency standards for 11 major home appliances and preempted any state standards for those products.

[6] The ballasts affected are those that operate at a nominal input voltage of 120 or 277 volts, with an input current frequency of 60 Hertz, and are for use with one (or two) F40T12 lamps (40 watts, 48 by one and one-half inches), two F96T12 lamps (75 watts, 96 by one and one-half inches) or two F96T12HO lamps (110 watts, 96 by one and one-half inches).

[7] (B) The Commission shall prescribe labeling rules under this section applicable to the covered products specified in paragraph (13) of section 322(a) and to which standards are applicable under section 325. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 1989, a capital letter "E" printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated. Sec. 2(d)(1), 102 Stat. 672.

[8] 42 U.S.C. 6306.

[9] 5 U.S.C. 553.

[10] The requirement for reporting starting serial numbers is found in secton 326(b)(1) (42 U.S.C.

Continued

requirements are repeated in § 305.8 of the Rule. The Commission uses this information to establish and maintain the ranges of comparability and for enforcement purposes with respect to the household appliances presently covered by the Rule.

The Commission proposes excluding manufacturers of fluorescent lamp ballasts from these requirements because the Commission has been told by industry sources that these products do not have serial numbers and because the Commission believes that energy usage information for these products is not "relevant," as contemplated by the statute. The Commission has concluded that the information would not be "relevant" for two reasons. First, the labels for fluorescent lamp ballasts will not disclose ranges for these products, since the statutory labeling requirement does not include the disclosure of ranges, so the information would not be used for compiling ranges. Second, in this situation, the information probably would not be very helpful to the Commission for law enforcement purposes. Congress anticipated the possibility that, prior to the January 1, 1990, manufacturing cutoff date, some manufacturers might legally produce and "stockpile" ballasts that do not comply with the standards for sale after the amendments take effect. To limit this, the minimum efficiency standards to be set by DOE will apply to all fluorescent lamp ballasts sold on or after April 1, 1990 or incoporated into luminaires on or after April 1, 1991.

To ensure that there are no other reasons for manufacturers of these products to submit energy usage data to the Commission, the Commission seeks comment on whether, and for what reason, such submissions should be made. The Commission is also interested in receiving suggestions on what method to use to determine the date of manufacture of fluorescent lamp ballasts for enforcement purposes, since the use of starting serial numbers (which can be used with other products covered by the Commission's Rule) will not be possible with fluorescent lamp ballasts.

Section 305.11(d) Labeling for Covered Products

The Commission has added a new subsection—§ 305.11(d)—to the section on labeling in order to set out the manner in which the encircled capital "E" logo must be disclosed. The proposed language contains no references to the specific size or style of the lettering to be used for two reasons. First, section 324(a)(2)(B) of EPCA (as amended by NAECA 88) indicates only that fluorescent lamp ballasts are to be labeled "conspicuously" in a manner prescribed by the Commission." The statute does not specifically require the Commission to specify items such as type size and face. Second, these products are seldom seen or purchased by consumers, and since the disclosure itself communicates no comparative numerical information, extremely specific regulatory requirements seem unnecessary.

For these reasons, the Commission has drafted the regulation to incorporate the statutory criterion of a "conspicuous" disclosure coupled with several options as to how and where the disclosure must be made. Since all fluorescent lamp ballasts are labeled with a stick-on label that discloses the UL mark, the manufacturer's name, a catalog number, a wiring diagram, voltage, Hertz and other information, most manufacturers will probably take the option of disclosing the logo on the label. The other options are using a separate label or indelibly stamping the ballast itself. The disclosure must be made on the surface of the ballast that is normally labeled, and in color-contrasting ink.

The requirement for disclosing the logo on packaging for individual ballasts and luminaires parallels the disclosure requirements for ballasts themselves. The disclosure must be made on the surface on which printing normally appears, and may be in the form of a separate label or an addition to an existing label, or printing or an indelible stamp on the package itself. If the package contains printing on more than one surface, the label must appear on the surface that contains the product's specifications. The Commission has learned that the majority of fluorescent lamp ballasts and luminaires are packaged by the pallet load, usually wrapped in plastic sheeting, or "shrink-wrap." Such loads are often accompanied by documentation under the shrink-wrap that contains descriptive product information. To ensure that the logo is disclosed conspicuously under these circumstances, this proposed section requires that the logo appear "conspicuously" on the packaging, the shrink-wrap and the accompanying documentation. Again, the options for the method of disclosure are a separate label, printing or stamping with indelible ink.

Since the Commission's gathering of information relating to this industry's practices concerning packaging and marketing is only in the preliminary stage, the Commission seeks comment on the appropriateness of the disclosure approach taken in this section. Specifically, the Commission is asking for conments on whether the requirement should be more specific as to the size, design and placement of the logo, and if so, what specifications would be appropriate. The Commission also solicits information about all aspects of the packaging of these products and is interested in receiving suggestions concerning the most effective method of labeling the packages.

Section 305.13 Promotional Material Displayed or Distributed at Point of Sale

The NAECA 88 amendments do not affect the Commission's authority to require certain disclosures in connection with the use, by manufacturers of covered products, of point-of-sale promotional materials. As noted above, the Commission has been informed that fluorescent lamp ballasts and luminaires containing them are infrequently bought at retail and promotional materials are rarely, if ever, used. Therefore, the Commission has excluded manufacturers of these products from the requirements of § 305.13 of the Rule, even though section 324(c)(4) of EPCA grants the Commission the authority to include them.

In order to confirm that these products are not sold through the use of such promotional materials, however, the Commission wishes to know whether, and to what extent, such materials are used by the industry.

Section 305.14 Catalogs

Section 326(a) of EPCA, which is unaffected by NAECA 88, requires that if a manufacturer of a covered product advertises the product in a catalog, the catalog must display all the information required on the label, unless otherwise required by the Commisison. The Commission has learned that these products are sold to builders, distributors and retailers through catalogs. The Commission has, therefore, included manufacturers of fluorescent lamp ballasts in the requirements of this section of the Rule, and ballast manufacturers must display the logo in connection with the product description for each covered ballast they include in their catalogs.

Section A—Invitation To Comment

All interested persons are hereby notified that they may comment on any

6296(b)(1)) and the requirement for reporting relevant energy consumption data is found in section 326(b)(4) (42 U.S.C. 6296(b)(4)).

issue of fact, law or policy that may have bearing upon the proposed rules. While the Commission welcomes comments on any aspect of the proposed rules, there are questions that appear at the end of the discussions of the proposed amendments themselves. All comments and testimony should be referenced specifically to either the Commission's questions or the section of the proposed rules being discussed.

The Commission requests that commenters provide representative factual data. Individual firms' experiences are relevant to the extent they typify industry experience, in general, or that of similar-sized firms. Comments opposing the proposed rules or specific provisions should, if possible, suggest a specific alternative. Proposals for alternative regulations should include reasons and data that indicate why the alternatives would better serve the purposes of the proposed rules. Comments should be supported by a full discussion of all the relevant facts and/or be based directly on firsthand knowledge, personal experience or general understanding of the particular issues addressed by the proposed rules.

Before adopting these proposed rules as final rules, consideration will be given to any written comments timely submitted to the Presiding Officer and on the record of the hearing, if one is held. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552) and Commission Regulations, on normal business days between the hours of 8:30 a.m. to 5:00 p.m. at the Public Reference Room 130, Federal Trade Commission, 6th and Pennsylvania Ave., NW., Washington, DC 20580.

Section B—Public Hearings

Persons desiring a public hearing on the proposed amendments should notify the Presiding Officer by no later than February 2, 1989. If there is interest in a hearing, it will take place in Room 532 of the Federal Trade Commission, Pennsylvania Avenue at Sixth Street, Northwest, Washington, DC, at a time and date that will be announced in a subsequent notice. If a hearing is held, persons desiring an appointment to testify will be required to submit to the Presiding Officer a complete statement in advance. This will be entered into the record in full. However, as a general rule, oral statements should not exceed ten minutes. There will be no opportunity for interested persons to cross-examine witnesses. Further instructions to witnesses will be contained in the notice announcing the hearing.

Section C—Motions or Petitions

Any motions or petitions in connection with this proceeding must be filed with Henry B. Cabell, the Presiding Officer, who is responsible for the orderly conduct of the proceeding and who shall have all powers necessary to that end, including the authority to rule on all motions or petitions filed.

Applications for review of a rule will not be entertained by the Commission prior to its review of the record unless the Presiding Officer certifies in writing to the Commission that a ruling involves a controlling question of law or policy as to which there is substantial ground for difference of opinion and that an intermediate review of the ruling may materially advance the ultimate termination of the proceeding or that subsequent review will be an inadequate remedy.

Section D—Post-Comment-Period or Post-Hearing Procedures

Interested persons will be afforded 20 days after the close of the hearing, or the close of the comment period if no hearing is held, to file rebuttal submissions, which must be based only upon identified, properly cited matters already in the record. The Presiding Officer will reject all submissions that are essential additional written comments, rather than rebuttal. If a hearing is held, the 20-day rebuttal period will commence when the final transcript of the hearing is placed on the public record by the Presiding Officer.

After the close of the rebuttal period, staff will analyze the evidence on the record and prepare and submit a recommendation for the final rule.

Section E—Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial regulatory analysis (5 U.S.C. 603–604) are not applicable to this document because it is believed the amendments, if promulgated, "will not have a significant economic impact on a substantial number of small entities" (5 U.S.C. 605).

The requirement that lamp ballasts and lamp ballast packaging bear the encircled "E" logo is statutorily imposed and the proposed regulations will impose few additional costs. The statutory disclosure requirement itself will result in only minimal cost to the industry.

Because these changes are not likely to have a significant impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act and the rules implementing it, the Commission believes that a regulatory analysis is unnecessary. This conclusion is based on information presently available to the Commission and its staff. The Commission requests any information on whether the amendments proposed today would have a significant economic impact on a substantial number of small entities. After receiving comments, the Commission will decide whether the preparation of a final regulatory flexibility analysis is warranted.

In light of the above, it is certified, under the provisions of section 5 of the Regulatory Flexibilty Act (5 U.S.C. 605(b)), that the proposed regulations, if promulgated, will not have a significant economic impact on a substantial number of small entities.

Section F—Paperwork Reduction Act

The amendments proposed today are not subject to the Paperwork Reduction Act ("PRA"), 44 U.S.C. 3501–3518, because they do not contain disclosure or reporting requirements that constitute the "collection of information" as defined by the rule implementing the PRA. This is because the all of the information that must be disclosed (the encircled "E") is provided by the government and the industry does not have the collect information in order to develop the disclosure.[11]

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Section G—Proposed Amendments

For the reasons set forth in the preamble, the Commission proposes to amend Title 16, Part 305 of the Code of Federal Regulations as follows:

PART 305—RULES FOR USING ENERGY COSTS AND CONSUMPTION INFORMATION USED IN LABELING AND ADVERTISING FOR CONSUMER APPLIANCES

1. The authority citation for Part 305 is revised to read as follows:

Authority: Sec. 324 of the Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act, (Pub. L. 95–619) (1978), the National Appliance Energy Conservation Act, (Pub. L. 100–12) (1987), and the National Appliance Energy Conservation Amendments of 1988, (Pub. L. 100–357) (1988).

[11] "The public disclosure of information originally supplied by the Federal government to the recipient for the purpose of disclosure to the public is not included within th[e] definition [of information collection]." 5 CFR 1320.7(c)(2) (1988).

42 U.S.C. 6294; sec. 553 of the Administrative Procedure Act, 5 U.S.C. 553.

2. It is proposed that § 305.1(a) be revised to read as follows:

§ 305.1 Scope of the regulations in this part.

* * * * *

(a) Labeling the products with information indicating their estimated annual energy costs or energy efficiency ratings, and related information or their compliance with applicable standards under section 325 of the Energy Policy and Convesrvation Act, 42 U.S.C. 6295.

* * * * *

3 It is further proposed that § 305.2(n) and (o) be revised, and that § 305.2 be amended by the addition of a new paragraph (p), to read as follows:

§ 305.2 Definitions.

* * * * *

(n) "Consumer appliance product" means any "consumer product," as identified in section 322 of the Act (42 U.S.C. 6292).

(o) "Covered product" means any consumer appliance product defined in § 305.3 of the rule.

(p) "Luminaire" means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

4. It is further proposed that § 305.3 be amended by the addition of a new paragraph (j) to read as follows:

§ 305.3 Description of covered products to which this part applies.

* * * * *

(j) "Fluorescent lamp ballast" means a device that is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.

5. It is further proposed that § 305.4(e)(2) be revised to read as follows:

§ 305.4 Prohibited acts.

* * * * *

(e) * * *

(2) Any covered product, except central air conditioners, pulse combustion and condensing furnances, and fluorescent lamp ballasts, if the manufacture of the product was completed prior to May 19, 1980. Any central air conditioner, pulse combustion furnace or condensing furnace if its manufacture was completed prior to June 7, 1988. Any fluorescent lamp ballast if its manufacture was completed prior to January 1, 1990.

* * * * *

6. It is further proposed that § 305.5 be amended by revising the introductory text and by adding a new paragraph (i), to read as follows:

§ 305.5 Determinations of estimated annual energy cost and energy efficient rating.

Procedures for determining the estimated annual energy costs, the energy efficiency ratings and the power and efficacy factors of covered products are those found in 10 CFR Part 430, Subpart B, in the following sections:

* * * * *

(i) Fluorescent lamp ballasts—§ 430.22(q).

7. It is further proposed that the first sentence of § 305.8(a) be revised to read as follows:

§ 305.8 Submission of data.

(a) Each manufacturer of a covered product, except manufacturers of fluorescent lamp ballasts, shall submit to the Commission, not later than January 21, 1980 (for manufacturers of central air conditioners and pulse combustion and condensing furnaces, the submission date shall be two months after publication of a final, amended rule covering those products), a report listing the estimated annual energy cost (for refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, and clothes washers) or the energy efficiency rating (for room air conditioners, central air conditioners and furnaces) for each basic model in current production, determined according to § 305.5 and statistically verified according to § 305.6. * * *

* * * * *

8. It is further proposed that the first sentence of § 305.10(a) be revised to read as follows:

§ 305.10 Ranges of estimated annual energy costs and energy efficiency ratings.

(a) The range of estimated annual energy costs or range of energy efficiency ratings for each covered product (except fluorescent lamp ballasts) shall be taken from the appropriate appendix to this rule in effect at the time the labels are affixed to the products. * * *

* * * * *

9. It is further proposed that § 305.11 be amended by the addition of a new paragraph (d) to read as follows:

§ 305.11 Labeling for covered products.

* * * * *

(d) *Fluorescent Lamp Ballasts and Luminaires*—(1) *Contents.* Fluorescent lamp ballasts that are "covered products," as defined in § 305.2(o), and to which standards are applicable under section 325 of the Act, shall be marked conspicuously with a capital letter "E" printed within a circle. Packaging for such fluorescent lamp ballasts, as well as packaging for luminaires into which they are incorporated, shall also be marked with a capital letter "E" printed within a circle.

(2) *Product Labeling.* The encircles capital "E" on fluorescent lamp ballasts must appear conspicuously, in color-contrasting ink, on the surface that is normally labeled. It may be printed on the label that normally appears on the fluorescent lamp ballast, printed on a separate label, or stamped indelibly on the surface of the fluorescent lamp ballast.

(3) *Package Labeling.* For purposes of labeling under this section, packaging for such fluorescent lamp ballasts and the luminaires into which they are incorporated consists of the plastic sheeting, or "shrink-wrap," covering pallet loads of fluorescent lamp ballasts or luminaires as well as any containers in which such fluorescent lamp ballasts or the luminaires into which they are incorporated are marketed individually or in small numbers. The encircled capital "E" on packages containing fluorescent lamp ballasts or the luminaires into which they are incorporated must appear conspicuously, in color-contrasting ink, on the surface of the package on which printing or a label normally appears. If the package contains printing on more than one surface, the label must appear on the surface on which the product inside the package is described. The encircled capital "E" may be printed on the surface of the package, printed on a label containing other information, printed on a separate label, or indelibly stamped on the surface of the package. In the case of pallet loads, the encircled capital "E" must appear conspicuously, in color-contrasting ink, on the plastic sheeting as well as on any documentation that would normally accompany such a pallet load. The encircled capital "E" may appear on a label affixed to the sheeting or may be indelibly stamped on the sheeting. It may be printed on the documentation, printed on a separate label that is stuck to the documentation or indelibly stamped on the documentation.

10. It is further proposed that the introductory text of § 305.13(a) be revised to read as follows:

§ 305.13 Promotional material displayed or distributed at point of sale.

(a) Any manufacturer, distributor, retailer, or private labeler who prepares printed material for display or distribution at point of sale concerning a covered product (except fluorescent lamp ballasts) shall clearly and conspicuously include in such printed material the following required disclosure:

* * * * *

11. It is further proposed that § 305.14 be amended by revising the introductory text of paragraph (a), and by adding a new paragraph (c), to read as follows:

§ 305.14 Catalogs.

(a) Any manufacturer, distributor, retailer, or private labeler who advertises a covered product (except fluorescent lamp ballasts) in a catalog, from which it may be purchased by cash, charge account or credit terms, shall include in such catalog, on each page that lists a covered product, the following information required to be disclosed on the label:

* * * * *

(c) Any manufacturer, distributor, retailer, or private labeler who advertises fluorescent lamp ballasts that are "covered products," as defined in § 305.2(o), and to which standards are applicable under section 325 of the Act, in a catalog, from which they may be purchased by cash, charge account or credit terms, shall disclose conspicuously in such catalog, in each description of such fluorescent lamp ballasts, a capital letter "E" printed within a circle.

12. It is further proposed that the first sentence of § 305.16 be revised to read as follows:

§ 305.16 Required testing and designated laboratory.

Upon notification by the Commission or its designated representative, a manufacturer of a covered product shall supply, at the manufacturer's expense, no more than two of each model of each product to a laboratory, which will be identified by the Commission or its designated representative in the notice, for the purpose of ascertaining whether the estimated annual energy cost or energy efficiency rating disclosed on the label or fact sheet, or as required by § 305.14, or the representation made by the encircled capital "E" label that the product is in compliance with applicable standards in section 325 of the Act, is accurate.

* * * * *

13. It is further proposed that § 305.18 be amended by the redesignation of paragraph (i) to (j), and the addition of a new paragraph (i), to read as follows (Paragraph (j) is republished for the convenience of the reader).:

§ 305.18 When the rules take effect.

* * * * *

(i) All requirements pertaining to fluorescent lamp ballasts take effect for all new covered products on which manufacture is completed on or after January 1, 1990. All requirements pertaining to luminaries into which covered fluorescent lamp ballasts have been incorporated take effect on January 1, 1990.

(j) All other requirements of this rule except those in section 305.4(d) take effect on May 19, 1980.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 89–722 Filed 1–11–89; 8:45 am]

BILLING CODE 6750-01-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1700

Poison Prevention Packaging Requirements; Proposed Exemption of Medroxyprogesterone Acetate Tablets

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its regulations to allow medroxyprogesterone acetate (MPA) tablets to be marketed in packages that are not child-resistant. Child-resistant packaging currently is required because these substances are oral prescription drugs. This drug is proposed to be exempted because of its low toxicity. The drug is used for the treatment of female hormonal imbalance disorders.

DATE: Comments on the proposal should be submitted not later than March 13, 1989.

ADDRESSES: Comments should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207, or delivered to the Office of the Secretary, Consumer Product Safety Commission, Room 528, 5401 Westbard Avenue, Bethesda, Maryland, telephone (301) 492–6800.

All public documents that the Commission has concerning this proceeding may be inspected at, or copies obtained from, the Office of the Secretary.

FOR FURTHER INFORMATION CONTACT: Virginia White, Project Manager, Office of Program Management and Budget, Consumer Product Safety Commission, Washington, DC 20207, telephone (301) 492–6554.

SUPPLEMENTARY INFORMATION:

A. Background

Among other substances, oral prescription drugs intended for human use are subject to child-resistant packaging requirements issued under the Poison Prevention Packaging Act of 1970 ("the PPPA"), 15 U.S.C. 1471–1476 (16 CFR 1700.14(a)(10)). By letter dated February 22, 1988, the Upjohn Company petitioned the Commission to exempt its medroxyprogesterone acetate ("MPA") tablets from these child-resistant packaging requirements (Petition PP 88–1). MPA, a progestin, is a prescription hormonal drug used for the treatment of a variety of female hormonal imbalance disorders.

The Commission has previously proposed an exemption for MPA tablets in mnemonic packages [1] that contain no more than 100 milligrams of the drug (53 FR 41202 (October 20, 1988)). That proposal was in response to a petition from Ayerst Laboratories (Petition PP 87–3). The later Upjohn Company petition, if granted and issued, would exempt all package types for MPA tablets and remove the maximum amount to which the exemption sought by Ayerst Laboratories would apply.

As justification for the present exemption request, the Upjohn Company submitted evidence of the low oral toxicity of progestins and data showing the absence of acute toxicity from ingestion of progestins by young children. The petitioner also cited data that the Commission used as the basis for previous exemptions of other progestin drugs.

B. Human Experience and Toxicity Data

Data from the Food and Drug Administration ("FDA") National Clearinghouse for Poison Control Centers for the years 1978 through 1984 show a total of 78 reported ingestions of MPA by children under age five. Three of the cases reported symptoms; one case resulted in a hospital visit with no reported symptoms.

For the period of 1978 through August 1987, the Commission's CAP (Children and Poisoning) data base shows five cases of MPA ingestions by children under five treated in hospital emergency rooms. All were treated and released.

[1] A mnemonic package is any package designed for the administration of one dosage unit at a time and incorporating any feature which serves to remind the user to take the dosage at specified intervals throughout the period during which the medication is to be administered.

A literature review and a review of FDA Adverse Drug Reaction Reports revealed no reports of death or serious injury to children under age five following acute ingestion of MPA.

Information on the median lethal dosage (LD–50) of MPA, as well as other progestins, is scant because of the extremely low toxicity of these compounds. Reported oral toxicity tests conducted in rats with MPA resulted in no deaths or toxic symptoms even with doses of MPA as high as 10,000 mg/kilogram.

The Commission's Directorate for Health Sciences evaluated this petition and concluded that, because of the low order of toxicity of progestins, removing the limitation on the permissible amount of MPA per exempted package will not pose a risk of serious injury to young children due to accidental ingestion. Available data indicate that a one-time ingestion of MPA by a child is not likely to result in either acute or chronic health effects.

Long-term therapeutic administration of progestin compounds has been shown to lead to an increased risk of various blood-clotting disorders in women. These compounds can also damage the fetus. There is, however, no evidence that such effects would be expected from a single ingestion by a child.

Oral progestins, including MPA, have been available for the past 40 years. The low toxicity of hormonal drugs is well established. In 1984, the Commission exempted estrogen and progestin oral contraceptives from special packaging requirements (49 FR 44455). The Commission concluded that the extensive human experience data available at the time provided no evidence of either acute or chronic health effects associated with accidental ingestion of oral contraceptives. In spite of the high frequency of ingestion of oral contraceptives, the frequency of either acute or long-term injury was one of the lowest for any class of drugs.

The FDA concluded that estrogens and progestins could probably be classified as akin to nontoxic because it would be virtually impossible for a child to ingest an amount approaching what might be considered a lethal dose. These data suggest that the frequency of acute injury from accidental ingestion of these hormones will remain low. Based on these same considerations, the Commission granted exemptions for norethindrone acetate tablets (a progestin) and conjugated estrogens tablets in 1984 (49 FR 50386 (December 28, 1984)).

Based on a review of available human and animal data, the Commission preliminarily concludes that progestins have a low order of acute toxicity. Accidental ingestion by children would, therefore, pose a minimal threat of illness or injury.

C. Action On The Petition

After considering the available information, the Commission preliminarily concluded that the degree and nature of the hazard to children presented by the availability of medroxyprogesterone acetate tablets are such that special packaging is not required to proctect children from serious personal injury or serious illness resulting from handling, using or ingesting such substance. Accordingly, the Commission voted to grant the petition. Therefore, the Commission proposes below to amend 16 CFR 1700.14(a)(10) to exempt medroxyprogesterone acetate tablets from requirements for child-resistant packaging.

D. Regulatory Flexibility Certification

When an agency undertakes a rulemaking proceeding, the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.*) generally requires the agency to prepare proposed and final regulatory flexibility analyses describing the impact of the rule on small businesses and other small entities. The purpose of the Regulatory Flexibility Act, as stated in section 2(b) (5 U.S.C. 602 note), is to require agencies, consistent with their objectives, to fit the requirements of regulations to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulations. Section 605 of the Act provides that an agency is not required to prepare a regulatory flexibility analysis if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The exemption proposed below will have the effect of giving the manufacturers of the exempted products the option of packaging their product in an additional manner. This product is marketed by a small number of large firms; the overall effect of the proposed exemption on costs or competition is expected to be negligible. The Commission knows of no small manufacturers or other entities that would likely be significantly affected.

Accordingly, the Commission concludes that this exemption will not have any significant economic effect on a substantial number of small entities.

E. Environmental Considerations

The Commission's regulations governing the environmental review procedures state, at 16 CFR 1021.5(c)(3), that exemption of products from requirements for child-resistant packaging under the PPPA normally has little or no potential for affecting the human environment. The Commission does not foresee any special or unusual circumstances surrounding the proposed issue below. For this reason, the Commission concludes that neither an environmental assessment nor an environmental impact statement is required in this proceeding.

F. Effective Date

Since the rule issued below provides for an exemption, the provision of 5 U.S.C. 553(c) requiring a delay in the effective date is inapplicable. Accordingly, the rule shall become effective upon publication of the final rule in the **Federal Register**.

List of Subjects in 16 CFR Part 1700

Consumer protection, Drugs, Infants and children, Packaging and containers, Poison prevention, Toxic substances.

Conclusion

For the reasons given above, the Commission proposes to amend Title 16 of the Code of Federal Regulations to read as follows:

PART 1700—[AMENDED]

1. The authority citation for Part 1700 is revised to read as follows:

Authority: Pub. L. 91–601, secs. 1–9, 84 Stat. 1670–74, 15 U.S.C. 1471–76. Secs. 1700.1 and 1700.14 also issued under Pub. L. 92–573, sec. 30(a), 88 Stat. 1231, 15 U.S.C. 2079(a).

2. A new § 1700.14(a)(10)(xix) is added to read as follows:

§ 1700.14 Substances requiring special packaging.

(a) * * *

(10) * * *

(xix) Medroxyprogesterone acetate tablets.

Dated: January 5, 1989.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 89–681 Filed 1–11–89; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[INTL-491-87]

Public Hearing on Proposed Regulations; Corporate Distributions and Certain Nonrecognition Exchanges and Other Transfers and Withholding

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations providing rules for the exchange, distribution, or transfer of U.S. real property interests without recognition of gain under the Foreign Investment in Real Property Tax Act of 1980. The regulations also treat interests in certain partnerships as entirely U.S. real property interests for purposes of withholding on the proceeds from dispositions of such interests. In addition, the regulations provide rules with respect to the treatment of interests in publicly traded corporations.

DATES: The public hearing will be held on Wednesday, March 1, 1989, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, February 15, 1989.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:CORP:T:R (INTL-491-87), Room 4429, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone, 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations that add new §§ 1.897-4AT, 1.897-5T, 1.897-6T, 1.897-7T, 1.897-8T and 1.897-9T relating to corporate distributions and certain nonrecognition exchanges, and new §§ 1.1445-9T, 1.1445-10T, and 1.1445-11T relating to certain withholding provisions, all in the context of the Foreign Investment in Real Property Tax Act (FIRPTA). The proposed regulations appeared in the **Federal Register** for Thursday, May 5, 1988 (53 FR 16233).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit not later than February 15, 1989, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Dale D. Goode,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 89-721 Filed 1-11-89; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3504-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by Perox, Incorporated, Sharon, Pennsylvania, to exclude certain solid wastes generated at its facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and under 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner

The Agency is also proposing the use of a fate and transport model and its application in evaluating the waste-specific information provided by the petitioner. This model has been used in evaluating the petition to predict the concentration of hazardous constituents released from the petitioned waste, once it is disposed.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the fate and transport model used to evaluate the petition. Comments will be accepted until February 27, 1989. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on this proposed decision and/or the model used in the petition evaluation by filing a request with Joseph Carra, whose address appears below, by January 27, 1989. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS-305), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS-343), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F-89-PXEP-FFFFF".

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS-340), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street, SW. (sub-basement), Washington, DC. 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475-9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424-

9346, or at (202) 382–3000. For technical information concerning this notice, contact Linda Cessar, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475–9828.

SUPPLEMENTARY INFORMATION:

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 261.3 (c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used To Evaluate This Petition

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). If the Agency believes that the waste remains hazardous based on the factors for which the waste was originally listed, EPA will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria, EPA then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considers whether the waste is acutely toxic, and considers the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste.

The Agency is proposing to use such information to identify plausible exposure routes for hazardous constituents present in the waste, and is proposing to use a particular fate and transport model to predict the concentration of hazardous constituents that may be released from the petitioned waste after disposal and to determine the potential impact of the unregulated disposal of Perox's petitioned waste on human health and the environment. Specifically, the model will be used to predict compliance-point concentrations which will be compared directly to the levels of regulatory concern for particular hazardous constituents.

EPA believes that this fate and transport model represents a reasonable worst-case waste disposal scenario for the petitioned waste, and that a reasonable worst-case scenario is appropriate when evaluating whether a waste should be relieved of the protective management constraints of RCRA Subtitle C. Because a delisted waste is no longer subject to hazardous waste control, the Agency is generally unable to predict and does not control how a waste will be managed after delisting. Therefore, EPA currently believes that it is inappropriate to consider extensive site-specific factors. For example, a generator may petition the Agency for delisting of a metal hydroxide sludge which is currently being managed in an on-site landfill and provide data on the nearest drinking water well, permeability of the aquifer, dispersivities, etc. If the Agency were to base its evalutation solely on these site-specific factors, the Agency might conclude that the waste, at that specific location, cannot affect the closest well, and the Agency might grant the petition. Upon promulgation of the exclusion, however, the generator is under no obligation to continue to manage the waste at the on-site landfill. In fact, it is likely that the generator will either choose to send the delisted waste off site immediately, or will eventually reach the capacity of the on-site facility which may have very different hydrogeological and exposure conditions.

The Agency also considers the applicability of ground-water monitoring data to its evaluation of delisting petitions. In this case, the agency determined that, because Perox utilizes off-site disposal of the petitioned waste, ground-water monitoring data collected from the petitioner's facility would not characterize the effects of the petitioned waste on the underlying aquifer at the off-site disposal facility. Therefore the Agency did not request ground-water monitoring data.

Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at requested hearings, if any) on today's proposal are addressed.

II. Disposition of Delisting Petition

Perox, Incorporated, Sharon, Pennsylvania.

1. Petition for Exclusion

Perox, Incorporated (Perox), located in Sharon, Pennsylvania, operates a spent hydrochloric acid pickle liquor

regeneration plant for spent pickle liquor generated solely from steel finishing operations at Sharon Steel Corporation. Perox petitioned the Agency to exclude its iron oxide, produced as a by-product from the regeneration of spent pickle liquor, presently listed as EPA Hazardous Waste No. K062—"Spent pickle liquor generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332)". The listed constituents for EPA Hazardous Waste No. K062 are hexavalent chromium and lead. EPA Hazardous Waste No. K062 is also classified as a corrosive waste under 40 CFR § 261.30.

Perox petitioned to exclude its waste because it does not believe that the waste meets the criteria of the listing. Perox also believes that its iron oxide is non-hazardous because the constituents of concern, although present in the waste, are in an essentially immobile form. Perox further believes that the waste is not hazardous for any other reason (*i.e.*, there are no additional constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See section 222 of the Amendments, 42 U.S.C. 6921(f), and 40 CFR 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of Perox's petition.

2. Background

Perox petitioned the Agency to exclude its iron oxide waste on March 27, 1986 and subsequently provided additional information to complete its petition. In support of its petition, Perox submitted (1) a detailed description of its hydrochloric acid regeneration process, including schematic diagrams; (2) total constituent and EP toxicity test results of the iron oxide for the EP toxic metals and nickel; (3) analytical results of total cyanide; (4) iron oxide analysis data (*e.g.*, inorganic compounds, density and particle size measurements) for a six-month period; and (5) results from characteristics testing for ignitability, corrosivity, and reactivity.

Perox's regeneration process involves the separation of waste iron oxide from spent hydrochloric acid pickle liquor. Hydrochloric acid is used to remove mill scale and iron oxide rust from various steel products. During pickling, ferrous chloride forms in the pickle liquor. When this iron salt accumulates to the extent that the acid is no longer useful for pickling, the spent acid must be replenished or regenerated.

The resulting spent hydrochloric acid pickle liquor is regenerated using a "spray roaster" process. In this process, waste pickle liquor is sprayed in a spray roaster, where ferrous chloride is converted to ferric oxide and hydrochloric acid in the vapor phase. Temperatures in the roaster vary between 700 and 2,800 °F. Iron oxide precipitate is discharged from the base of the roaster and is transferred to a storage site. Hydrochloric acid is absorbed in the process water and recycled to the pickling line. The iron oxide precipitate is either milled and blended with other higher grade iron oxide and marketed as a raw material, or it is occasionally sent off site to a local hazardous waste landfill.

To collect representative samples from processes like Perox's, petitioners are normally requested to collect a minimum of four composite samples composed of independent grab samples collected over time (*e.g.*, grab samples collected every hour and composited by shift). See "Test Methods for Evaluating Solid Wastes: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (third edition), November 1986, and "Petitions to Delist Hazardous Wastes—A Guidance Manual," U.S. EPA, Office of Solid Waste, (EPA/530-SW-85-003), April 1985.

Perox presented analytical data on four composite iron oxide samples. Each composite sample was composed of four grab samples of iron oxide collected from the roaster on each sampling date. The grab samples were collected at 2-hour intervals on July 19, 1984, July 20, 1984, July 21, 1984 and July 22, 1984. Perox claims that all samples collected are representative of any variation in the concentrations of the listed and non-listed constituents of concern because the hydrochloric acid regeneration process used at the facility is operated in a consistent manner. To support this claim, Perox provided data from a six-month compositional study of the iron oxide. As part of the study, Perox analyzed 86 waste samples for a number of metallic oxides (including lead and chromium oxide), density and particle size measurements. These study data show that the chromium oxide and lead oxide varied only from below detection to 0.0133 and 0.017 percent by weight, respectively.

As noted earlier, Perox accepts spent hydrochloric acid solely from steel finishing operations at Sharon Steel Corporation. Perox notes that any variations in steel are due only to variations in the carbon, silica and/or sulfur content of the steel. No significant variations occur with respect to any other hazardous or non-hazardous constituent. Perox further claims that no other wastes are mixed with the pickle liquor before it is sent to the regeneration plant. Thus, although Perox only collected four composite samples of the iron oxide over a period of one week (*i.e.*, petitioners are normally requested to collect samples over a period of at least one month), EPA believes that these four samples, in conjunction with the six-month iron oxide composition information, are capable of characterizing constituent concentrations in the iron oxide.

3. Agency Analysis

Perox used test methods from "Test Methods for Evalutating Solid Wastes: Physical/Chemical Methods," U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW–846 (second edition) to evaluate the iron oxide samples. SW-846 Methods 7060 through 7760 were used to quantify the total constituent concentrations (*i.e.*, mass of a particular constituent per mass of waste) of the EP toxic metals and nickel in the iron oxide. Method 9040 was used to quantify the total cyanide content of the iron oxide. Method 1310 was used to determine the extraction procedure (EP) leachable concentrations (*i.e.*, mass of a particular constituent per unit volume of extract) of the EP toxic metals and nickel in the iron oxide.

Perox did not analyze the iron oxide for total sulfides. However, due to the processes involved, the Agency does not believe that sulfides would be present in the waste. The combination of the acid from the spent pickle liquor and the high temperatures in the roaster (700–2,800 °F) would drive off any sulfides present in the iron oxide during the regeneration process.

Table 1 presents the maximum total constituent concentrations of the EP toxic metals, nickel, and cyanide. Table 2 presents the maximum EP leachate values of the EP toxic metals, nickel, and cyanide. Detection limits represent the lowest concentrations quantifiable by Perox, when using the appropriate SW-846 analytical methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits.)

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (PPM) IRON OXIDE

Constituents	Total constituent concentrations
Arsenic	1.1
Barium	200
Cadmium	10
Chromium	1,550
Lead	260
Mercury	0.45
Nickel	270
Selenium	ND (0.5)
Silver	110
Cyanide	ND (0.5)

ND: Not Detected. Denotes concentrations below the detection limits shown in the parentheses.

TABLE 2.—MAXIMUM EP LEACHATE CONCENTRATIONS (PPM) IRON OXIDE

Constituents	EP leachate concentrations
Arsenic	ND (0.005)
Barium	0.4
Cadmium	ND (0.01)
Chromium	0.16
Lead	0.02
Mercury	ND (0.001)
Selenium	ND (0.005)
Silver	ND (0.01)
Nickel	0.67
Cyanide	[1] 0.025

ND: Not Detected. Denotes concentrations below the detection limits shown in the parentheses.
[1] Calculated by assuming a dilution factor of twenty times (based on 100 grams of sample and dilution with 2 liters of water) and a theoretical worst-case leaching of 100 percent. "<" is used because cyanide was not detected in the total constituent analysis.

Wastes having more than one percent total oil and grease may either have significant concentrations of constituents of concern in the oil phase which may not be assessed using the standard EP leachate procedure, or the concentration of oil and grease may be sufficient to coat the solid phase of the sample and interfere with the leaching of metals from the sample. As such, the presence of those constituents would not be assessed using the standard EP leachate procedure. See SW–846 Method 1330. For wastes with more than one percent total oil and grease, the EP analyses must be modified in accordance with the Oily Waste EP methodology.

Perox did not analyze the iron oxide for total oil and grease content. However, the Agency does not believe the total oil and grease levels in the waste would be of concern due to the high temperatures (700–2, 800 °F) in the spray roaster. The high temperatures would either vaporize or oxidize any oil or grease present in the waste. Furthermore, staff under contract to EPA (see discussion in Section 4) tested Perox's waste for oil and grease and detected only 0.0004 percent (4 ppm) oil and grease in the iron oxide. See SW–846 Method 1330.

Perox provided test data indicating that the iron oxide does not exhibit the properties of ignitability, corrosivity, or reactivity. See 40 CFR 261.21, 261.22, and 261.23.

Perox submitted a signed certification stating that, based on current annual waste generation, their maximum annual generation rate of iron oxide is 4,800 tons. The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. EPA accepts Perox's certified estimate of 4,800 tons (approximately 4,800 cubic yards).

The Agency has initiated a spot-check sampling and analysis program to verify the representative nature of the data for some percentage of delisting petitions. As part of this program, the Agency conducted a spot-check sampling visit to Perox. The results of this visit, including chemical analyses of waste samples from Perox, are discussed later in this notice.

4. Agency Evaluation

The Agency considered the appropriateness of alternative disposal scenarios for iron oxide wastes and decided that a landfill scenario is the most reasonable, worst-case scenario for this waste, particularly since Perox plans to dispose of this waste in an off-site landfill. Under a landfill disposal scenario, the major exposure route of concern for any hazardous constituents would be ingestion of contaminated ground water. The Agency, therefore, evaluated the petitioned waste using its vertical and horizontal spread (VHS) landfill model which predicts the potential for ground-water contamination from wastes that are landfilled. See 50 FR 7882 (February 26, 1985), 50 FR 48896 (November 27, 1985), and the RCRA public docket for these notices for a detailed description of the VHS model and its parameters. This modeling approach, which includes a ground-water transport scenario, was used with conservative, generic parameters to predict reasonable worst-case contaminant levels in ground water at a hypothetical receptor well (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). The Agency requests comments on the use of VHS model as applied to the evaluation of Perox's waste.

Specifically, the Agency used the VHS model to evaluate the mobility of the hazardous inorganic constituents detected in the EP extract of Perox's iron oxide (see Table 2). The Agency's evaluation, using Perox's estimate of 4,800 cubic yards per year and the maximum reported EP leachate concentrations, generated the compliance-point concentrations shown in Table 3. The Agency did not evaluate the mobility of the remaining inorganic constituents (*i.e.*, arsenic, cadmium, mercury, selenium, and silver) from Perox's waste because they were not detected in the EP extract using the appropriate SW–846 analytical methods. The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern in its modeling efforts if the non-detectable value was obtained using the appropriate analytical method. Specifically, if a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 3.—VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS (PPM) IRON OXIDE

Constituents	Compliance-point concentrations	Levels of regulatory concern [1]
Barium	0.063	1.0
Chromium	0.025	0.05
Lead	0.003	0.05
Nickel	0.105	0.5
Cyanide	0.004	0.7

[1] See "Docket Report on Health-Based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, located in the RCRA public docket.

The iron oxide exhibited barium, chromium, lead, nickel, and cyanide levels at the compliance point below the health-based levels used in delisting-decision making. Furthermore, the Agency believes that the concentration of reactive cyanide will be below the Agency's interim standard of 250 ppm because the maximum reported concentration of total cyanide in the waste is less than 0.5 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985, Internal Agency Memorandum in the RCRA public docket. Lastly, because the regeneration process is likely to volatilize any sulfides that might be present in the iron oxide, the Agency believes that the concentration of reactive sulfide will be below the Agency's interim standard of 500 ppm. See "Interim Agency Thresholds for Toxic Gas Generation," July 12, 1985,

Internal Agency Memorandum in the RCRA public docket.

The Agency concluded, after reviewing Perox's processes, that no other hazardous constituents of concern are being used by Perox and that no other constituents of concern are likely to be present or formed as reaction products or by-products in Perox's waste. In addition, based on test results provided by Perox, pursuant to 40 CFR 260.22, the Agency does not believe that Perox's waste exhibits any of the characteristics of ignitability, corrosivity, or reactivity. Ignitability is not expected to be a problem because the iron oxide is the product of a high temperature (700–2,800 °F) roasting process. Corrosivity is not expected to be a problem because the iron oxide is not a liquid. Reactivity is not expected to be a problem because the iron oxide is not believed to contain reactive cyanide or reactive sulfide above the Agency's thresholds for these constituents. See 40 CFR 261.21, 261.22, and 261.23, respectively.

On April 28, 1987, staff under contract to the Agency conducted a site visit to Perox as part of the Agency's spot-check sampling and analysis program. Four samples of iron oxide were taken from the spray roaster and the storage silo at the facility: One sample was collected directly into a wide-mouth jar as the iron oxide fell from the roaster; one sample was taken from the silo by inserting a sampling tool into the pipe at the silo entry port; and two samples were taken from the base of the silo by a Perox employee and transferred to wide mouth jars and two vials. The samples were analyzed according to EPA test methods by a laboratory under contract to EPA. EP toxicity analyses of the EP toxic metals were conducted using SW–846 Method 1310. Total cyanide was analyzed using SW–846 Method 9010. Analytical difficulties were encountered during total metal analyses of the spot-check samples. These data, therefore, were not considered in the Agency's review of Perox's petition. (See the RCRA public docket for today's notice for more detail.) The samples were evaluated according to routine spot-check procedure for the presence of Priority Pollutant organics using SW–846 Methods 8270, 8080, and 8240. Other hazardous constituents (*e.g.*, those listed in 40 CFR Part 261, Appendix VIII) were not analyzed because the iron oxide is not expected to contain any organics. No organic constituents of concern were detected in the samples.

Table 4 presents the maximum reported EP leachate concentrations values of the EP toxic metals, antimony, beryllium, nickel, and cyanide.

TABLE 4.—MAXIMUM EP LEACHATE CONCENTRATIONS (PPM) SPOT-CHECK SAMPLES IRON OXIDE

Constituents	*EP leachate concentrations*
Antimony	ND (0.25)
Arsenic	ND (0.25)
Barium	ND (2)
Beryllium	ND (0.005)
Cadmium	ND (0.05)
Chromium	ND (0.2)
Lead	ND (0.25)
Mercury	ND (0.001)
Nickel	0.53
Selenium	ND (0.02)
Silver	ND (0.0025)
Cyanide	<0.012 [1]

ND: Not Detected. Denotes concentrations below the detection limits shown in the parentheses.

[1] See footnote 1 to Table 2.

Comparison of Perox's EP leachate data with the Agency's spot-sampling EP leachate data shows little variation in the constituent concentrations reported; both sets of analyses results indicate that the iron oxide waste contains non-detectable or insignificant concentrations of leachable metals.

The leachable concentrations of nickel and cyanide, when evaluated using the VHS model, produced compliance-point concentrations below their respective regulatory levels, as seen in Table. 5.

TABLE 5.—VHS MODEL: COMPLIANCE-POINT CONCENTRATIONS (PPM) SPOT-CHECK SAMPLES IRON OXIDE

Constituents	*Compliance-point concentrations*	Levels of regulatory concern [1]
Nickel	0.083	0.5
Cyanide	0.002	0.7

[1] See "Docket Report on Health-Based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, located in the RCRA public docket.

The Agency did not evaluate the mobility of the remaining inorganic constituents (*i.e.*, antimony, arsenic, barium, beryllium, cadmium, chromium, lead, mercury, selenium, or silver) from Perox's iron oxide, because they were not detected (see Table 4). None of these constituents, therefore, is of regulatory concern.

5. Conclusion

The Agency believes that Perox has successfully demonstrated that the regeneration process used at its facility renders the KO62 waste non-hazardous. The Agency believes that the four samples collected by Perox from the roaster, in conjunction with the six-month iron oxide composition information, were non-biased and adequately represent any variations that may occur in the iron oxide. Data from Perox's six-month compositional study showed that the chromium oxide and lead oxide varied only from below detection to 0.0133 and 0.017 percent by weight, respectively. Furthermore, Perox notes that the spent hydrochloric acid is accepted only from Sharon Steel Corporation, and that no other wastes are mixed with the acid prior to shipment to Perox for regeneration. Based on the information and on the data from the six-month compositional study, the Agency believes that the samples of iron oxide collected and analyzed reflect the day-to-day variations in Perox's regeneration process. The Agency, therefore, is proposing that Perox's waste be considered non-hazardous, as it should not present a hazard to either human health or the environment. The Agency proposes to grant an exclusion to Perox, Incorporated, located in Sharon, Pennsylvania, for its iron oxide described in its petition as EPA Hazardous Waste No. KO62. If the proposed rule becomes effective, the iron oxide would no longer be subject to regulation under 40 CFR Parts 262 through 268 and the permitting standards of 40 CFR Part 270.

If made final, this exclusion will apply only to the processes covered by the original demonstration. The facility would require a new exclusion if either its manufacturing or regeneration processes are altered and accordingly would need to file a new petition. The facility must treat waste generated from changed processes as hazardous until a new exclusion is granted.

Although management of the waste covered by this petition would be relieved from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling or reclamation.

III. Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if promulgated, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

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

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511, 44 U.S.C. Chapter 35) and have been assigned OMB Control Number 2050–0053.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Date: January 3, 1989.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

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

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

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

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

2. In Table 2 of Appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under Sections 260.20 and 260.22

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste Description
*	*	*
Perox, Inc	Sharon, PA	Iron oxide (EPA Hazardous Waste No. K062) generated from a spent hydrochloric acid pickle liquor regeneration plant for spent pickle liquor generated from steel finishing operations. This exclusion was published on [insert date of final rule's publication in the **Federal Register**].
*	*	*

[FR Doc. 89–702 Filed 1–11–89; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

Public Health, Safety and Comfort; Amendment of Regulations on Rules of Conduct of Visitors to the Public Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed rulemaking.

SUMMARY: This rulemaking action addresses the increasing incidence of cultivation, manufacture, delivery, distribution, trafficking or possession of controlled substances taking place on the public lands by including them among the actions on public lands which are subject to criminal penalties.

DATE: Comments should be submitted by February 13, 1989. Comments received or postmarked after the above date may not be considered in the decision making process on the final rulemaking.

ADDRESS: Comments should be sent to: Director (140), Bureau of Land Management, 1800 C Street NW., Washington, DC 20240.

Comments will be available for public review in Room 5555 of the above address during regular business hours (7:45 a.m. to 4:15 p.m. EST) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Walter Johnson, (202) 653–8815.

SUPPLEMENTARY INFORMATION: When regulations establishing actions which would be subject to criminal penalties were originally promulgated, the drug problem had not spread to the public lands. Since that time, law enforcement employees as well as other employees of the Bureau of Land Management have been encountering increasing incidents of cultivation, manufacture, delivery, distribution, trafficking or possesion of controlled substances. Such illegal activity affects the proper management and use of the public lands. This rulemaking allows Bureau of Land Management law enforcement employees to address these violations of law appropriately as they carry out their other law enforcement duties.

The principal author of this proposed rulemaking is Walter Johnson, Chief, Law Enforcement and Resource Protection Operations Staff, 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.*).

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

List of Subjects for 43 CFR Part 8360

Penalties, Public lands, Recreation and recreation areas.

For the reasons set out above, it is proposed to amend Subpart 8365, Group 8300, Chapter II of the Code of **Federal Register** as set forth below.

PART 8360—[AMENDED]

1. The authority citation for Part 8360 continues to read as follows:

Authority: 43 U.S.C. 1701 *et seq.* 43 U.S.C. 3152, 16 U.S.C. 1281c, 16 U.S.C. 670 *et seq.*, 16 U.S.C. 4601–62, 16 U.S.C. 1241 *et seq.*

2. Section 8365.1–4 is amended by redesignating the text of the section as paragraph (a) and by redesignating paragraphs (a) through (f) as paragraphs (a)(1) through (6) respectively and adding paragraph (b) to read:

§ 8365.1–4 Public health, safety and comfort.

* * * * *

(b) No person shall engage in the following activities on the public lands:

(1) Cultivating, manufacturing, delivering, distributing or trafficking a controlled substance, as defined in 21 U.S.C. 802(6) and 812 and 21 CFR 1308.11 through 1308.15, except when distribution is made by a licensed practitioner in accordance with applicable law. For the purposes of this paragraph, delivery means the actual, attempted or constructive transfer of a controlled substance whether or not there exists an agency relationship; or

(2) Possessing a controlled substance, as defined in 21 U.S.C. 802(6) and 812 and 21 CFR 1308.11 through 1308.15, unless such substance was obtained, either directly or pursuant to a valid prescription or order or as otherwise allowed by Federal or State law, by the possessor from a licensed practitioner acting in the course of professional practice.

Michael A. Poling,

Acting Assistant Secretary of the Interior.

December 2, 1988.

[FR Doc. 89–613 Filed 1–11–89; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 88–387]

Amendment of the Commission's Environmental Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of reply comment period.

SUMMARY: The Commission instituted this rulemaking proceeding (General Docket No. 88–387, 53 FR 34558) to reconcile its responsibilities under the National Environmental Policy Act of 1969 with its licensing procedures for facilities for which no authorization is required prior to construction. Comments and reply comments were due October 3, 1988 and October 18, 1988, respectively.

Due to an error, some of the pleadings were not placed in the Commission's Docket Branch files. Thus, the commenters who previously filed in this proceeding are requested to resubmit a copy of their pleadings with the Secretary's Office. In addition, because some comments were not placed in the public file, the Commission is affording parties an additional opportunity to submit reply comments within the time period specified below.

DATES: Comments must be re-submitted on or before January 19, 1989. Reply comments must be submitted on or before February 3, 1989.

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

FOR FURTHER INFORMATION CONTACT: A. Holly Berland, (202) 632–6990.

December 29, 1988.

Changes to Pleading Schedule in Gen. Docket No. 88–387, Amendment of the Commission's Environmental Rules

The Commission recently instituted a rulemaking proceeding, Amendment of the Commission's Environmental Rules, General Docket No. 88–387, 53 FR 34558, to reconcile its responsibilities under the National Environmental Policy Act of 1969 with its licensing procedures for facilities for which no authorization is required prior to construction. Comments and reply comments were due October 3, 1988 and October 18, 1988, respectively.

Due to an error, some of the pleadings filed in this proceeding were not placed in the Commission's Docket Branch files. To ensure that the Commission's records are complete and that all pleadings in this proceeding are considered, commenters who previously filed pleadings in this proceeding are requested to resubmit a copy of their pleadings with the Secretary's Officer within seven days of the publication of this Notice in the **Federal Register**. In addition, because some comments were not placed in the public file, we are providing an additional period for reply comments of 15 days after the due date for the re-filed comments.

For further information, contact A. Holly Berland, (202) 632–6990.

By the General Counsel.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–639 Filed 1–11–89; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 88-583, RM-6429]

Radio Broadcasting Services; Meeker, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of James H. Hicks, proposing the allotment of FM Channel 233A to Meeker, Colorado, as that community's first local FM broadcast service. Reference coordinates used for proposed Channel 233A at Meeker are 40-02-24 and 107-55-00.

DATES: Comments must be filed on or before February 21, 1989, and reply comments on or before March 8, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Roger J. Metzler, Esq., Farrand, Cooper, Metzler & Bruiniers, P.O. Box 7329, San Francisco, CA 94120.

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-583 adopted November 30, 1988, and released January 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-640 Filed 1-11-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 88-582, RM-6443]

Radio Broadcasting Services; Morehead, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed by Brad-Lee-Todd Corporation, proposing to allot Channel 242A to Morehead, Kentucky, as its second local FM service, at coordinates 38-11-37 and 83-24-16, with a site restriction.

DATES: Comments must be filed on or before February 21, 1989, and reply comments on or before March 8, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: James G. Hedrick, President, Brad-Lee-Todd Corporation, 1057 Cresent Drive, Wheelersburg, OH 45694 (Petitioner).

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 88-582, adopted November 30, 1988, and released January 3, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

Deputy Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 89-641 Filed 1-11-89; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 54, No. 8
Thursday, January 12, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Milk Price Support Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of milk price support level and Commodity Credit Corporation purchase prices.

SUMMARY: This notice affirms the determination of the Secretary of Agriculture that the support price for milk containing 3.67 percent milkfat shall be continued at $10.60 per hundredweight (cwt.) for the period January 1 through March 31, 1989. The prices at which butter, cheese and nonfat dry milk will be purchased by the Commodity Credit Corporation (CCC) in order to support the price of milk at that level were published on January 8, 1988, in the Federal Register (53 FR 544) and will continue in effect until further notice.

EFFECTIVE DATE: January 1, 1989.

FOR FURTHER INFORMATION CONTACT: Indulis Kancitis, Dairy Division, ASCS–USDA, 5747 South Building, P.O. Box 2415, Washington, DC 20013, (202)–447–3385.

The Final Regulatory Impact Analysis regarding this Notice of Determination is available from Charles N. Shaw, Dairy/Sweeteners Group, ASCS–USDA, P.O. Box 2415, Washington, DC 20013: (202)–447–7601.

SUPPLEMENTARY INFORMATION: This Notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "major" since the provisions of this notice will have an effect on the economy exceeding $100 million.

The Title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051, as found in the Catalog of Federal Domestic Assistance.

The Regulatory Flexibility Act is not applicable to this notice since CCC is not required to publish a notice of proposed rulemaking with respect to the level of price support and prices paid to producers of milk. The price of milk is supported pursuant to section 201(d) of the Agricultural Act of 1949. Section 102 of the Food Security Act of 1985 (Pub. L. 99–198) provides that the notice and rulemaking provisions of Section 553 of Title 5, United States Code, shall not apply with respect to the implementation by the Secretary of Agriculture of section 201(d) of the 1949 Act, including determinations made regarding the level of price support for milk.

It has been determined by an environmental evaluation that the determination set forth in this notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as water quality or air quality. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is required.

This program/activity is not subject to the provisions of Executive Order No. 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).

In accordance with section 201 of the 1949 Act, the Secretary of Agriculture, through CCC, supports the price of milk through purchases of milk and milk products; specifically, through the purchase of butter, nonfat dry milk and cheese.

Section 201(d)(1)(D) of the 1949 Act provides that, if for any of the calendar years 1988, 1989, and 1990 the level of CCC purchases under the milk price support program of milk and the products of milk (less sales under section 407 of the 1949 Act for unrestricted use) as estimated by the Secretary on January 1 of such calendar year would exceed 5,000,000,000 pounds (milk equivalent), the Secretary of Agriculture on January 1 of such calendar year, shall reduce, by 50 cents, the rate of price support for milk in effect on such date.

Section 201(d)(1)(E) of the 1949 Act provides that, if for any of those same calendar years the level of net CCC purchases under the milk price support program of milk and the products of milk as estimated by the Secretary on January 1 of such calendar year, would not exceed 2,500,000,000 pounds (milk equivalent), the Secretary shall, as of that date, increase by 50 cents the rate of price support for milk in effect on such date.

Section 102(a) of the Disaster Assistance Act of 1988 (Pub. L. 100–387) amended section 201(d)(1)(D) of the 1949 Act, by deleting the authority of the Secretary to reduce the price support level for milk on January 1, 1989. The Secretary's authority under section 201(d)(1)(E) of the 1949 Act to increase the price support level for milk on that date if estimated purchases of milk and milk products under the milk price support program (less sales under section 407 for unrestricted use) for the calendar year would not exceed 2.5 billion pounds was not changed. Section 102(b) of the 1988 Act also provides that, notwithstanding the provisions of the 1949 Act as previously amended, the rate of price support for milk in effect as of April 1, 1989 would be increased by 50 cents for the period April 1, 1989 through June 30, 1989.

The milk price support level through December 31, 1988, was $10.60 per cwt. for milk containing 3.67 percent milkfat. That level was affirmed in a notice published in the Federal Register on January 8, 1988 (53 FR 543). Based on current data it has been estimated that net CCC purchases of milk and milk products under the milk price support program during calendar year 1989 would, without an adjustment on January 1, 1989, exceed 2.5 billion pounds (milk equivalent). Therefore, the price support level for milk is not increased for the period January 1, 1989 through March 31, 1989, and will remain at $10.60 per cwt. for milk containing 3.67 percent milkfat. It has further been determined that the prices CCC will pay for milk and products of milk to support milk containing 3.67 percent milkfat, at a level of $10.60 per cwt., shall remain at those levels set forth in the January 8, 1988 notice. Those purchase prices are subject to such additional terms and conditions as CCC may announce.

New purchase prices to implement the temporary increase in the level of price

support that is required as of April 1, 1989, will be announced at a later time.

Determinations

It has been determined that:

(1) Estimated CCC purchases of milk and milk products under the milk price support program during calendar year 1989 (less sales of milk and milk products for unrestricted use by the CCC for that period in accordance with section 407 of the 1949 Act) will exceed 2.5 billion pounds milk equivalent.

(2) The level of price support for the period January 1 through March 31, 1989, shall be $10.60 per cwt. for milk containing 3.67 percent milkfat.

(3) The purchase of butter, cheese and nonfat dry milk, at the prices set forth in the notice published on January 8, 1988, in the **Federal Register** (53 FR 544) will support the price of milk at a rate equivalent to $10.60 per cwt. for milk containing 3.67 percent milkfat.

(4) Further terms and conditions for CCC price-support purchases of butter, cheese, and nonfat dry milk will be set forth in CCC purchase announcements for such purchases.

Authority: Sec. 201(d) of the Agricultural Act of 1949, as amended, 63 Stat. 1042, as amended (7 U.S.C. 1446(d)); and secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 62 Stat. 1072 (15 U.S.C. 714b and 714c).

Signed at Washington, DC, on January 6, 1989.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 89-610 Filed 1-11-89; 8:45 am]

BILLING CODE 3410-05-M

Soil Conservation Service

Finding of No Significant Impact; Coyote Creek Critical Area Treatment RC&D Measure, AZ

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service procedures (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Coyote Creek Critical Area Treatment RC&D Measure, Apache, Arizona.

FOR FURTHER INFORMATION CONTACT: Charles R. Adams, State Conservationist, Soil Conservation Service, 201 East Indianola, Suite 200, Phoenix, Arizona 85012, telephone (602) 241-2247.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Charles R. Adams, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns stabilizing eroding gullies and headcuts on 89 miles of watercourses. Range condition will be improved with grazing systems, water distribution and resource monitoring systems. Range improvement will stablize sheet erosion and slow rapid run-off. Netwire diversions, rock barriers and earthfill dams will be used to stablize the gullies. Bank sloping and seeding and tree planting will also be done.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Bart Ambrose.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

("This activity is listed in the catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials").

Charles R. Adams,

State Conservationist.

[FR Doc. 89-679 Filed 1-11-89; 8:45 am]

BILLING CODE 3410-16-M

Finding of No Significant Impact; Greenway Critical Area Treatment RC&D Measure, WA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines, (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Greenway Critical Area Treatment RC&D Measure, Yakima County, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn A. Brown, State Conservationist, Soil Conservation Service, West 920 Riverside, Room 360, Spokane, Washington 99201-1080; telephone 509-456-3711.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Lynn A. Brown, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

This project concerns a plan to minimize the potential dangers and damages of severe erosion induced by flooding by improving stability of an area approximately one mile north of the community of Yakima, Yakima County, Washington. The area to be protected by the proposed project is approximately six acres in size. The area is used as the north entrance to the Yakima River Greenway by people who use the greenway and river for recreation activities.

The planned works of improvement will retain the area in a near-natural state. The area will be planted to nonirrigated grasses, native wild flowers and forbs. The homesite to the north of the site will be screened from view by a single row windbreak of hybrid poplar. Supplemental irrigation will be provided the first two to three years to insure establishment of the windbreak and seeded areas.

This objective agrees with the USDA National Program for Soil and Water Conservation, Soil and Water Resource Conservation Act of 1977 (RCA) and the Yakima-Kittitas Resource, Conservation and Development Area Plan.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment is on file and may be reviewed by contacting Lynn A. Brown.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource, Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Date: January 5, 1989.

Lynn A. Brown,

State Conservationist.

[FR Doc. 89-680 Filed 1-11-89; 8:45 am]

BILLING CODE 3410-16-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: National Clearinghouse for Single Audit Reports.

Form Number: SAC-1.

Agency Approval Number: 0607-0518.

Type of Request: Revision.

Burden: 300 hours.

Number of Respondents: 3,000.

Avg Hours Per Response: 6 minutes.

Needs and Uses: Audit reports of each State and local government receiving $100,000 in Federal financial assistance are required to comply with the Single Audit Act of 1984.

Affected Public: State or local government.

Frequency: Annual.

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: January 9, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89-737 Filed 1-11-89; 8:45 am]

BILLING CODE 3510-07-M

International Trade Administration

[A-357-802]

Postponement of Final Antidumping Duty Determination; Light-Walled Welded Rectangular Carbon Steel Tubing From Argentina

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received a request from respondent Laminfer S.A. to postpone the final antidumping duty determination in this case pursuant to section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act). Based on this request, we are postponing our final determination as to whether sales of light-walled welded rectangular carbon steel tubing from Argentina have occurred at less than fair value until not later than March 31, 1989.

EFFECTIVE DATE: January 12, 1989.

FOR FURTHER INFORMATION 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 202/377-2312 (Capwell).

SUPPLEMENTARY INFORMATION: On November 21, 1988, we published a notice in the **Federal Register** announcing our preliminary determination that light-walled welded rectangular carbon steel tubing from Argentina was being, or was likely to be, sold in the United States at less than fair value (53 FR 46898).

On January 5, 1989, respondent Laminfer S.A. (Laminfer) requested a 60-day postponement of the deadline for the final determination in this case. If exporters who account for a significant proportion of exports of the subject merchandise under investigation request a postponement of the final determination following a preliminary affirmative determination, we are required, absent compelling reasons to the contrary, to grant the request. Laminfer accounts for virtually all exports of the subject merchandise from Argentina. Accordingly, we are postponing the date of the final determination until not late than March 31, 1989.

The U.S. International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act. This notice is published pursuant to section 735(d) of the Act.

Jan W. Mares,

Assistant Secretary for Import Administration.

January 6, 1989.

[FR Doc. 89-731 Filed 1-11-89; 8:45 am]

BILLING CODE 3510-DS-M

Subcommittee on Export Administration of the President's Export Council; Partially Closed Meeting

A partially closed meeting of the President's Export Council Subcommittee on Export Administration will be held February 15, 1989, 9:00 a.m. to 3:00 p.m., U.S. Department of Commerce, Herbert Hoover Building, Room 4830, 14th and Constitution Avenue NW., Washington, DC.

The subcommittee provides advice on matters pertinent to those portions of the Export Administration Act as amended, that deal with United States policies of encouraging trade with all countries with which the United States has diplomatic or trading relations, and of controlling trade for national security and foreign policy reasons.

Open session: 9:00—11:45 a.m. Briefing by Commerce officials on matters relating to export control. Selected reports by Committee chairpersons.

Executive sessions: 1:30—3:00 p.m. Discussion of matters properly classified under Executive Order 12356 pertaining to the control of exports for national security, foreign policy or short supply reasons under the Export Administration Amendments Act of 1979, as amended. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on October 27, 1987, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Subcommittee, dealing with the classified materials listed in 5 U.S.C. 552b (c) (1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public. A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC.

For further information, contact Sharon Gongwer, (202) 377-3856.

Date: January 4, 1989.

Michael E. Zacharia,

Assistant Secretary for Export Administration.

[FR Doc. 89-716 Filed 1-11-89; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

National Academy of Sciences; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Committee on Evaluation of the Safety of Fishery Products of the Institute of Medicine's Food and Nutrition Board will hold a public meeting to solicit scientific information and comments pertaining to health effects of marine and freshwater fishery products (both domestic and imported) available to the consumer due to microbial and chemical contamination. The Committee will consider improvements of the current system of seafood surveillance and will make recommendations for improving quality control measures. Registration for the meeting is free and no preregistration is required.

DATES: The meeting will be held January 31, 1989, at 10:00 a.m. Individuals who wish to make a presentation or submit material for the Committee's consideration should forward written statements by January 16, 1989.

ADDRESSES: The meeting will be held at the National Academy of Sciences Auditorium, 2101 Constitution Avenue, NW., Washington, DC 20418. Attendees are asked to register at the C Street entrance (parking unavailable).

Written statements should be sent to Dr. Farid E. Ahmed at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Farid E. Ahmed, 202-334-2673.

Dated: January 6, 1989.

Richard H. Schaefer,

Director of Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-707 Filed 1-11-89; 8:45 am]

BILLING CODE 3510-22-M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Salmon Technical Team (STT), will convene a public meeting at the Pacific Council's office (address below), on January 30, 1989, to complete drafting the annual report to the Pacific Council entitled "Review of 1987 Ocean Salmon Fisheries." A public comment period is scheduled for February 1, 1989, at 3 p.m. The public meeting will continue through the remainder of the week.

For more information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 S.W. First Avenue, Portland, OR 97201; telephone: (503) 221-6352.

Date: January 6, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-782 Filed 1-11-89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment to Export Visa Requirements for Certain Cotton Textile Products Produced or Manufactured in India

January 9, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending export visa requirements.

EFFECTIVE DATE: January 21, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

SUPPLEMENTARY INFORMATION: The existing export visa arrangement between the Governments of the United States and India is being amended to permit entry of merchandise accompanied by visa issued for newly merged Categories 300/301.

A copy of the current bilateral agreement is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the Correlation: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also see 44 FR 68504, published on November 29, 1979.

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 agreement, but are designed to assist only in the implementation of certain of its provisions.

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).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

January 9, 1989.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Mr. Commissioner: Effective on January 21, 1989 you are directed to permit entry into the Customs territory of the United States (i.e., the 50 States, the District of Columbia and the Commonwealth of Puerto Rico) of merchandise in Categories 300 and 301 exported on and after January 21, 1989 for which the Government of India has issued visas either as merged categories or the correct category corresponding to the actual shipment. Therefore, for example, Categories 300 and 301 may be visaed as Categories 300/301, or if the shipment consist solely of Category 300 merchandise, the shipment may be visaed as Category 300, but not Category 301.

Goods exported prior to January 21, 1989 and visaed as Categories 300/301 shall be denied entry.

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. 89-715 Filed 1-11-89; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1989; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

SUMMARY: The Committee has received a proposal to add to Procurement List 1989 commodities to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: January 27, 1989.

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. It represents a modification to a notice that appeared in this publication on November 28, 1988, on page 47850. That notice included information on the proposed addition to Procurement List 1989, November 15, 1988 (53 FR 46018), of three inking pads: 7510–00–224–7676; 7510–00–526–1741; 7510–00–526–1742.

After considering various factors associated with the proposed additions, it was determined that it would be more appropriate at this time to consider the addition of only two of the three inking pads proposed previously. The purpose of this notice is to provide interested persons an opportunity to submit comments on the possible impact of adding only two of the three inking pads: Inking Pad: 7510–00–224–7676; 7510–00–526–1741.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the two inking pads listed above from workshops for the blind and other severely handicapped.

Because the possible addition of these two inking pads (as well as a third pad no longer under consideration) was announced previously, interested parties have already had a 30-day period in which to submit comments on the possible impact of the proposed actions. In fact, comments have already been received from the current contractor for both pads and a past contractor for one of the pads. Because of the prior opportunity to comment and the nature of the modification announced with this notice, the time period provided for additional comment on this matter is limited to 15 days.

Beverly L. Milkman,

Executive Directors.

[FR Doc. 89–720 Filed 1–11–89; 8:45 am]

BILLING CODE 6820–33–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket 89–C0004]

Club Car, Inc., a Corporation; Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Provisional acceptance of a Settlement Agreement under the Consumer Product Safety Act.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Club Car, Inc., a corporation.

DATE: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by January 27, 1989.

ADDRESS: Persons wishing to comment on this Settlement Agreement should send written comments to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: William J. Moore, Jr., Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6626.

SUPPLEMENTARY INFORMATION:

Date: January 4, 1989.

Sheldon D. Butts,

Deputy Secretary.

Settlement Agreement and Order

In the matter of Club Car, Inc., a corporation.

1. This Settlement Agreement and Order, entered into between Club Car, Inc. a corporation (hereinafter, "Club Car"), and the staff of the Consumer Product Safety Commission (hereinafter, "staff"), is a compromise resolution of the matter described herein, without a hearing or determination of issues of law and fact.

2. The provisions of this Agreement and Order shall apply to Club Car and to each of its successors and assigns.

I. The Parties

3. Club Car is a corporation organized and existing under the laws of the State of Georgia, with its principal corporate offices located at 4152 Washington Road, Augusta, Georgia.

4. Club Car has manufactured certain electric golf cars identified further in paragraph 7 below (hereinafter, golf cars), (a) for sale to consumers for use in or around a permanent or temporary household or residence, in recreation or otherwise or (b) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, in recreation or otherwise. Club Car indicates that it sells golf cars primarily to golf courses to transport golfers around the golf course, with only a small secondary market to consumers for their personal use. These golf cars are "consumer products" within the meaning of section 3(a)(1) of the Consumer Product Safety Act (hereinafter, "CPSA"), 15 U.S.C. 2052(a)(1).

5. Club Car manufactured and sold the golf cars directly and through authorized dealers throughout the United States. Club Car, therefore, is a "manufacturer" of a "consumer product" which is "distributed in commerce," as those terms are defined in sections 3(a) (1), (4) and (11) of the CPSC, 15 U.S.C. 2052(a) (1), (4) and (11).

6. The "staff" is the staff of the Consumer Product Safety Commision, an independent regulatory Commission of the United States of America (hereinafter "Commission") created pursuant to section 4 of the Consumer Product Safety Act (CPSA), as amended 15 U.S.C. 2053.

II. The Product

7. Club Car manufactured and distributed approximately 100,000 electric golf cars from March 1978 through October 1985. The Club Car electric golf cars are powered by six 6-volt batteries wired in series. These batteries, and the accompanying electrical wiring, are located directly below the seat of the car. The seat may be lifted to service the batteries and the electric wiring. A battery charger normally accompanies each car sold. The battery charger is connected to the car by means of a male plug inserted into a female receptacle located on the body of the car, below the seat.

III. Staff Allegations of a Defect in the Golf Car Charging System and of the Failure by Club Car to Comply with the Reporting Requirements of Section 15 (b) of the CPSA

8. The golf car electric charging system in place in certain of the cars manufactured between 1978 and 1985 contain design defects. In some circumstances, the male prongs of the charger plug may make poor contact with the golf car receptacle. In some cases the wires within the charger plug break at the point of connection with the male prongs. The result of the presence of these defects can be overheating during the battery charging process at the plug/receptacle connection. The overheating condition can result in a fire during charging in certain circumstances.

9. During the period 1979 through October 1985 Club Car received many complaints from its customers describing the unsatisfactory performance of the direct current (DC) electrical recharging plug and the DC receptacle. In some of those complaints, the customers alleged malfunctioning at the plug/receptacle connection which could result in overheating at that connection. Large numbers of plugs and receptacles were returned by Club Car customers for warranty replacements.

10. During the period 1981 through October 1985, a number of fires were reported to and investigated by Club Car. Club Car alleges that the fires often destroyed the evidence so that the fire's cause or ignition source could not be conclusively determined. However, many of these fires appeared to have occured during recharging of the Club Car electric golf car and may have involved overheating at the plug/receptacle connection. Some fires involved extensive property damage due to fire and, in some cases, the entire fleet of golf cars was destroyed.

11. In a Club Car Service Bulletin dated December 17, 1985, Club Car "users" were advised that certain battery charger cord sets and plugs may be defective and that newly designed cord sets, plugs and receptacles were available at no charge.

12. In a Club Car Service Bulletin dated April 22, 1986, "owners and operators" of Club Car electric golf carts were informed of the free cord set, plug and receptacle replacement program. Failure to heed the warning in the Bulletin could result in "personal injury or property damage."

13. Club Car had received sufficient information no later than December 1985, to reasonably support the conclusion that at least certain Club Car electric golf cars contained defects which could create a substantial product hazard. The company never reported such information to the Commission as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b).

IV. Allegations of Club Car

14. Club Car denies the staff allegations with respect to its electric golf cars and charging equipment. It further and specifically denies that its electric golf cars or charging equipment contain a defect which creates or which could create a substantial product hazard within the meaning of section 15(b) of the CPSA, 15 U.S.C. 2064(a), and further specifically denies any obligation to report information to the Commission under section 15(a) of the CPSA, 15 U.S.C. 2064(b), with respect to these electric golf cars.

V. Agreement of the Parties

15. Club Car and the staff agree that the Commission has jurisdiction in this matter for purposes of entry and enforcement of this Settlement Agreement and Order.

16. Club Car agrees to pay the Commission a civil penalty in the amount of $225,000.00 within 30 days of final acceptance of this Settlement Agreement by the Commission and service of the Commission's Order on Club Car. This payment is made in settlement of allegations by the staff that Club Car violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b), with regard to electric golf cars manufactured by Club Car between 1978 and 1985.

17. For purposes of section 6(b) of the CPSA, 15 U.S.C. 2055(b), this matter shall be treated as if a complaint has issued.

18. Upon final acceptance of this Settlement Agreement by the Commission, Club Car knowingly, voluntarily and completely waives any rights it may have (1) to an administrative or judicial hearing with respect to the Commission's claim for a civil penalty, (2) to judicial review or other challenge or contest of the validity of the Commission's action with regard to its claim for a civil penalty, (3) to a determination by the Commission as to whether a violation of section 15(b) of the CPSA, 15 U.S.C. 2064(b), has occured, and (4) to a statement of findings of fact and conclusions of law with regard to the Commission's claim for a civil penalty.

19. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the produre set forth in 15 CFR § 1118.20(e). If the Commission does not receive any written objections within 15 days, the Settlement Agreement and Order will be deemed finally accepted on the 16th day after the date if is published in the **Federal Register**, in accordance with 16 CFR 1118.29(f).

20. This Settlement is binding upon the Commission and Club Car and, with the exception of Club Car's successors and assigns, does not bind or limit others not party to this Settlement Agreement.

21. The parties further agree that the incorporated Order be issued under the CPSA, 15 U.S. 2051 *et seq.*, and that a violation of the Oder will subject Club Car to appropriate legal action.

22. No agreement, understanding, representation, or interpretation not contained in this Settlement Agreement and Order may be used to vary or to contradict its terms.

Club Car, Inc.

Andrew S. Krulwich,

Counsel to Club Car, Inc.

Consented to on behalf of the CPSC staff by:

Dated: January 3, 1989.

William J. Moore, Jr.,

Trial Attorney, Division of Administrative Litigation, Directorate for Compliance and Administrative Litigation.

Order

Upon consideration of the Settlement Agreement of the parties, it is hereby

Ordered, that Club Car, Inc. shall pay, within 30 days of final acceptance of this Settlement Agreement and service of this Order, a civil penalty in the sum of $225,000.00 to the Consumer Product Safety Commission.

Provisionally accepted on the 3rd day of January, 1989.

By Order of the Commission.

Sayde E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 89-682 Filed 1-11-89; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

January 5, 1988.

The USAF Scientific Advisory Board Ad Hoc Committee on Aerospace Applications of Superconductors will meet on Feb. 7, 89 from 8:00 a.m. to 5:00 p.m. at the Pentagon, DC 20330.

The purpose of this meeting is to draft a report on their findings. This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-683 Filed 1-11-89; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

U.S. Military Academy, Chief of Staff's Special Commission on Honor Code and Honor System; Partially Closed Meeting

Subject: Partially Closed Meeting to Review the Honor Code and Honor System at the U.S. Military Academy.

Name of Panel: Chief of Staff's Special Commission to Review the

Honor Code and Honor System at the U.S. Military Academy.

Date: 24 January 1989.

Place: U.S. Court of Military Appeals, 5th and E Streets, NW., Washington, DC.

Summary of Agenda:

Date/Time	Open-Closed to Public	Discussion Items
24 Jan/0900–1200.	Closed.....	Panel reports with preliminary findings on individual cadet cases.
24 Jan/1330–1500.	Open.....	Presentation to the Commission from interested parties.
24 Jan/1500–1630.	Closed.....	Discussion of draft report.

Notes:

1. The public may attend the meeting marked "Open".
2. The morning meeting is "Closed" to the public due to privacy act restrictions. Specific honor cases will be reviewed by the panel. The afternoon meeting is "Closed" to the public to preclude premature disclosure of Commission findings and recommendations to the Chief of Staff, Army.
3. The basis for the closed portions of the meeting is paragraph 6 and 9(b) of section 552b(c), Title 5, U.S. Code.

Point of Contact: Executive Secretary, LTC James O. Younts III, 695–1983.

Kenneth L. Denton,

Department of the Army, Alternate Liaison Officer With the Federal Register.

[FR Doc. 89–873 Filed 1–10–89; 4:35 pm]

BILLING CODE 3710–08–M

Military Traffic Management Command, Military Personal Property Symposium; Open Meeting

Announcement is made of meeting of the Military Personal Property Symposium. This meeting will be held on 26 January 1989 at the Sheraton Crystal City Hotel, Arlington, Virginia, and will convene at 0830 hours and adjourn at approximately 1500 hours.

Proposed Agenda: The purpose of this symposium is to provide a public forum for the discussion of matters of mutual interest concerning the Department of Defense Personal Property Shipment and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1530 hours. Topics to be discussed should be received on or before 12 January 1989.

Dated: December 21, 1988.

Joseph R Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 89–886 Filed 1–10–89; 4:36 pm]

BILLING CODE 3710–08–M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for a Proposed Debris Clearance Project in the Snake and Gros Ventre Rivers, Jackson Hole, Teton County, WY

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

SUMMARY: The Walla Walla District Corps of Engineers proposes to conduct a debris clearance project in the Snake and Gros Ventre Rivers in Jackson Hole, Wyoming. This action is necessary to protect levees which have been constructed along the rivers. Removal of the debris will restore channel carrying capacity and reduce deflection of water into the levees.

FOR FURTHER INFORMATION CONTACT: Comments concerning the project and DEIS should be addressed to Chief, Environmental Resources Branch, Corps of Engineers, Walla Walla District, Walla Walla, Washington 99362–9265. Comments or questions can be telephoned to Ms. Sandra Shelin at (509) 522–6626.

SUPPLEMENTARY INFORMATION:

1. This project is located along the Snake and Gros Ventre Rivers in Jackson Hole, Teton County, Wyoming. Land use in this area has been changing from primarily livestock grazing to recreational and residential development. The rivers in the area are highly braided and tend to spread out during high flows, causing flooding. To prevent flood damage, the Corps of Engineers and state and local entities built a series of levees along the Snake from River Mile 961.5 (on the opposite side of the river from Grand Teton National Park) to River Mile 944 and along the Gros Ventre from the mouth upstream to the Grand Teton National Park boundary. High flows in the Snake and Gros Ventre Rivers in the spring of 1986 deposited large quantities of woody debris in the river channels. Most of the debris consists of large dead cottonwood trees that settled on gravel bars after high flows receded. The large quantity of debris has reduced the channel carrying capacity, thereby increasing the potential for damage to the levees and subsequent flooding of areas protected by the levees. Gravel, sand, silt, and more trees and woody debris collect around the deposited debris, enhancing the formation of new gravel bars and islands. The debris and gravel bars redirect river flow patterns and often cause the river to flow directly into the levees, causing additional damage to the levee system at relatively low flows. This type of damage occurred during the spring of 1988 when flows were at a two-year level. In a letter dated July 31, 1986, the Teton County Commissioners asked the Corps to perform a clearing and snagging operation to alleviate the flood damage potential to the levees. The project went through several modifications until September 1988 when it was designated as an emergency action under Pub. L. 84–99, Flood Control and Coastal Emergencies. Because of the immediate need to complete the project before winter weather shut work down and spring runoff produced flooding, the Corps performed abbreviated environmental coordination over the telephone with Federal and state agencies and the county. Based on the information obtained through the telephone conversations, the Corps prepared a Finding of No Significant Impact (FONSI) and distributed it to the public and agencies. There were strong objections to the FONSI and the project, primarily from the local chapter of Trout Unlimited and from the Cheyenne office of Wyoming Department of Game and Fish, because of possible significant adverse impacts to cutthroat trout and nesting Canada geese. The county, in a letter to the Corps, withdrew its support for the project until additional environmental studies were performed. The Corps subsequently decided that an environmental impact statement was needed before the project could be accomplished.

2. Alternatives to be investigated include:

A—No action
B—Alternative removal methods:
1. Skidders and dozers (preferred)
2. Helicopter removal
3. Highlead removal
C—Alternative disposal methods:
1. Burn debris (preferred)
2. Bury debris
3. Chip debris
D—Quantities to be removed:
1. Remove all debris from levees and within channel.

2. Remove all debris from levees and within channel above annual flow level (preferred).

3. Same as 2), except leave additional debris in channel at 200–foot intervals and within 20 feet of annual flow channel.

4. Significant issues to be addressed in the DEIS include effects of the alternatives on fisheries, wildlife, endangered species, socioeconomics,

and cultural resources. The project will be reviewed under all applicable Federal, state, and local statutes.

5. Affected Federal, state, and local agencies, affected Indian tribes, and other interested organizations and parties are invited to participate in scoping for the DEIS. A formal scoping meeting is planned for mid-January 1989. The actual date and meeting place have not yet been determined.

6. The DEIS should be available on or about March 31, 1989.

Dated: December 19, 1988.

James A. Walter,

LTC, CE, Commanding.

[FR Doc. 89-685 Filed 1-11-89; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Chief of Naval Operations Executive Panel Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Radio-Electric Battle Management Task Force will meet February 6–7, 1989 from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to discuss the development of a Battle Management System that can survive the Soviet challenge, and provide the minimal information advantage necessary to prevail in extended combat environments. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interst of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Faye Buckman, Secretary to the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 601, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Date: January 5, 1989.

Sandra M. Kay,

Alternate Federal Register Liaison Officer.

[FR Doc. 89-614 Filed 1-11-89; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Naval Research Advisory Committee Panel on Countermine Capabilities for Amphibious Operations will meet on January 31–February 1, 1989. The meeting will be held at the Center for Naval Analyses, 4401 Ford Avenue, Alexandria, Virginia. The meeting will commence at 8:30 a.m. and terminate at 5:00 p.m. on January 31; and commence at 8:30 a.m. and terminate at 4:30 p.m. on February 1, 1989. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to provide briefings for the panel members related to an assessment of the mine/countermine threat and current capabilities and limitations, and an evaluation of the technological approaches to detection, neutralization, marking and reporting problems. The agenda will include discussions on amphibious concepts, operations and doctrine, an assessment of the threat, applicable technologies and systems, and investment strategy. These briefings and discussions will contain classified information that is specifically authorized under criteria established by Executive order. The classified and non-classified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander L.W. Snyder, U.S. Navy, Office of Naval Research, 800 North Quincy Street, Arlington, VA 22217–5000, Telephone Number: (202) 696–4870.

Date: January 5, 1989.

Sandra M. Kay,

Alternate Federal Register Liaison Officer.

[FR Doc. 89-615 Filed 1-11-89; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: January 27 and 28, 1989.

ADDRESS: The Palm Hotel, 630 Clearwater Park Road, West Palm Beach, Florida 33401.

FOR FURTHER INFORMATION CONTACT: Eunice E. Henderson, Designated Federal Official, Office of Assistant Secretary for Educational Research, and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 602C, Washington, DC 20208, Telephone: (202) 357–6050.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of Elementary and Secondary School Improvement Amendments of 21988 (Pub. L. 100–297); 20 U.S.C. 1221e–1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Education Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

The National Assessment Governing Board will meet in West Palm Beach, Florida on January 27 and 28, 1989. The Board will meet from 8:30 a.m. until the completion of business on January 27, 1989 and from 8:30 a.m. to 3:30 p.m. on January 28, 1989. The proposed agenda includes Board consideration and action on reports of subcommittees working on organizational and staffing issues and agenda setting matters.

On January 27, a portion of the meeting will be closed to the public. From 2:00 p.m. to 5:00 p.m. on January 27, 1989 the meeting will be closed to the public for discussion of NAEP policy

issues on which the Board's advice or discisions are needed in early 1989. The premature disclosure of these policy issues would significantly frustrate implementation of a proposed agency action. This portion of the meeting on January 27, 1989 will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c)(9)(B). If the proposed action, pertinent to matters being considered by the Board, is taken on or before January 27, 1989, this portion of the meeting of the National Assessment Governing Board will be open to the public.

On January 28, a portion of the meeting will be closed to the public. From 10:00 a.m. to 2:00 p.m. on January 28, 1989 the Board will review and consider applications for the position of Staff Director submitted in response to announcements in the press. Discussion will concern the qualifications of specific individuals for the position of Staff Director. Discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session and it will relate solely to the internal personnel rules and practices of an agency. This portion of the meeting will be closed under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. Appendix 2) and under exemptions (2) and (6) of section 552b(c) of the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c) (2) and (6)).

A summary of the activities at the closed session and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting. Records are kept of all Board proceedings, and until a permanent office site for the Board has been established, are available for public inspection at the U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 600, Washington, DC, from 8:30 a.m. to 5:00 p.m., Monday through Friday.

Dated: January 9, 1989.

Patricia Hines,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89–697 Filed 1–11–89; 8:45 am]

BILLING CODE 4000-01-M

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of a subcommittee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: January 26, 1989.

ADDRESS: The Palm Hotel, 630 Clearwater Park Road, West Palm Beach, Florida 33401.

FOR FURTHER INFORMATION CONTACT: Eunice E. Henderson, Designated Federal Official, Office of Assistant Secretary for Educational Research, and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Room 602C, Washington, DC 20208, Telephone: (202) 357–6050.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297); 20 USC 1221e–1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Education Progress, and develop specifications for the design, methodology, analysis and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

A subcommittee of the National Assessment Governing Board will meet in West Palm Beach on January 26, 1989 from 2:00 p.m. to 5:00 p.m. The proposed agenda includes the identification of National Assessment of Educational Progress (NAEP) policy issues that the full Board must consider and on which the Board's advice or decisions are needed in early 1989. The premature disclosure of these policy issues would significantly frustrate implementation of a proposed agency action. Such matters are protected by exemption (9)(B) of section 552b(c) of Title 5 U.S.C. The meeting of the subcommittee will be closed to the public under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–163; 5 U.S.C. Appendix 2) and the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 522b(c) (9)(B). However, if proposed agency action, pertinent to matters being considered by the Board, occurs on or before January 26, 1989, the meeting of this subcommittee will be open to the public.

A summary of the activities at the closed session and related matters which are informative to the public consistent with Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting. Until a permanent office site for the Board has been established, this summary is available for public inspection at the U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue, NW., Room 600, Washington, DC from 8:30 a.m. to 5:00 p.m., Monday through Friday.

Dated: January 9, 1989.

Patricia Hines,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89–698 Filed 1–11–89; 8:45 am]

BILLING CODE 4000-01-M

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of a subcommittee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATE: January 26, 1989.

ADDRESS: The Palm Hotel, 630 Clearwater Park Road, West Palm Beach, Florida 33401.

FOR FURTHER INFORMATION CONTACT: Eunice E. Henderson, Designated Federal Official, Office of Assistant Secretary for Education Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue NW., Room 602C, Washington, DC 20208, Telephone: (202) 357-6050.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act

(GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), Title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 21988 (Pub. L. 100–297); 20 U.S.C. 1221e–1).

The Board is established to advise the Commissioner of the National Center for Education Statistics on policies and actions needed to improve the form and use of the National Assessment of Education Progress, and develop specifications for the design, methodology, analysis, and reporting of test results. The Board also is responsible for selecting subject areas to be assessed, identifying the objectives for each age and grade tested, and establishing standards and procedures for interstate and national comparisons.

A subcommittee of the National Assessment Governing Board will meet in West Palm Beach, Florida on January 26, 1989 from 6:00 p.m. to 9:00 p.m. The proposed agenda includes the review and consideration of applications for the position of Staff Director submitted in response to announcements in the press. Discussion will concern the qualifications of specific individuals for the position of Staff Director. Discussion will touch up on matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session and it will relate solely to the internal personnel rules and practices of an agency. Such matters are protected by exemptions (2) and (6) of section 552b(c) of Title 5 U.S.C. The meeting of the subcommittee will be closed to the public under the authority of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–163; 5 U.S.C. Appendix 2) and the Government in the Sunshine Act (Pub. L. 94–409; 5 U.S.C. 552b(c)(2) and (6)). A summary of the activities at the closed session and related matters which are informative to the public consistent with Title 5 U.S.C. 552b will be available to the public within fourteen days of this meeting.

Records are kept of all Board proceedings, and until a permanent office site for the Board has been established, are available for public inspection at the U.S. Department of Education, Office of Educational Research and Improvement, 555 New Jersey Avenue NW., Room 600, Washington, DC from 8:30 a.m. to 5:00 p.m., Monday through Friday.

Dated: January 9, 1989.

Patricia Hines,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89–699 Filed 1–11–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 88–60–NG]

Gas Masters, Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada and Mexico

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas from Canada and Mexico.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Gas Masters, Inc. (GMI), blanket authorization to import natural gas from Canada and Mexico. The order issued in ERA Docket No. 88–60–NG authorizes GMI to import up to 100 Bcf over a two-year period for sales in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, 3F–056, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., December 30, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs Economic Regulatory Administration.

[FR Doc. 89–740 Filed 1–11–89; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ER89–146–000 et al.]

Public Service Electric & Gas Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Public Service Electric & Gas Company

[Docket No. ER89–146–000]

January 3, 1989.

Take notice that Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey on December 23, 1988, tendered for filing an agreement for the sale of limited term power to New England Power Company (NEP). Pursuant to the agreement PSE&G commenced selling on November 1, 1988 and will sell to NEP capacity and system power from time to time as scheduled by NEP.

PSE&G requests the Commission to waive its notice requirements to permit the Sale of Limited Term Power Agreement to become effective as of the commencement of the transaction, November 1, 1988. Copies of the filing have been served upon NEP.

Comment date: January 17, 1989, in accordance with Standards Paragraph E at the end of this notice.

2. MSU System Services, Inc.

[Docket No. ER89–143–000]

January 3, 1989.

Take notice that on December 23, 1988, MSU System Services Inc. (SSI), as agent for Louisiana Power & Light Company (LP&L) tendered for filing an Interchange Agreement between of Lafayette, Louisiana (Lafayette) and LP&L (Interchange Agreement), and two letter agreements for the sale of economy energy to Lafayette from LP&L (Letter Agreements).

SSI requests an effective date of March 1, 1988 for the Interchange Agreement, March 5, 1988 for the First Letter Agreement and August 21, 1988 for the Second Letter Agreement. SSI requests waiver of the Commission's notice requirements.

Comment date: January 17, 1989, in accordance with standard Paragraph E at the end of this notice.

3. Arizona Public Service Company

[Docket Nos. ER81–179–027 and ER81–179–026]

January 3, 1989.

Take notice that on December 16, 1988, Arizona Public Service Company (APS or Company) tendered for filing a Compliance Refund Report implementing the terms of a Settlement Agreement concerning certain potential refund amounts at issue as authorized by the Commission's Acceptance Letter dated December 1, 1988. The applicable refunds were made to the affected customers on December 16, 1988.

Copies of this filing have been served on the affected customers and the Arizona Corporation Commission.

Comment date: January 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Michigan Power Company

[Docket No. ER88-142-001]

January 3, 1989.

Take notice that on December 12, 1988, Michigan Power Company (Michigan Power) tendered for filing, in compliance with the Commission's order of January 31, 1988 in Docket No. ER88-142-000, proposed changes in its electric resale rate schedules presently on file with the Commission which are applicable to the City of Dowagiac, Michigan and the Village of Paw Paw, Michigan. The proposed change in resale rates will decrease Michigan Power's annual revenues from the City of Dowagiac by $86,199 and from the Village of Paw Paw by $67,543 for the period commencing December 22, 1987 and ending December 31, 1988 and will decrease Michigan Power's annual revenues from the City of Dowagiac by $117,649 and from the Village of Paw Paw by $88,624 for the period commencing January 1, 1989, based on a twelve month test period ended December 31, 1986 from rates in effect prior to December 22, 1987. The purpose of the present rate decrease filing is to reflect in Michigan Power's rates for the sale of power to the City of Dowagiac and the Village of Paw Paw reductions, approved by the Commission in Docket No. ER88-30-000, in the wholesale electric rates paid by Michigan Power to Indiana Michigan Electric Company.

Michigan Power requests that these rate changes be made effective as of December 22, 1987 and January 1, 1989.

Copies of the filing were served upon the City of Dowagiac, the Village of Paw Paw and the Michigan Public Service Commission.

Comment date: January 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Public Service Electric and Gas Company

[Docket No. ER89-145-000]

January 3, 1989.

Take notice that Public Service Electric and Gas Company (PSE&G) of Newark, New Jersey on December 23, 1988 tendered for filing an agreement for the sale of limited term power to Northeast Utilities Service Company's affiliates, the Connecticut Light and Power Company and Western Massachusetts Electric Company (NU Companies). Pursuant to the agreement PSE&G commenced selling on November 1, 1988 and will sell to the NU Companies capacity and system power from time to time as scheduled by the NU Companies.

PSE&G requests the Commission waive its notice requirements to permit the Sale of Limited Term Power Agreement to become effective as of the commencement of the transaction, November 1, 1988. Copies of the filing have been served upon the NU Companies.

Comment date: January 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Riley Energy Systems of Lisbon, Corporation

[Docket No. QF88-505-000]

January 4, 1989.

On December 20, 1988 Riley Energy Systems of Lisbon, Corporation (Applicant), of 5 Neponset Street, Worcester, Massachusetts 01606 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located in Lisbon, Connecticut. The facility will consist of two (2) 250 tons per day waste to energy trains utilizing a mass burn system. The net electric power production capacity will be approximately 12,700 kilowatts. The primary energy source will be biomass in the form of municipal solid waste. Propane will be used for start-up and shutdown, however, such usage will not exceed 6.1% of the total energy input of the facility during any calendar year. Construction of the facility is scheduled to begin in the Spring of 1989.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

7. Pacific Gas and Electric Company

[Docket No. ER89-94-000]

January 4, 1989.

Take notice that on November 28, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing a revision to Rate Schedule FERC No. 29. This rate schedule covers an agreement between PG&E and Pacific Power & Light Company (PP&L) for mutual provision of services, dated September 20, 1967. The revision is a letter agreement between the parties dated August 7, 1973, which modifes PG&E's obligation to return energy banked by PP&L with PG&E.

PG&E has requested waivers to allow the letter agreement to be effective as of December 1, 1972.

Copies of this filing were served upon PP&L and the California Public Utilities Commission. In addition, copies of this filing are available for public inspection at PG&E's General Office in San Francisco.

Comment date: January 13, 1988, in accordance with Standard Paragraph E at the end of this notice.

8. Kansas Gas and Electric Company

[Docket No. ES89-12-000]

January 5, 1989.

Take notice that on December 28, 1988, Kansas Gas and Electric Company filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to 400,000 shares of common stock, without par value. The securities are to be issued from time to time pursuant to the Applicant's Employee Stock Ownership Plan.

Comment date: January 26, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER87-365-003]

January 5, 1989.

Take notice that on December 29, 1988, Southern California Edison Company (SCE) tendered for filing a Compliance Refund Report in compliance with the Commission's Order of December 1, 1988.

Comment date: January 13, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Centel Corporation

[Docket No. ES89-13-000]

January 5, 1989.

Take notice that on December 29, 1988, Centel Corporation (the Applicant), filed an application with the Federal Energy Regulatory Commission, pursuant to section 204 of the Federal Power Act, seeking an order authorizing the issuance of up to 2,500,000 shares of its common stock, $2.50 par value, to be issued in connection with its Sixteenth Employee Stock Purchase Program, its Management Incentive Plan, its Stock Option Plan, and its Director Stock Option Plan.

Comment date: January 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Public Service Company of New Mexico

[Docket No. ER89-127-000]

January 5, 1989.

Take notice that on December 16, 1988, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Cancellation of Service Schedule F to the Interconnection Agreement between PNM and the City of Farmington, New Mexico (City)—PNM Rate Schedule FERC No. 51, Supplement No. 6.

PNM requests that the notice requirements be waived to permit Service Schedule F to be terminated as of April 30, 1983.

Comment date: January 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

12. Public Service Company of New Mexico

[Docket No. ER89-126-000]

January 5, 1989.

Take notice that on December 16, 1988, Public Service Company of New Mexico (PNM) tendered for filing a Notice of Cancellation of the Letter Agreement dated April 6, 1981 between PNM and the Division of Colorado River Resources (DCRR)—PNM Rate Schedule FERC No. 42.

PNM requests that the notice requirements be waived to permit this Letter Agreement to be terminated as of September 30, 1981.

Comment date: January 17, 1989, in accordance with Standard Paragraph E at the end of this notice.

13. Florida Power & Light Company

[Docket No. ER89-119-000]

January 5, 1989.

Take notice that on December 15, 1988, Florida Power & Light Company (FPL) tendered for filing a document entitled Amendment Number Twenty-One to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Utilities Commission, City of New Smyrna Beach, Florida (Rate Schedule FERC No. 59).

FPL states that under Amendment Number Twenty-One, FPL will transmit power and energy for Utilities Commission, City of New Smyrna Beach, Florida as required in the implementation of certain interchange arrangements with Tampa Electric Company.

FPL requests that waiver of the Commission's Regulations be granted and that the proposed Amendment be made effective on January 1, 1989. FPL states that copies of the filing were served on Utilities Commission, City of New Smyrna Beach, Florida.

Comment date: January 23, 1989, in accordance with Standard Paragraph E at the end of this notice.

14. Enserch Development Corporation and Encogen Four Partners, Ltd.

[Docket No. QF89-108-000]

January 5, 1989.

On December 23, 1988, Enserch Development Corporation and Encogen Four Partners, Ltd. (Encogen) of Two World Trade Center, New York, New York 10048-0752 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed topping-cycle cogeneration facility will be located at the American Brass Company in Buffalo, New York. The facility will consist of a combustion turbine generator, a heat recovery steam generator and an extraction/condensing turbine generator. Thermal energy recovered from the facility will be used for process and thermal applications at the American Brass Company. The maximum net electric power production capacity of the facility will be 67 MW. Primary source of energy will be natural gas with distillate oil as backup fuel. Installation of the facility is scheduled to commence in the third quarter of 1989.

The facility will be owned and operated by Encogen, a Texas limited partnership. The general partner will be Enserch Development Corporation, a Texas corporation. The limited partners will be PSDS Energy Incorporated, a Delaware corporation, and American Brass Company, L.P., a Delaware limited partnership.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-744 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF86-930-003]

Power Resources, Inc., Big Spring; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

January 10, 1989.

On December 30, 1988, Power Resources, Inc. (Applicant), of Five Post Oak Park, Suite 1400, Houston, Texas 77027, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Big Spring topping-cycle cogeneration facility is located at the Fina Oil and Chemical Company in Big Spring, Texas. The facility will consist of two combustion turbine-generators, two heat recovery steam generators and an extraction/condensing steam turbine-generator. The thermal energy recovered from the facility will be used in the oil refining process. The primary energy source will be natural gas and refinery off-gas.

The original application was filed on July 17, 1986 and was granted on October 10, 1986; 37 FERC ¶ 62,030 (1986). The first recertification was filed on December 18, 1986 and was granted on March 16, 1987; 38 FERC ¶ 62,244 (1987). The instant recertification is requested due to increase in net electric power production capacity from 224.2 MW to 252 MW and change in the address of the Applicant.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-767 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-2999-002 et al.]

Union Pacific Resources Co. et al.; Applications for Certificates, Abandonment of Service and Amendment of Certifications [1]

January 10, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce, to abandon service or to amend certificates as described herein, all as more fully described in the respective applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 24, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Description
G-2999-002 D, 12-8-88	Union Pacific Resources Company, P.O. Box 7, M.S. 3202, Fort Worth, TX 76101-0007.	Tennessee Gas Pipeline Company, LaReforma Field, Starr County, Texas.	(1)
G-5214-003 D, 11-30-88	Sohio Petroleum Company, P.O. Box 4587 Houston, TX 77210.	Tennessee Gas Pipeline Company, Six Parish Field, Calcasieu and Davis Parishes, Louisiana.	(2)
G-5668-000 D, 11-30-88	Sohio Petroleum Company	Texas Gas Transmission Corporation, South Lewisburg Field, Acadia and St. Landry Parishes, Louisiana.	(2)
G-7230-001 B, 12-5-88	Tenneco Oil Company, P.O. Box 2511, Houston, TX 77252.	Northern Natural Gas Company, Division of Enron Corp. Guyman-Hugoton Field, Texas County, Oklahoma.	(3)
G-9947-002 D, 12-6-88	Tenneco Oil Company	Natural Gas Pipeline Company of America, Camrick Field, Texas and Beaver Counties, Oklahoma.	(4)
G-11481-000 D, 12-9-88	Union Pacific Resources Corporation	Texas Eastern Transmission Corporation, Chapman Ranch Field, Nueces County, Texas.	(1)
G-11580-000 D, 11-30-88	Sohio Petroleum Company	Northern Natural Gas Company, Division of Enron Corp., Eumont Field, Lea County, New Mexico.	(2)
G-17791-000 D, 11-30-88	Sohio Petroleum Company	ANR Pipeline Company, Mocane-Laverne Field, Harper County, Oklahoma.	(2)
G-18449-000 D, 12-13-88	Sun Exploration and Production Company, P.O. Box 2880, Dallas, TX 75221-2880.	El Paso Natural Gas Company, Jalmat and Langlie-Mattix Fields, Lea County, New Mexico.	(3)
CI60-738-000 D, 12-1-88	Tenneco Oil Company	Panhandle Eastern Pipeline Company, Seiling NE Field, Major, *et al.*, Counties, Oklahoma.	(5)
CI62-535-000 D, 11-30-88	Sohio Petroleum Company	El Paso Natural Gas Company, Ignacio Blanco Field, La Plata County, Colorado.	(2)
CI66-332-000 D, 12-14-88	Chevron U.S.A. Inc., P.O. Box 3725, Houston, TX 77253-3725.	Tennessee Gas Pipeline Company, West Delta 52 Field, Offshore Louisiana.	(7)
CI67-79-000 B, 12-1-88	Tenneco Oil Company	Panhandle Eastern Pipe Line Company, Peek S. Field, Ellis County, Oklahoma.	(8)
CI71-83-000 D, 11-30-88	Sohio Petroleum Company	Panhandle Eastern Pipe Line Company, Northeast Keenan Field, Woodward County, Oklahoma.	(2)
CI71-595-001 E, 12-2-88	Amoco Production Company, P.O. Box 50879, New Orleans, LA 70150.	Tennessee Gas Pipeline Company, East Cameron Blocks 261 and 264, Offshore Louisiana.	(9)
CI74-352-001 D, 12-8-88	Union Pacific Resources Company	Southern Natural Gas Company, Unknown Pass Field, Orleans Parish, Louisiana.	(1)
CI76-713-001 D, 12-8-88	Union Pacific Resources Company	El Paso Natural Gas Company, East Carlsbad and Burton Flat Fields, Eddy County, New Mexico.	(1)
CI77-114-004 D, 12-13-88	Sun Exploration and Production Company	El Paso Natural Gas Company, Jalmat Field, Lea County, New Mexico.	(5)
CI78-33-007 D, 12-5-88	Amoco Production Company, P.O. Box 3092, Houston, TX 77253.	El Paso Natural Gas Company, Empire South Morrow Field, Eddy County, New Mexico.	(10)
CI82-297-002 CI82-296-001 E, D, 12-5-88.	Diamond Shamrock Offshore Partners Limited Partnership, 717 N. Harwood Street, Dallas, TX 75201.	Panhandle Eastern Pipe Line Company, Block A-542, High Island Area, Offshore Texas.	(11)
CI82-298-001 CI82-299-001 E, D, 12-2-88.	Diamond Shamrock Offshore Partners Limited Partnership.	Trunkline Gas Company, Block A-542, High Island Area, Offshore Texas.	(12)
CI89-112-000 (CI64-1075) D, 11-29-88.	Tenneco Oil Company	Tennessee Gas Pipeline Company, Heyser Field, Calhoun and Victoria Counties, Texas.	(13)
CI89-115-000 (G-11450) D, 11-30-88	Sohio Petroleum Company	Florida Gas Transmission Company, Grosse Tete Field, West Baton Rouge Parish, Louisiana.	(2)
CI89-116-000 (CI65-1050) D, 11-30-88.	Sohio Petroleum Company	Lone Star Gas Company, a Division of Enserch Corporation, East Washington Field, McClain County, Oklahoma.	(2)

Docket No. and date filed	Applicant	Purchaser and location	Description
CI89-117-000 (CI68-2263) D, 11-30-88.	Sohio Petroleum Company	Transcontinental Gas Pipe Line Corporation, Washington Field, St. Landry Parish, Louisiana.	(2)
CI89-118-000 (CI65-1153) D, 11-30-88.	Sohio Petroleum Company	Tennessee Gas Pipeline Company, South Pass, Block 24 Field, Plaquemines Parish, Louisiana.	(2)
CI89-119-000 (G-9491) D, 11-30-88	Sohio Petroleum Company	Texas Eastern Transmission Corporation, Nordheim Field, DeWitt County, Texas.	(2)
CI89-120-000 (CI71-287) D, 11-30-88	Sohio Petroleum Company	Ringwood Gathering Company, Ringwood Field, Major County, Oklahoma.	(2)
CI89-121-000 (G-3784) D, 11-30-88	Sohio Petroleum Company	Transcontinental Gas Pipe Line Corporation, Greta Field, Refugio County, Texas.	(2)
CI89-122-000 (CI62-883) D, 11-30-88	Sohio Petroleum Company	El Paso Natural Gas Company, Bakke Field, Andrews County, Texas.	(2)
CI89-123-000 (G-18957) D, 11-30-88	Sohio Petroleum Company	El Paso Natural Gas Company, Eumont Field, Lea County, New Mexico.	(2)
CI89-124-000 (CI62-337) D, 11-30-88	Sohio Petroleum Company	Transcontinental Gas Pipe Line Corporation, West Kaplan Field, Vermilion Parish, Louisiana.	(2)
CI89-125-000 (CI78-565) D, 11-30-88	Sohio Petroleum Company	ANR Pipeline Company, Putman Field, Dewey County, Oklahoma.	(2)
CI89-126-000 (CI61-618) D, 11-30-88	Sohio Petroleum Company	Natural Gas Pipeline Company of America, N.E. Thompsonville Field, Webb County, Texas.	(2)
CI89-127-000 (CI71-460) D, 11-30-88	Sohio Petroleum Company	Northern Natural Gas Company, Division of Enron Corp., Puckett Field, Pecos County, Texas.	(2)
CI89-128-000 (CI77-175) D, 11-30-88	Sohio Petroleum Company	El Paso Natural Gas Company, Drinkard Field, Lea County, New Mexico.	(2)
CI89-129-000 (CI75-644) D, 11-30-88	Sohio Petroleum Company	Northern Natural Gas Company, Division of Enron Corp., Drinkard Field, Lea County, New Mexico.	(2)
CI89-130-000 (CI63-125) D, 11-30-88	Sohio Petroleum Company	Northern Natural Gas Company, Division of Enron Corp., Northeast Camrick Field, Beaver County, Oklahoma.	(2)
CI89-131-000 (CI65-104) D, 11-30-88	Sohio Petroleum Company	Panhandle Eastern Pipeline Company, Putman Field, Dewey County, Oklahoma.	(2)
CI89-132-000 (G-4602) D, 11-30-88	Sohio Petroleum Company	Texas Gas Transmission Corporation, South Lewisburg Field, Acadia and St. Landry Parishes, Louisiana.	(2)
CI89-133-000 (CI65-684) D, 11-30-88	Sohio Petroleum Company	ANR Pipeline Company, Putman Field, Dewey County, Oklahoma.	(2)
CI89-134-000 (CI66-193) D, 11-30-88	Sohio Petroleum Company	Texas Eastern Transmission Corporation, Delhi Field, Franklin and Madison Parishes, Louisiana.	(2)
CI89-135-000 (CI64-213) D, 11-30-88	Sohio Petroleum Company	Natural Gas Pipeline Company of America, Camrick Field, Beaver County, Oklahoma.	(2)
CI89-136-000 (CI66-44) (CI66-193) D, 11-30-88.	Sohio Petroleum Company	Transcontinental Gas Pipe Line Corporation, Johnson Bayou Field, Cameron Parish, Louisiana.	(2)
CI89-137-000 (CI79-9) D, 11-30-88	SSohio Petroleum Company	Williams Gas Supply, Colorow Gulch, Rio Blanco County, Colorado.	(2)
CI89-138-000 (G-3784) D, 11-30-88	SSohio Petroleum Company	United Gas Pipe Line Company, Barnell Field, Bee, Kansas and Goliad Counties, Texas.	(2)
CI89-139-000 (G-5928) D, 11-30-88	Sohio Petroleum Company	Transcontinental Gas Pipe Line Corporation, Egan Field, Acadia Parish, Louisiana.	(2)
CI89-140-000 (CI61-780) D, 11-30-88	Sohio Petroleum Company	Oxy Cities Service NGL, Inc., Northeast Waynoka Field, Woods County, Oklahoma.	(2)
CI89-141-000 (CI60-489) D, 11-30-88	Sohio Petroleum Company	Southern Natural Gas Company, Felice Bayou-West Field, Plaquemines Parish, Louisiana.	(2)
CI89-142-000 (CI70-750) D, 11-30-88	SSohio Petroleum Company	Transcontinental Gas Pipe Line Corporation, Egan Field, Acadia Parish, Louisiana.	(2)
CI89-143-000 (CI65-175) D, 11-30-88	Sohio Petroleum Company	Northern Natural Gas Company, Division of Enron Corp., Drinkard Field, Lea County, New Mexico.	(2)
CI89-144-000 (G-17906) D, 11-30-88	Sohio Petroleum Company	Apache Gas Corporation, Ingham Field, Crockett County, Texas.	(2)
CI89-146-000 (CI64-1047) B, 12-1-88	Tenneco Oil Company	Texas Eastern Transmission Company, Meyersville Field, DeWitt County, Texas.	(14)
CI89-147-000 (CI79-362) D, 12-1-88 [17].	Sohio Petroleum Company	Colorado Interstate Gas Company, Keyes Field, Cimarron County, Oklahoma.	(4)
CI89-148-000 (CI65-1168) B, 12-1-88	Sohio Petroleum Company	Florida Gas Transmission Company, McGrill Ranch Field, Kennedy County, Texas.	(15)
CI89-149-000 (CI63-1504) D, 12-1-88	Sohio Petroleum Company	Arkla Energy Resources, a division of Arkla, Inc., SE Custer Field, Custer County, Oklahoma.	(4)
CI89-151-000 A, 12-5-88	Sun Exploration and Production Company	Transcontinental Gas Pipe Line Corporation, West Tuleta Field Bee County, Texas.	(19)
CI89-153-000 E, 12-5-88	Amoco Production Company	Williams Natural Gas Company, Hugoton Field, Finney County, Kansas.	(20)
CI89-155-000 (G-10478) D, 12-5-88	Tenneco Oil Company	Panhandle Eastern Pipe Line Company, Bernstein Field, Hansford County, Texas.	(21)
CI89-157-000 (CI64-1068) D, 12-5-88	Sohio Petroleum Company	Texas Eastern Transmission Corporation, Waskom (Cotton Valley) Field, Harrison and Panola Counties, Texas.	(22)
CI89-158-000 (CI64-1049) D, 12-5-88	Sohio Petroleum Company	Arkla Energy Resources, a division of Arkla, Inc., Waskom Field, Caddo Parish, Louisiana.	(22)
CI89-159-000 (G-17949) D, 12-5-88	Sohio Petroleum Company	Williams Natural Gas Company, Medicine Lodge N. Pool Field, Barber County, Kansas.	(23)
CI89-160-000 (G-2896) B, 12-1-88	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, TX 75221.	Panhandle Eastern Pipe Line Company, West Panhandle Field, Moore County, Texas.	(24)

Docket No. and date filed	Applicant	Purchaser and location	Description
CI89-161-000 B, 12-2-88	Horizon Oil & Gas Company, P.O. Box 1020, Dallas, TX 75221.	Panhandle Eastern Pipe Line Company, Greenwood Field, Baca County, Colorado.	[25]
CI89-167-000 (CI64-1028) D, 12-6-88	Tenneco Oil Company	Texas Eastern Transmission Corporation, Delhi Field, Richmond Parish, Louisiana.	[26]
CI89-170-000 (CI70-972) D, 12-8-88	Mobil Producing Texas & New Mexico Inc., 12450 Greenspoint Drive, Houston, TX 77060-1991.	Transwestern Pipeline Company, South Carlsbad Field, Eddy County, New Mexico.	[27]
CI89-171-000 (CI62-1216) D, 12-7-88	Tenneco Oil Company	Texas Eastern Transmission Corporation, May Field, Kleberg County, Texas.	[28]
CI89-172-000 (CI67-584) B, 12-8-88	Union Pacific Resources Company	Northern Natural Gas Company, Division of Enron Corp., N.E. Catesby Field, Woodward and Ellis Counties, Oklahoma.	[29]
CI89-173-000 (CI78-902) D, 12-9-88	Union Pacific Company	Mississippi River Transmission Corporation, Leatherman Creek Field, Claiborne Parish, Louisiana.	[1]
CI89-174-000 (G-17179) D, 12-9-88	ARCO Oil and Gas Company, Division of Atlantic Richfield Company.	Northern Natural Gas Company, Division of Enron Corp., Mertzon Field, Irion County, Texas.	[30]
CI89-175-000 (CI62-412) B, 12-9-88	Chevron U.S.A. Inc.	United Gas Pipe Line Company, Hollywood Field, Terrebonne Parish, Louisiana.	[31]
CI89-176-000 (CI64-1059) B, 12-9-88	Tenneco Oil Company	Texas Eastern Transmission Corporation, Doehrman, et al. Field, DeWitt County, Texas.	[32]
CI89-177-000 (CI68-621) D, 12-12-88	Tenneco Oil Company	Tennessee Gas Pipeline Company, Bethany Field, Panola County, Texas.	[33]
CI89-178-000 (CI79-363) B, 12-14-88	Tenneco Oil Company	El Paso Natural Gas Company, Mocane-Laverne Field, Beaver County, Oklahoma.	[34]

[1] By assignment executed October 1, 1988, Applicant assigned its interest in certain acreage to Bristol Resources 1987-1 Acquisition Program, effective October 1, 1988.

[2] By assignment executed October 6, 1988, Applicant assigned certain interests to Presidio Oil Company, effective October 1, 1988.

[3] The J.W. Webb #1 well was plugged and abandoned and the lease surrendered to landowners. By assignment executed May 2, 1988, Applicant assigned certain interests to Maple Properties Corporation, effective December 1, 1987.

[4] By assignment executed May 2, 1988, Applicant assigned its interest in certain acreage to Maple Properties Corporation, effective December 1, 1987.

[5] By assignment executed November 30, 1988, Applicant assigned certain acreage to Hal J. Rasmussen and The Williams Partnership.

[6] By respective assignments executed July 24, 1986, December 15, 1986, February 19, 1987, and November 15, 1985, Applicant assigned certain interests to Alexander Energy Corporation, Vita Oil Company, Unit Corporation and Redgate Petroleum, Inc., effective June 1, 1986, December 1, 1986, January 1, 1987, and December 1, 1985.

[7] Applicant assigned certain acreage to American Land & Exploration, Inc., effective October 1, 1987.

[8] Applicant states that the well was plugged and abandoned, effective April 3, 1982.

[9] Effective July 1, 1987, Applicant acquired certain interests from Tenneco Oil Company.

[10] Applicant assigned certain acreage to Nortex Corporation, effective March 1, 1988.

[11] Effective October 1, 1988, Applicant acquired certain interests from Zapata Exploration Company previously covered under certificates issued in Docket Nos. CI82-297-000 and CI82-296-001. Applicant requests that the interests covered under the certificate in Docket No. CI82-296-001 be deleted from that certificate and be added to the certificate in Docket No. CI82-297-000 and that the two rate schedules be consolidated.

[12] Effective October 1, 1988, Applicant acquired certain interests from Zapata Exploration Company previously covered under certificates issued in Docket Nos. CI82-298-000 and CI82-299-001. Applicant requests that the interests covered under the certificate in Docket No. CI82-299-001 be deleted from that certificate and added to the certificate in Docket No. CI82-298-000 and that the two related rate schedules be consolidated.

[13] By assignment executed April 4, 1988, Applicant assigned its interest in certain acreage to Paul F. Barnhart, L. Irvin Barnhart, Paul F. Barnhart, Jr., Paul F. Barnhart, Trustee and Velda B. Evans, effective January 1, 1988. By a separate assignment effective January 1, 1988, Applicant assigned its remaining interest in certain acreage to Fina Oil and Chemical Company.

[14] Applicant states that the well was plugged and abandoned and the lease was surrendered.

[15] Applicant states that the lease was surrendered.

[16] Not used.

[17] Additional information received December 13, 1988.

[18] Not used.

[19] Applicant is filing to cover its own interests previously covered under Union Texas Petroleum Company's certificate in Docket No. CI71-798 and related FERC Gas Rate Schedule No. 104.

[20] Effective November 1, 1986, Applicant acquired certain interests from Northern Pump Company, *et al.*

[21] By assignments executed June 25, 1982, and May 2, 1988, Applicant assigned certain interests to Spur Petroleum, Inc., and Maple Properties Corporation.

[22] Applicant assigned certain acreage to Marshall Exploration Inc., effective November 1, 1986.

[23] Applicant assigned certain acreage to Pickrell Drilling Company, Inc., effective August 1, 1987.

[24] Applicant states that the wells were plugged and abandoned. By assignments dated February 16, 1977, and August 28, 1980, Applicant assigned its interests in certain acreage to R.L. Losure, T.C. Losure and Losure Petroleum.

[25] Applicant states that the Jenkins #1-28 well was plugged and abandoned.

[26] By assignment executed May 4, 1988, Applicant assigned certain acreage to Murphy Oil USA, Inc.

[27] By assignment executed May 31, 1988, Applicant assigned certain acreage to Petrus Oil Company, effective June 1, 1988.

[28] By assignment executed April 4, 1988, Applicant assigned its interest in certain acreage to OXY USA, Inc., effective November 1, 1987.

[29] Applicant states that certain leases were dropped from the contract due to cessation of production. By assignment executed January 16, 1987, Applicant's predecessor-in-interest, Champlin Petroleum Company, assigned its interest in certain acreage to Joe A. Huitt, effective December 1, 1986. By assignment executed September 29, 1988, Applicant assigned its interest in the remaining acreage to Bristol Resources 1987-1 Acquisition Program, effective October 1, 1988.

[30] Applicant assigned certain acreage to Hondo Oil & Gas Company effective January 1, 1987.

[31] Applicant states that some of its reserves were depleted and some leases expired in January 1983. Effective June 18, 1986, Applicant assigned certain acreage to DAC Oil Corporation.

[32] Applicant states that certain leases were surrendered. By assignments executed July 25, 1977, and June 24, 1976, Applicant assigned certain interests to Ragars Oil and Gas Company and Robert B. Thompson, respectively.

[33] By assignments executed April 1, 1982, and June 10, 1985, Applicant assigned certain acreage to Eli Rebich and Vernon E. Faulconer, respectively.

[34] Applicant states that the well was plugged and abandoned and that Applicant did not retain any lease rights.

FILING CODE; A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 89-768 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-482-000 et al.]

Northwest Pipeline Corp. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Northwest Pipeline Corporation

[Docket No. CP89-482-000]

January 5, 1989.

Take notice that on December 22, 1988, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed at Docket No. CP89-482-000, a request pursuant to §§ 157.205, 157.211, 157,212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 157.212 and 157.216) for authorization to construct, operate and to abandon certain natural gas facilities and to reallocate natural gas service to facilitate sales and deliveries to The Washington Water Power Company

(Water Power), an existing customer, under Northwest's blanket authorization issued in Docket No. CP82–433–000, all as more fully set forth in the request which is on file with the Commission and open top public inspection.

Northwest states that Water Power requested that additional service be provided at Northwest's McGuire, Idaho delivery point to Water Power, so that Water Power could provide service to a new customer in that area, IMS Inc., an aluminum smelting company. It is stated that Water Power notified Northwest that it wanted to shift 27,000 therms of its maximum daily delivery quantity (MDDQ) under Rate Schedule ODL–1 from the Bunker Hill, Idaho delivery point to the McGuire Idaho delivery point. It is further stated that the proposed reduction in volumes delivered at Bunker Hill would not jeopardize Water Power's ability to serve the existing and projected requirement of its customers in that service area.

The reallocated MDDQ which Northwest proposes to provide at the affected meter stations is set forth below:

	Existing MDDQ (Therms)	Proposed MDDQ (Therms)
Bunker Hill	64,780	37,780
McGuire	7,700	34,770
Total	72,480	72,480

In order to provide the proposed increased deliveries at McGuire, Northwest proposes to construct and operate a new McGuire Meter Station adjacent to the existing McGuire Meter Station located in Section 32, Township 51 North, Range 5 West in Kootenai County, Idaho. The new metering station will consist of a 4-inch, 600 pound hot tap valve assembly, a 250,000 Btu per hour line heater with by-pass valving, a skid mounted regulatory manifold, a dual 6-inch turbine meter station and appurtenant facilities.

Northwest estimates that the total cost of the proposed facilities will be approximately $132,220. Northwest also proposes that, upon completion of construction and the placement into service of the new meter station, the old McGuire Meter Station will be abandoned and the facilities removed. The estimated cost of removal of these facilities is $5,000.

It is stated that Water Power has agreed to reimburse Northwest for all direct costs associated with the construction of the new meter station and abandonment of the old station, excluding Northwest labor charges. Such costs are expected to equal $101,320. Finally, Northwest advises that Water Power has also agreed to reimburse Northwest approximately $33,828 to compensate for the income tax impact of the contribution in aid of construction.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Pacific Gas Transmission Company

[Docket No. CP89–460–000]

January 5, 1989.

Take notice that on December 20, 1988, Pacific Gas Transmission Company (PGT), 160 Spear Street, San Francisco, California 94105–1570, filed in Docket No. CP89–460–000 an application pursuant to section 7(c) of the Natural Gas Act (NGA) for a certificate of public convenience and necessity authorizing PGT to build and operate facilities and authorizing the interstate transportation of natural gas transported for certain utilities located in the Pacific Northwest, the intermountain region and in Southern California (Customers), all as more fully set forth in the request on file with the commission and open to public inspection.

The proposed facilities, PGT states, would complete the looping of PGT's existing pipeline within its existing right-of-way (installation of a new pipeline parallel to and interconnecting with the existing pipeline): Pacific Gas and Electric Company (PG&E) will also expand its California facilities to deliver gas to southern California Customers. PGT states that it intends to provide only firm transportation service on these new, incremental facilities.

PGT states that it seeks authorization to construct and operate facilities that would allow approximately 710 MMcf/d of natural gas to be received at Kingsgate, British Columbia and, on an average annual basis, approximately 150 MMcf/d would be delivered to the existing interconnection with Northwest Pipeline Corporation (Northwest) at Stanfield, Oregon and approximately 600 MMcf/d would be delivered to the existing interconnection with PG&E near Malin, Oregon.

Of the 600 MMcf/d which would be transported between Stanfield and Malin, PGT states that 60 MMcf/d will be volumes which PGT currently transports between Kingsgate and Stanfield for its existing customer, Pacific Interstate Transmission Company (PITCO), and for which PGT herein seeks a change in delivery point from Stanfield to Malin. To the extent that Customer demand warrants it, PGT states that it may supplement this filing by expanding the capacity of the facilities proposed herein or by adding other delivery points along the proposed route in the Pacific Northwest.

Between the International Boundary and Stanfield, PGT states that it would install approximately 104 miles of 42-inch diameter pipeline looping. South of Stanfield, PGT states that it would install approximately 326 miles of 36-inch diameter pipeline looping to Malin, where PGT's system interconnects with that of PG&E.

The proposed project also includes looping of the PG&E intrastate pipelines within the State of Califonia. The proposed 36-inch looping would continue for 294 miles on PG&E's system to a terminus near Brentwood, California, PGT states. PG&E would also install an additional 120 miles of 36-inch looping south of Brentwood, paralleling the existing Stanpac No. 2 Pipeline to Panoche Station, PGT adds. PGT states that PG&E would seek appropriate certificate authorization from the California Public Utilities Commission for such facilities.

PGT states it is negotiating firm transportation service arrangements for the proposed service with PITCO as well as with several large southern California utilities: Southern California Gas Company (SoCal), Southern California Edison Company, San Diego Gas and Electric Company, the Los Angeles Department of Water and Power, and the City of Long Beach. PGT states that it is also negotiating similar firm transportation arrangements with a number of gas distribution utilities in the Pacific Northwest and the intermountain region: Cascade Natural Gas Corporation, IGI Resources, Inc., Northwest Natural Gas Company, Washington Natural Gas Company, and Washington Water Power Company. These firm transportation Customers, PGT states, would be responsible for obtaining natural gas supplies in Canada and obtaining the requisite Canadian export and U.S import authorizations. This project is intended solely to serve the transportation needs of these utility Customers, PGT states.

PGT states that the Canadian gas purchased by the Customers would be transported to the international

Boundary near Kingsgate, through additional pipeline expansions in Alberta and southeastern British Columbia. PGT states that it expects to utilize 100 percent of this capacity for firm transportation service. Therefore, PGT states, no interruptible transportation service is offered by this application and PGT is not currently seeking a blanket "open access" certificate.

PGT states that PG&E, expanding its facilities as necessary, would deliver thermally equivalent volumes, adjusted for fuel and line loss, to southern California at the major intrastate interconnection of the PG&E and SoCal Gas systems at the Kern River Station, near Bakersfield, California. After receipt of gas at the Kern River Station from PG&E, SoCal gas would provide intrastate transportation for the customers in southern California, PGT states. In the Pacific Northwest and intermountain region, PGT states that after receipt of transported gas at the point of interconnection with Northwest's existing system at Stanfield, Customers would be responsible for redelivery of such gas to their own distribution systems.

PGT states that its existing compressor stations would be used with centrifugal compressor aerodynamic assembly changes on five existing units and compressor replacement at ten existing stations, PGT states. PGT states that existing metering facilities would be expanded to allow for increased flows.

PGT states that total capital costs, including allowance for funds used during construction, for PGT's portion of the proposed project are estimated, on a 1988 cost basis, at $470,116,000. PGT states that it proposes conventional financing with a projected mix of 70 percent debt and 30 percent equity capital. PGT proposes to depreciate these new facilities based on a 30-year economic life. PGT states that it does not request "cost-of-service" rate treatment for its proposed project.

PGT states that the costs for the proposed transportation services include only incremental costs and do not include any costs of PGT's existing pipeline system. Under this cost allocation proposal, PGT states that its existing customers bear no cost responsibility for the new facilities or services and have no risk of exposure to any cost responsibility in the event the facilities are underutilized.

PGT states that it proposes to provide new firm transportation service, based on the incremental cost of the Expansion Project, via new Rate Schedules T–3 and T–4. Rate Schedule T–3 is for firm transportation service for gas received at Kingsgate, or Stanfield, and delivered to Malin. Rate Schedule T–4 is for firm transportation service for gas received at Kingsgate, and delivered to Stanfield.

PGT states that the proposed rate structure consists of a two-part monthly reservation charge using a D–1 and D–2 component, each designed to recover 50 percent of the total fixed cost of the expansion based upon a maximum daily and annual delivery quantities, respectively. No usage charge or commodity charge is proposed. PGT also requests the authority to negotiate individual reservation charges which may be lower than the maximum. Customers agreeing to pay a lower reservation charge would then pay a usage charge equal to the difference between the maximum reservation charge stated in this application and the negotiated reservation charge, PGT adds. PGT states that firm transportation priorities would be based on the present value of the Customer's per unit reservation charge.

PGT states its proposed rates as follows:

Pro forma rate schedule	Monthly reservation charges	D–1 / D–2
T–3:		
Kingsgate, British Columbia to Malin, Oregon	$5.070356	$0.196118
Stanfield, Oregon	2.774103	0.107301
T–4: Kingsgate, British Columbia to Stanfield, Oregon	2.296257	0.088818

PGT states that it projects that on or about November 30, 1993, it would begin deliveries for the Customers, assuming the receipt of all necessary regulatory approvals and the completion of necessary preconstruction activities in time to allow construction to begin in early 1992.

Comment date: January 26, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. United Gas Pipe Line Company

[Docket No. CP89–497–000]

January 5, 1989.

Take notice that on December 28, 1988, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–497–000 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 on behalf of Nerco Oil and Gas, Inc. (Nerco), under the authorization issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for Nerco, a marketer and producer of natural gas, pursuant to a transportation agreement dated November 28, 1988 (contract no. T1–21–1641). United proposes to transport on a peak day up to 77,250 MMBtu; on an average day up to 77,250 MMBtu; and on an annual basis 28,196,250 MMBtu of natural gas for Nerco. United proposes to receive the subject gas from Nerco at an existing interconnection in Black Lake Field, Natchitoches Parish, Louisiana, for redelivery to existing points of interconnection in Ouachita Parish and Rapides Parish, Louisiana. It is alleged that Nerco would pay United the effective rate contained in United's rate schedule ITS, or such other rates as may be just and reasonable and acceptable to United. United avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self-implementing provision of § 284.223(a)(1) of the Commission's regulations. United commenced such self-implementing service on December 15, 1988, as reported in Docket No. ST89–1304–000.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Panhandle Eastern Pipe Line Company

[Docket No. CP89–490–000]

January 5, 1989.

Take notice that on December 28, 1988, Panhandle Eastern Pipe Line Company (Panhandle), 3000 Bissonet, Houston, Texas 77251–1642, filed in Docket No. CP89–490–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act for authorization to provide additional delivery points and reassign volumes of gas delivered to Kansas Power and Light Company (KP&L), an existing jurisdictional sales customer of Panhandle, under the certificate issued in Docket No. CP86–585–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle proposes to add three existing delivery points to its Rate Schedule G–3 sales agreement with

KP&L. It is stated that these three delivery points were deleted from the Rate Schedule G–2 sales agreement with KP&L. Panhandle states that the subject points are as follows: (1) The Stillwell point located in Johnson City, Kansas; (2) the 159th and State Line point located in Johnson County, Kansas; and (3) the Kansas State Line delivery point.[1]

Panhandle states that it has sufficient capacity to make the deliveries to the subject delivery points without detriment or disadvantage to its existing customers. No new facilities are proposed. Panhandle indicates that the total maximum delivery obligations to KP&L under the Rate Schedule G–3 sales agreement would remain at 12,510 Mcf per day for firm service, as shown below.

Affected delivery point	Volume (Mcf/d)		Difference
	Previous	Current	
Osawatomie	3,041	2,361	(680)
Paola	4,202	3,202	(1,000)
Stillwell		1,000	1,000
159th & State Line		600	600
Kansas State Line		80	80
Subtotal	7,243	7,243	
Other points	5,267	5,267	
Total	12,510	12,510	

Comment date: February 21,1989, in accordance with Standard Paragraph G at the end of this notice.

5. United Gas Pipe Line Company

[Docket No. CP89–494–000]

January 5, 1989.

Take notice that on December 28, 1988, United Gas Pipe Line Company (United) P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–494–000 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 on behalf of Natural Gas Clearinghouse (NGC), under the authorization issued in Docket No. CP88–6–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

United would perform the proposed interruptible transportation service for NGC, a marketer of natural gas, pursuant to a transportation agreement dated November 28, 1988 (contract no. T1–21–1977). The term of the transportation agreement is for a primary term of one month from the date of first delivery of gas and shall continue in effect month-to-month thereafter until terminated. United proposes to transport on a peak day up to 103,000 MMBtu; on an average day up to 103,000 MMBtu; and on an annual basis 37,595,000 MMBtu of natural gas for NGC. United proposes to receive the subject gas from NGC at an existing interconnection in Black Lake Field, Natchitoches Parish, Louisiana, for redelivery to three existing delivery points in Ouachita Parish, Louisiana. It is alleged that NGC would pay United the effective rate contained in United's rate schedule ITS, or such other rates as may be just and reasonable and acceptable to United. United avers that construction of facilities would not be required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's regulations. United commenced such self-implementing service on December 15, 1988, as reported in Docket No. ST89–1305–000.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Alabama-Tennessee Natural Gas Company

[Docket Nos. CP87–46–004, CP87–400–002, and CP88–56–003]

January 5, 1989.

Take notice that on December 21, 1988, Alabama-Tennessee Natural Gas Company (Petitioner), P.O. Box 918, Florence, Alabama, 35631, filed in Docket Nos. CP87–46–004, CP87–400–002, and CP88–56–003, a petition to amend the orders issued on March 16, 1987, February 22, 1988, and April 27, 1988, in the captioned dockets, pursuant to section 7(c) of the Natural Gas Act so as to authorize an extension in the term of the limited-term certificates issued in such dockets, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Petitioner states that the Commission, by its orders issuing the above certificates, authorized Petitioner to transport volumes of natural gas on an interruptible basis for Tennessee Valley Authority (TVA) for use at its Muscle Shoals, Alabama, National Fertilizer Development Center (Docket No. CP87–46), for Reynolds Metals Company and Southern Reclamation Company (Reynolds) for use at its plant near Listerhill, Alabama (Docket No. CP87–400), and for the City of Decatur, Alabama (Decatur) for resale to its customers (Docket No. CP88–56). Petitioner states that it has received requests from TVA, Reynolds and Decatur, to continue the transportation service after the expiration of the existing certificate authorization. Petitioner also states that it desires to continue to make interruptible transportation service available on its pipeline system to TVA, Reynolds and Decatur.

Petitioner therefore requests that the limited-term certificates issued in the captioned proceedings be extended for a limited term ending as follows:

Docket No. CP87–46 on March 10, 1990.
Docket No. CP87–400 on February 22, 1990.
Docket No. CP88–56 on April 27, 1990.

Petitioner asserts that no other changes or modifications in the exisiting authorized services are proposed.

Comment date: January 26, 1989, in accordance with the first subparagraph

[1] Panhandle explains that it is concurrently filing an application with the Commission under section 7(b) of the Natural Gas Act seeking partial abandonment of sales contract demand and deletion of sales to delivery points from its Rate Schedule G–2 sales agreement with KP&L. It is stated that in such application, sales from three of the delivery points deleted from the Rate Schedule G–2 sales agreement are being added to the Rate Schedule G–3 sales agreement.

of Standard Paragraph F at the end of this notice.

7. Colorado Interstate Gas Company

[Docket No. CP89-519-000]

January 6, 1989.

Take notice that on December 30, 1988, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-519-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Cominco American Incorporated (Cominco), an end-user, under the blanket certificate issued in Docket No. CP86-589-000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

CIG states that pursuant to a transportation agreement dated October 31, 1988, under its Rate Schedule TF-1, it proposes to transport up to 10,000 Mcf per day of natural gas for Cominco from points of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A." CIG states that it would receive the gas at existing points on its system located in Colorado, and that it would transport and redeliver the gas, less fuel gas and lost and unaccounted-for gas, in Hutchinson County, Texas.

CIG advises that service under § 284.223(a) commenced November 1, 1988, as reported in Docket No. ST89-841-000. CIG further advises that it would transport 9,000 Mcf on an average day and 3,285 MMcf annually.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Mid-Louisiana Gas Company

[Docket No. CP89-508-000]

January 6, 1989.

Take notice that on December 29, 1988, Mid-Louisiana Gas Company (Mid-Louisiana) 5251 DTC Parkway, Englewood, Colorado 80111, filed in Docket No. CP89-508-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide a transportation service for Wintershall Corporation (Wintershall), its parent, under Mid-Louisiana's blanket certificate issued in Docket No. CP86-214-000, 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.

Applicant states that pursuant to a transportation agreement dated October 16, 1988, it proposes to transport natural gas for Wintershall from receipt points located in the Monroe, Vixen, Luna and Irene production fields of Louisiana and from Eugene Island Block 18, West Cameron Block 32 and the Grand Bay Receiving Station located offshore Louisiana. The gas would be delivered on behalf of Wintershall at points of interconnection between the facilities of Mid-Louisiana and Transcontinental Gas Pipeline Company in Ethel, Louisiana and between Mid-Louisiana and ANR Pipeline Company at Eugene Island Block 34, offshore Louisiana. Peak day and average day transportation quantities are both expected to be 50,000 MMBtu, which would result in an annual transportation quantity of 18,250,000 MMBtu. Mid-Louisiana advises that the service commenced November 19, 1988, as reported in Docket No. ST89-1398-000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Williams Natural Gas Company

[Docket No. CP89-506-000]

January 6, 1989.

Take notice that on December 29, 1988, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-506-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide a transportation service for The Kansas Power and Light Company (KPL), under WNG's 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 requests authorization to transport, on a firm basis, up to a maximum of 24,825 MMBtu of natural gas per day for KPL from various receipt points in Kansas, Oklahoma, Texas and Wyoming to various delivery points on WNG's pipeline system located in Kansas, Missouri, Nebraska and Oklahoma. WNG anticipates transporting 24,825 MMBtu on average and peak days, which would result in 9,061,125 MMBtu being transported annually. WNG states that the transportation service commended on November 1, 1988, as reported in Docket No. ST89-1154-000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Colorado Interstate Gas Company

[Docket No. CP89-521-000]

January 6, 1989.

Take notice that on December 30, 1988, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-521-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide a firm transportation service for Cominco American Incorporated (Cominco), an end-user, under the blanket certificate issued in Docket No. CP86-589-000, *et al.*, 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.

CIG states that pursuant to a transportation agreement dated October 31, 1988, under its Rate Schedule TF-1, it proposes to transport up to 5,000 Mcf per day of natural gas for Cominco from points of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A". CIG states that it would receive the gas at an existing point on its system located in Sweetwater County, Wyoming, and that it would transport and redeliver the gas, less fuel gas and lost and unaccounted-for gas, in Hutchinson County, Texas.

CIG advises that service under § 284.223(a) commenced November 1, 1988, as reported in Docket No. ST89-1356-000. CIG further advises that it would transport 4,500 Mcf on an average day and 1,642 MMcf annually.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Colorado Interstate Gas Company

[Docket No. CP89-520-000]

January 6, 1989.

Take notice that on December 30, 1988, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-520-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a firm transportation service for Cominco American Incorporated (Cominco), an end-user, under the blanket certificate issued in Docket No. CP86-589-000, *et al.*, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on

file with the Commission and open to public inspection.

CIG states that pursuant to a transportation agreement dated October 31, 1988, under its Rate Schedule TF-1, it proposes to transport up to 10,000 Mcf per day of natural gas for Cominco from points of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A". CIG states that it would receive the gas at an existing point on its system located in Sweetwater County, Wyoming, and that it would transport and redeliver the gas, less fuel gas and lost and unaccounted-for gas, in Hutchinson County, Texas.

CIG advises that service under § 284.223(a) commenced November 1, 1988, as reported in Docket No. ST89-839-000. CIG further advises that it would transport 9,000 Mcf on an average day and 3,285 MMcf annually.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the 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. 89-656 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS67-37-001 et al.]

M.A. Hanna Co., Tri-Service Drilling Co. et al.; Applications for Small Producer Certificates [1]

January 10, 1989.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Commission's Regulations thereunder for a small producer certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before January 24, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

Docket No.	Date filed	Applicant
CS67-37-001	[1] 11-30-88	M.A. Hanna Co., (Tri-Service Drilling Co.), 214 West Texas, Suite 1200, Midland, TX 79701.
CS71-178-000	[2] 10-21-88	Graham-Michaelis Drilling Co. and Graham-Michaelis Corp., (Graham-Michaelis Drilling Co.), P.O. Box 247, Wichita, KS 67201.
CS88-99-000	[3] 9-26-88	TBA Petroleum, Inc., Gale Thompson and Karen Bowles, Rt. 1, Box 113, Erick, OK 73645.
CS89-9-000	11-29-88	Devon Energy Corp., 1500 Mid-America Tower, 20 North Broadway, Oklahoma City, OK 73102-8260.
CS89-10-000	11-29-88	Greenhill Petroleum Corp., 141 Union Boulevard, Suite 475, Lakewood, CO 80228.
CS89-11-000	12-5-88	Rice Oil Co., 1301 East Scharbauer St., Hobbs, NM 88240.
CS89-12-0100	12-20-88	John T. (Tom) Hull, P.O. Box 1268, Pawhuska, OK 74056.

[1] By letter dated November 15, 1988, Applicant requests that the name of M.A. Hanna Company be recognized as small producer certificate holder in Docket No. CS67-37 in lieu of Tri-Service Drilling Company.

[2] By letter dated October 19, 1988, as supplemented by letter dated November 21, 1988, Applicant requests to add Graham-Michaelis Corporation as small producer certificate coholder in Docket No. CS71-178, along with Graham-Michaelis Drilling Company.

[3] Additional material received December 6, 1988.

[FR Doc. 89-769 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[Docket Nos. CP-89-510-000, et al.]

Williams Natural Gas Company, et al.; Natural Gas Certificate Filings

January 4, 1989.

Take notice that the following filings have been made with the Commission:

1. Williams Natural Gas Company

[Docket No. CP89-510-000]

Take notice that on December 29, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP-89-510-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act for PSI, Inc. and Utilicorp United, Inc. (PSI/Utilicorp), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for PSI/Utilicorp, a marketer, on an interruptible basis, pursuant to a transportation agreement dated October 1, 1988. Williams explains that service commenced October 1, 1988, under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89-1151-000. Williams further explains that the peak day quantity would be 250,000 MMBtu, the average day quantity would be 250,000 MMBtu, and that the annual quantity would be 91,250,000 MMBtu. Williams explains that it would receive natural gas for the account of PSI/Utilicorp at receipt points located in Kansas, Colorado, Missouri, Texas, Wyoming, and Oklahoma and would redeliver the gas at various delivery points in Kansas, Missouri, Oklahoma, Texas and Wyoming.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP89-492-000]

January 4, 1989.

Take notice that on December 28, 1988, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89-492-000 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 on behalf of PSI, Inc. (PSI), a natural gas marketer, under its blanket authorization issued in Docket No. CP86-582-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Natural would perform the proposed interruptible transportation service for PSI, pursuant to an interruptible transportation service agreement dated September 20, 1988. The transportation agreement is effective through the end of September 1988, and shall continue month to month thereafter unless terminated by five days prior notice by either party. Natural proposes to transport up to a maximum of 1000,000 MMBtu of natural gas per day (plus any additional volumes accepted pursuant to the overrun provision of Natural's Rate Schedule ITS); on an average day up to 10,000 MMBtu; and on an annual basis 3,650,000 MMBtu of natural gas for PSI. Natural proposes to receive the subject gas at various points located in the states of Arkansas, Illinois, Indiana, Kansas, Louisiana (including Offshore Louisiana), New Mexico, Oklahoma, and Texas. It is stated that the points of delivery are located in the states of Indiana and Texas. The ultimate consumers are: High Plains Natural Gas Company, City of Canadian Light Plant, Phillips Petroleum, Northern Indiana Public Service Company, Air Prod. & Chem. Inc., Allis Chalmers Mfg. Co., Am. General Corp., American Can Co., American Cyanamid Co., American Home Foods, American Maize Products, American Steel Forys, Amoco Oil Co., Austenal Microcast Div., Bendix Corp., Bethlehem Steel Corp., Blaw Knox F & Mill Inc., Budd Co., Bunge Corp., C.J. Wood Co., Celotex Corp., Central Soya Co. Inc., Commonwealth Edison 2nd, Corning Glass Works, Culver Ed Foundation, Dalton Foundries, Dana Corp.-Ft. Wayne Div., Dodge Mfg. Corp., E.I. Dupont De Nemours. Elkhart General Hosp., Energy Cooperative Inc., Essex-International, Falstaff Brewing Corp., Federated Metals Corp., Fort Wayne State Sanpol, G.A.T.X., General Electric Co.-Taylor St., General Tire & Rubber, Georgia Pacific Corp., Gladieux Refinery, Glidden-Durkee Div., Globe Industries, Goshen Milk Div., Griffith Food Prod. Inc., Grissom Air Force Base, Hammond Lead Prod., Harbison Walker Refract, Ind. Fuel & Asphalt, Indiana Fore & Mach Co., Inland Steel Co., International Harvester, Joslyn Steel, Kaiser Alum. And Chem. Corp., Keyes Fibre Co.,, Lake Country Commissioners, Laketon Asphalt, Laporte Hosptial, Lasalle Steel Co., Lehigh Portland Cemt. Co., Lever Brothers, Linde Co., Luvis Bros. Co. Inc., Mason Metals Co. Inc., Memorial Hospital of Sb, Metallurgical Proc. Corp., Midwest Steel Div. of National Steel, Miles Laboratories Inc., N. American Rockwell Corp., N.I.R. Corp., National Can Corp., Owens Corning Fibreglass, Packaging Corp. of America, Parkview Memorial Hospital, Peter Echrich and Sons, Phelps Dodge Copper, Porter Memorial Hospital, R.R. Donneley & Sons, Roll Coater Inc., Screw & Bolt Corp. of America, Simmons Co., St. Anthony's Hospital, St. Catherine's Hospital, St. Margaret Hospital, Standard Forging Corp., Stauffer Chemical Corp., Themark Corp., Terrington Co. Inc., US Gypsum Co., US Reduction Co., Union Carbide Linde Div., Union Drawn Republic ST., Union Tank Car Co., United States Steel Corp., Univ. Notre Dame Power House, Valpariso University, Vulcan Metals, Wabash Smelting, Westville Oil & Mfg. Inc., Wheelbrator Corp., White Farm Equipment Co., Wilson Foods Corp., Winamac Steel Products, Wylain Inc., Youngstown Steel & Tubing Co. and Zollner Corp. Natural Avers that no new facilities are required to provide the proposed service.

It is explained that the proposed service is currently being performed pursuant to the 120-day self implementing provision of § 284.223(a)(1) of the Commission's Regulations. Natural commenced such self-implementing service on November 1, 1988, as reported in Docket No. ST89-1465-000.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Williams Natural Gas Company

[Docket No. CP89-505-000]

Take notice that on December 29, 1988, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89-505-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas under its blanket certificate issued in Docket No. CP86-631-000 pursuant to section 7 of the Natural Gas Act for PSI, Inc. (PSI), all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams proposes to transport natural gas for PSI, a marketer, on a firm basis, pursuant to a transportation agreement dated November 1, 1988. Williams explains that service commenced November 1, 1988, under § 284.223(a) of the Commission's

Regulations, as reported in Docket No. ST89-1155-000. Williams further explains that the peak day quantity would be 2,167 MMBtu, the average day quantity would be 2,167 MMBtu, and that the annual quantity would be 790,955 MMBtu. Williams explains that it would receive natural gas for PSI's account at receipt points located in Kansas, Missouri, Texas, Wyoming, and Oklahoma and would redeliver the gas for PSI's account at various delivery points in Kansas.

Comment date: February 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Mitchell Marketing Company, et al.

[Docket No. CI89-150-000, et al.]

Take notice that each Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act and the Federal Energy Regulatory Commission's (Commission) regulations thereunder for an unlimited-term blanket certificate with pregranted abandonment authorization, all as more fully set forth in the applications which are on file with the Commission and open for public inspection.

Docket No. and date filed	Applicant
CI89-150-000 12-5-88	Mitchell Marketing Co. 2001 Timberloch Place, The Woodlands, TX 77380.
CI89-169-000 12-7-88	Graham Energy Marketing Corp., 109 Northpark Blvd., P.O. Box 3134, Covington, LA 70434-3134.

Comment date: January 18, 1989, in accordance with Standard Paragraph J at the end of this notice.

Standard Paragraphs

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.

J. Any person desiring to be heard or make any protest with reference to said filings should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-747 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-20-000 and TM89-6-20-000]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

January 9, 1989.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on January 3, 1989, tendered for filing proposed changes in its FERC Gas Tariff, Second Revised Volume No. 1, as set forth in the revised tariff sheets:

Proposed to be Effective March 1, 1989

Thirtieth Revised Sheet No. 201

Proposed to be Effective February 1, 1989

Twenty-fourth Revised Sheet No. 205
Fifteenth Revised Sheet No. 214

Algonquin states that pursuant to Section 17 of the General Terms and Conditions, it is filing Thirtieth Revised Sheet No. 201 as part of its Annual Purchased Gas Adjustment ("Annual PGA") to update its latest estimated cost of purchased gas, as more fully set forth in the instant filing. The proposed effective date for Thirtieth Revised Sheet No. 201 is March 1, 1989.

Algonquin states that the rate changes in the Annual PGA represent a projected increase in Algonquin's purchased gas costs of approximately $4.3 million for the three month period beginning March 1, 1989, for Rate Schedules F-1, WS-1, E-1, and I-1.

Algonquin states that it is filing Twenty-fourth Revised Sheet No. 205 and Fifteenth Revised Sheet No. 214 to track changes made by its pipeline supplier, Texas Eastern, in the rates underlying Algonquin's Rate Schedules F-4 and SS-III, respectively. The changes in Rate Schedule F-4 reflect a decrease of $1.113 per MMBtu in the Demand component and an increase of $0.192 in the Commodity component. The change in rate Schedule SS-III reflects a decrease in the Non-FDDQ Withdrawal charge of $0.0108 per MMBtu. The proposed effective date of Twenty-fourth Revised Sheet No. 205 and Fifteenth Revised Sheet No. 214 is February 1, 1989.

Algonquin notes that copies of this filing were served upon the affected parties 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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests in Docket No. TA89-1-20-000 should be filed on or before January 31, 1989, and all such motions or protests in Docket No. TM89-6-20-000 should be filed on or before January 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants party to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

FR Doc. 89-748 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-48-000]

ANR Pipeline Co.; Proposed Changes in FERC Gas Tariff

January 9, 1989

Take notice that ANR Pipeline Company ("ANR"), on December 29, 1988, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet to be effecive February 1, 1989:

Nineteenth Revised Sheet No. 18

ANR states that the purpose of the instant filing is to implement ANR's quarterly PGA rate adjustment pursuant to section 15 of the General Terms and Conditions of ANR's Tariff.

ANR states Nineteenth Revised Sheet No. 18 shows a 16.65¢ per dekatherm

(dth) increase in the gas cost component of the commodity rate of ANR's CD-1/MC-1 Rate Schedules, a decrease of $0.099 in the monthly D-1 demand rate and a reduction of .93¢ in the D-2 demand rate applicable to the CD-1/MC-1 Rate Schedules. The instant filing further reflects an increase in ANR's one-part rate applicable to Rate Schedules SGS-1 of 13.88¢ per dth.

ANR states that copies of the filing were served upon all of its 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 Commission, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-749 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-211-004]

CNG Transmission Corp.; Compliance Filing and Motion

January 6, 1989.

Take notice that CNG Transmission Corporation ("CNG") on December 30, 1988, tendered for filing Fifth Revised Sheet No. 31, Third Revised Sheet No. 32, Second Revised Sheet No. 33, Alternate Fifth Revised Sheet No. 31, Alternate Third Revised Sheet No. 32 and Alternate Second Revised Sheet No. 33, all to Original Volume No. 1 of CNG's FERC Gas Tariff, to become effective January 1, 1989, subject to refund. Also take notice that CNG moved to make the revised tariff sheets effective on January 1, 1989, at the close of the suspension period in this case.

CNG states that the proposed alternate tariff sheets comply with the Commission's suspension order issued August 1, 1988, as amended on rehearing, and that the primary tariff sheets reflect a voluntary reduction in rates from the compliance filing level.

Copies of the filing were served upon CNG's jurisdictional customers, parties to Docket No. RP88-211-000 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 (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1989. 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. 89-657 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-3-21-000]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1989.

Take notice that Columbia Gas Transmission Corporation (Columbia) on December 30, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective February 1, 1989:

One hundred and thirty-second Revised Sheet No. 16
Twentieth Revised Sheet No. 16A2
Thirth-seventh Revised Sheet No. 64A

Columbia states that the sales rates set forth on One hundred and thirty-second Revised Sheet No. 16 reflect an overall increase of 1.15¢ per Dth in the Commodity rate, and decreases of $.249 per Dth in the Demand-1 rate and 3.59¢ per Dth in the Demand-2 rate. In addition, the transportation rates set forth on Eighteenth Revised Sheet No. 16A2 reflect an increase in the Fuel Charge component of .03¢ per Dth.

Columbia states that these tariff sheets reflect the following:

(1) A Current Purchased Gas Cost Adjustment Applicable to Sales Rate Schedules;

(2) The one-month continuation of certain surcharges which were accepted by the Commission on February 26, 1988 to be effective during the 12-month period March 1, 1988 through February 28, 1989; and

(3) A Transportation Fuel Charge Adjustment.

In addition, Columbia states that it has entered into revised service agreements which significantly modify its prior service agreements with Texas Eastern Transmission Corporation (Texas Eastern). However, because the new service agreements are subject to the terms and conditions contained in a Commission approved settlement in Docket Nos. RP85-177, *et al.*, which has yet to become effective, the rate impact of the new service arrangements with Texas Eastern is not reflected in the instant PGA. However, Columbia requested the Commission to grant certain waivers in connection with costs incurred under the revised Texas Eastern service agreements. Specifically, waivers related to converted sales service and standby charges as set forth in the revised agreements.

Copies of the filing were served upon the Company'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, Union Center Plaza Building, 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 January 13, 1989. 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 Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-658 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-187-012]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1989.

Take notice that Columbia Gas Transmission Corporation (Columbia) on December 30, 1988, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1989:

Eighteenth Revised Sheet No. 16B
Eighth Revised Sheet No. 16B1
Eighth Revised Sheet No. 16B2

Columbia states that the foregoing tariff sheets modify and supplement Columbia's previous filings in Docket No. RP88-187 in which Columbia

established procedures pursuant to Order No. 500 to recover from its customers the take-or-pay and contract reformation costs billed to Columbia by its pipeline suppliers. Specifically, Columbia proposes to revise and supplement its earlier filings to permit it to flow through take-or-pay and contract reformation costs to be billed to it by (i) Texas Gas Transmission Corporation pursuant to the Federal Energy Regulatory Commission's (Commission) order issued on December 8, 1988 in Docket Nos. RP88–177 and RP88–230, (ii) Panhandle Eastern Pipe Line Company (Panhandle) pursuant to the Commission's orders on issued December 5, 1988 in Docket No. RP88–241 and on December 8, 1988 in Docket No. RP88–240, and (iii) Panhandle pursuant to the Commission's orders issued on November 25, 1988 in Docket Nos. RP89–9 and RP89–10.

Copies of the filing were served upon Columbia's jurisdictional customers and interested state commissions and upon each person designated on the official service list compiled by the Commission's Secretary in Docket No. RP88–187–000.

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, Union Center Plaza Building, 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 January 13, 1989. 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 Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–659 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–3–34–000]

Florida Gas Transmission Co.; Proposed Changes In FERC Gas Tariff

January 6, 1989.

Take notice that on December 30, 1988, Florida Gas Transmission Company (FGT) tendered for filing the following tariff sheets to its FERC Gas Tariff, to be effective February 1, 1989.

FERC Gas Tariff, First Revised Volume No. 1

37th Revised Sheet No. 8

FERC Gas Tariff, Original Volume No. 2

59th Revised Sheet No. 128

FGT states that these tariff sheets are filed in accordance with § 154.308 of the Commission's Regulations and pursuant to Section 15 (Purchased Gas Adjustment Clause) of FGT's FERC Gas Tariff, First Revised Volume No. 1 to reflect an increase in FGT's jurisdictional rates due to an increase in its average cost of gas purchased from that reflected in its Quarterly PGA filing, Docket No. TQ89–2–34–000, effective November 1, 1988.

FGT states that the effect of the purchased gas cost reduction being filed represents an increase of 1.550 cents/therm for Rate Schedules G and I and .44 cents/Mcf for Rate Schedule T–3 as measured against FGT's Quarterly PGA filing in Docket No. TQ89–2–34–000 effective November 1, 1988.

FGT states that copy of its filing has been served on all customers receiving gas under its FERC Gas Tariff, First Revised Volume No. 1, Original Volume No. 2 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 and 385.214 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–660 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–3–51–000]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Purchased Gas Adjustment Clause Provisions

January 6, 1989.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on December 29, 1988, tendered for filing Eighteenth Revised Sheet Nos. 57(i) and 57(ii), Nineteenth Revised Sheet Nos. 57(i) and 57(ii) and Sixth Revised Sheet No. 57(v) to Great Lakes Gas Transmission Company's ("Great Lakes") FERC Gas Tariff, First Revised Volume No. 1.

Great Lakes states that these tariff sheets reflect PGA rates for the months February, March and April, 1989 as required by Commission Order No. 483, dated November 10, 1987, and Great Lakes' FERC Gas Tariff.

Great Lakes states that Eighteenth Revised Sheet Nos. 57(i) and 57(ii), proposed to be effective February 1, 1989, reflect a surcharge rate which expires on February 28, 1989. Nineteenth Revised Sheet Nos. 57(i) and 57(ii) are enclosed in order to reflect the termination of the surcharge and are proposed to be effective on March 1, 1989.

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 January 13, 1989. 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. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89–661 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–1–45–000]

Inter-City Minnesota Pipelines Ltd., Inc.; Tariff Filing

January 9, 1989.

Take notice that on December 30, 1988, Inter-City Minnesota Pipelines Ltd., Inc. ("Inter-City") 245 Yorkland Boulevard, North York, Ontario, Canada MJ2 1R1, tendered for filing a revised tariff sheet to Original Volume No. 1 of its FERC Gas Tariff to be effective February 1, 1989:

Original Volume No. 1

First Revised Thirty-First Revised Sheet No. 4

Inter-City states that this revised tariff sheet is filed as Inter-City's quarterly PGA pursuant to Order Nos. 483 and 483–A. The revised tariff sheet reflects a

commodity rate of $1.48 per MMBtu in Inter-City's Eastern Zone and of $2.51 per MMBtu in Inter-City's one-part rate for the Western Zone.

Inter-City states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions. Any persons 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 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 January 17, 1989. 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 has previously filed a motion to intervene in this proceeding is not required to file a futher motion. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–750 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP72–110–047]

Iowa-Illinois Gas and Electric Co.; Filing

January 9, 1989.

Take notice that on December 30, 1988, Iowa-Illinois Gas and Electric Company (Iowa-Illinois) filed a petition for waiver of the provisions of the requirements of § 385.2011 of the Commission's Regulations.

Iowa-Illinois states that it is unable to comply with the electronic data reporting requirements as they pertain to FERC Form No. 2/2A. Iowa-Illinois states that its FERC Form No. 2/2A is due April 30, 1989 and cannot acquire the computer development capability in time to comply. Iowa-Illinois alleges that the acquisition of such computer development capability would cause severe economic hardship. Accordingly, Iowa-Illinois requests a waiver for the maximum period of one year from the filing requirement to file Form No. 2/2A on electronic media as it does not have, and is unable to acquire, the computer development capability to timely file the information required.

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 (1989)). All such motions or protests should be filed on or before January 17, 1989. 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. 89–751 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–4–5–000]

Midwestern Gas Transmission Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

January 9, 1989.

Take notice that on December 30, 1988, Midwestern Gas Transmission Company (Midwestern) filed Thirty-Sixth and Thirty-Seventh Revised Sheets No. 6 to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1989 and February 1, 1989 respectively.

Midwestern states that the current Purchased Gas Cost Rate Adjustments reflected on Thirty-Seventh Revised Sheet No. 6 consist of a (5.56) cents per dekatherm adjustment applicable to the gas component of Midwestern's sales rates, and a ($.79) per dekatherm adjustment applicable to the Demand D–1 component. Midwestern states that Thirty-Sixth Revised Sheet No. 6 is being filed to incorporate changes filed in Docket Nos. RP89–36 and TQ89–3–5.

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 January 17, 1989. 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 area available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–752 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–2–47–000]

MIGC Inc.; Proposed Gas Adjustment Rate Change

January 9, 1989.

Take notice that on December 30, 1988, MIGC, Inc. (MIGC) tendered for filing Fifty-First Revised Sheet No. 32 to its FERC Gas Tariff Original Volume No. 1. MIGC states that the purpose of this proposed tariff change is to submit its third quarterly purchased gas cost adjustment (PGA) filing pursuant to the Commission's revised PGA regulations and the revised PGA provisions of MIGC's tariff, as approved in Docket No. RP88–143–000. The revised tariff sheet is proposed to become effective February 1, 1989.

MIGC states Fifty-First Revised Sheet No. 32 included in the filing reflects a quarterly PGA increase of $.0021 per MMBtu. MIGC states that the proposed quarterly PGA increase of $.0021 reflects a current adjustment of $.0021 per MMBtu effective February 1, 1989.

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 should be filed on or before January 17, 1989. 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. 89–753 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89-49-000]

National Fuel Gas Supply Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1989.

Take notice that National Fuel Gas Supply Corporation ("National"), on December 30, 1988, tendered for filing proposed changes in its FERC Gas Tariffs, First Revised Volume Nos. 1 and 2. The proposed changes would increase revenues from jurisdictional sales and service by approximately $1,500,000 based on the twelve-month period ended September 30, 1988, as adjusted.

National states that its sales have declined to a level that prohibits its opportunity to earn its allowed return on equity. Further, National states that the increased revenues are required to recoup increased costs incurred in operating and maintaining its system.

National states that the proposed rates reflect an overall rate of return 11.93 percent which is, National states, is the minimum just and reasonable rate of return necessary at this time.

National states that copies of this filing were served upon the company's jurisdictional customers and the regulatory commissions of the States of New York, Ohio, Pennsylvania, Delaware, New Jersey, and Massachusetts.

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 Rule 214 of the Commission's Procedural Rules (18 CFR 385.214). All such motions or protests should be filed on or before January 13, 1989. 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. 89-662 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TM89-2-16-001]

National Fuel Gas Supply Corp.; Filing

January 6, 1989.

Take notice that on December 28, 1988, National Fuel Gas Supply Corporation (National) filed Substitute Second Revised Sheet No. 72-B (Page 3 of 3) to its FERC Gas Tariff, First Revised Volume No. 1, to be effective January 1, 1989.

National states that in its December 9, 1988 filing, it incorrectly referenced Transcontinental Gas Pipe Line Corporation. National states that the correct caption should read CNG Transmission Corporation.

National state that copies of this correction have been mailed to all of its customers and interested state commission.

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 (1989)). All such motions or protests should be filed on or before January 17, 1989. 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. 89-754 Filed 1-11-89; 8:45 am]

BILL CODE 6717-01-M

[Docket No. RP89-47-000]

Natural Gas Pipeline Co. of America; Change in PGA Tariff Procedure

(January 6, 1989).

Take notice that on December 29, 1988, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) the below listed tariff sheets to be effective January 1, 1989.

Fourth Revised Sheet Nos. 121C and 121D

Second Revised Sheet Nos. 121E and 121F

Natural states the purpose of the instant filing is to amend the PGA Carrying Charge calculation set out in ¶18.85 of the General Terms and Conditions of Natural's tariff. Natural requests waiver of the Regulations to reflect the use of Natural's Temporary LIFO Valuation Account balance in lieu of the rolling weighted average method stated in the Regulations to reflect a cash-based Account 191 for carrying charge calculation purposes only.

A copy of the filing is being mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

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 Stree, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before January 13, 1989. 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. 89-663 Filed 1-11-89; 8:45am]

BILLING CODE 6717-01-M

[Docket No. RP88-94-014]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

January 9, 1989.

Take notice that on December 30, 1988, Natural Gas Pipeline Company of America (Natural) submitted for filing First Revised Sheet Nos. 165 and 166 and Second Revised Sheet Nos. 169 and 170 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1, to be effective February 1, 1989.

Natural states that the filing is made for the purpose of recovering fifty percent of the jurisdictional portion of an additional $41 million of take-or-pay buyout and buydown and contract reformation costs (transition costs) incurred since Natural's previous filing made on October 31, 1988 under Docket No. RP88-94-010. The instant filing includes carrying charges accrued for the months of December, 1988 and January, 1989 on those amounts for which recovery has already been sought and granted under Docket Nos. RP88-94-005 and RP88-94-010.

Natural states that its filing includes revised tariff language which will (1) reflect the Commission's recent Order No. 500-F which extended the sunset date to March 31, 1989; and (2) provide for an extension of the March 31, 1989 sunset date for the recovery of transition costs related to purchase contracts in litigation or arbitration at that date. Finally, Natural requests that the Commission grant any waivers it deems necessary to allow the tariff sheets to become effective February 1, 1989.

A copy of the filing was mailed to Natural's jurisdictional customers, interested state regulatory agencies, and all parties set out on the official service list in Docket No. RP88–94–000.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 220426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed on or before January 17, 1989. 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. 89–756 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–26–000]

Natural Gas Pipeline Co. of America; Change in PGA Tariff Procedure

January 9, 1989.

Take notice that on December 30, 1988, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff) the below listed tariff sheets to be effective March 1, 1989.

Seventy-eighth Revised Sheet No. 5
Forty-third Revised Sheet No. 5A
Seventeenth Revised Sheet No. 5B
Nineteenth Revised Sheet No. 5C

Natural states the purpose of the instant filing is to implement Natural's Purchased Gas Adjustment (PGA) unit rate adjustment calculated pursuant to Section 18 of the General Terms and Conditions of Natural's FERC Gas Tariff, Third Revised Volume No. 1. This filing constitutes Natural's first annual PGA filing in accordance with the Commission's Regulations governing PGA filings as promulgated by Order Nos. 483 and 483–A. The rate adjustments herein relating to the ongoing gas cost component of Natural's rate reflect projected gas costs and sales for the three months beginning March 1, 1989. The above listed tariff sheets reflect Natural's as-filed rates as adjusted in Natural's motion filing on December 21, 1988 to comply with the Docket No. RP88–209 Suspension Order, 44 FERC ¶ 61,176 (1988) (Motion Rates) and to further reduce overall cost of service.

Natural also submits for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, six (6) copies each of the following tariff sheets to be effective March 1, 1989.

Alternate Seventy-eighth Revised Sheet No. 5
Alternate Forty-third Revised Sheet No. 5A
Alternate Seventeenth Revised Sheet No. 5B
Alternate Nineteenth Revised Sheet No. 5C

Natural states that this set of tariff sheets reflects rates from the Docket No. RP88–209 Stipulation and Agreement Pertaining to Interim Rate Reduction (Interim Settlement).

Natural states that on Dec. 21, 1988, it submitted tariff sheets reflecting the Motion and Interim Settlement rates for Docket No. RP88–209 for Commission approval to be effective January 1, 1989. The two sets of tariff sheets submitted herein reflect these rates and which set will become effective is dependent upon Commission action in Docket No. RP88–209.

Natural states that the overall effect on its ongoing purchased gas cost is to decrease Natural's DMQ–1 commodity charge by 102.04¢, and to increase Natural DMQ–1 demand and entitlement charges by $.02 and .39¢, respectively. No demand charge adjustment is required under the Interim Settlement rates. No change has been made to Natural's currently effectively commodity surcharge rate in either the Motion or Interim Settlement rates. Natural has also included a credit demand surcharge rate of $.14 in both the Motion and Interim Settlement rates. Appropriate adjustments have been made with respect to Natural's other sales rate schedules.

A copy of the filing is being mailed to Natural's jurisdictional sales customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211. All such motions or protests must be filed on or before January 31, 1989. 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. 89–755 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP85–13–026 and RP88–47–015]

Northwest Pipeline Corp.; Filing

January 6, 1989.

Take notice that on December 30, 1988, Northwest Pipeline Corporation (Northwest) filed First Amended Second Revised Sheet No. 311 to its FERC Gas Tariff, Original Volume No. 1–A.

Northwest states that this filing is in compliance with the Commission's letter order dated December 1, 1988, which required deletion of any language "which may limit shippers' rights under the priority conversions provision."

Northwest states that it does not intend to "limit shippers' rights under the priority conversions provision." Northwest states that it does believe that all requests for modifications to existing firm transportation agreements must be treated on a first-come, first-served basis, subject to available pipeline capacity and capacity at requested receipt and delivery points, regardless of whether the firm transportation agreement being modified originally resulted from a conversion of sales contract demand to firm transportation or from a separate request.

Northwest requests waivers to permit an effective date of June 10, 1988 for the revised sheet, which is the effective date for the other sheets previously accepted for filing.

Northwest states that copies of this filing are being served on all jurisdictional customers and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989)). All such motions or protests should be filed on or before January 13, 1989. 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. 89-757 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-1-41-000]

Paiute Pipeline Co.; Proposed Change in FERC Gas Tariff

January 6, 1989.

Take notice that Paiute Pipeline Company (Paiute), on December 30, 1988, tendered for filing pursuant to Part 154 of the Commission's regulations, a Quarterly Adjustment in Rates for jurisdictional gas service rendered to sales customers served under rate schedules affected by and subject to the PGA provisions contained in Section 9 of the General Terms and Conditions of Paiute's FERC Gas Tariff, Original Volume No. 1.

Paiute states that it tendered First Amended Third Revised Sheet No. 10 which reflected a decrease in annual demand charges of $6,728,333 in aggregate and an increase of 2.445 cents per therm in commodity rates compared with those in effect on November 1, 1988. In determining its projected purchased gas costs included in this filing, Paiute has utilized rates filed by Northwest Pipeline Corporation (Northwest) on December 2, 1988 in Docket No. TQ89-3-37-000 to be effective January 1, 1989. If the rates proposed by Northwest are revised for any reason, Paiute reserves the right to submit a substitute sheet to track the Northwest revision.

Paiute states that it has excluded firm transportation demand charges in determining the projected purchase gas costs included in its filing. In its Order issued October 31, 1988 at Docket No. TA89-1-41-000, the Commission granted Paiute waiver of § 154.302(j) for an interim period until February 1, 1989, the scheduled effective date of Paiute's section 4(e) filing at Docket No. RP88-227-000.

Paiute states that one of Paiute's suppliers, Natural Gas Clearinghouse Inc. (NGC), purchases both domestic and Canadian gas supplies for resale to Paiute and bills Paiute for such sales on a one-part basis. Since Paiute's payments to NGC are based on a one-part rate, Paiute has included these purchases in determining its projected purchased gas costs included in this filing, pursuant to the Commission's Order issued October 31, 1988 at Docket No. TA89-1-41-000.

The proposed effective date for the tendered tariff sheet is February 1, 1989.

Copies of the filing were served on Paiute's jurisdictional sales customers, interested parties and state regulatory 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 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before January 13, 1989. 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. 89-664 Filed 1-11-89 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-28-000]

Panhandle Eastern Pipe Line Co.; Change in Tariff

January 9, 1989.

Take notice that on December 30, 1988 Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Seventieth Revised Sheet No. 3-A
Forty-Seventh Revised Sheet No. 3-B.

The proposed effective date of these revised tariff sheets is March 1, 1989.

Panhandle states that these revised tariff sheets reflect a commodity rate decrease of (96.48¢) per Dt, which includes:

(1) A (30.82¢) per Dt decrease in the projected purchased gas cost component;

(2) A (66.86¢) per Dt decrease in the surcharge of recover the Current Deferred Account Balance at October 31, 1988 and related carrying charges; and

(3) A 1.20¢ per Dt increase pursuant to Section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism).

Panhandle further states that these revised tariff sheets filed herewith reflect the following changes to Panhandle's D_1 and D_2 demand rates:

(1) An increase of $0.40 for D_1 pursuant to Section 22 of the General Terms and Conditions of Panhandle's tariff (ANGTS tracking mechanism); and

(2) An increase of $0.33 for D_1 and an increase of 0.73¢ for D_2 pursuant to § 18.4 of the General Terms and Conditions of Panhandle's tariff (pipeline suppliers' demand costs).

Panhandle states that the above-referenced tariff sheets are being filed in accordance with § 154.305 (Annual PGA filing) of the Commission's Regulations and pursuant to Section 18 (Purchased Gas Adjustment Clause) of Panhandle's FERC Gas Tariff, Original Volume No. 1 to reflect the changes in Panhandle's jurisdictional rates effective March 1, 1989.

Panhandle states that copies of this filing have been served on all jurisdictional customers and applicable state regulatory agencies.

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 §§ 395.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests would be filed on or before January 31, 1989. Protests will be considered by the Commission in January 31, 1989. 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. 89-758 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2425 Virginia]

Potomac Edison Co.; Intent To File an Application for a New License

January 6, 1989.

Take notice that on December 14, 1988, Potomac Edison Company, the existing licensee for the Luray/Newport Hydroelectic Project No. 2425, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99-495. The original license for Project No. 2425 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located on the South Fork of the Shenandoah River in Page County, Virginia. The Luray development principal works include a concrete buttress dam, about 525 feet

long and 18.5 feet high; a reservoir of 125 acres and a powerhouse with an installed capacity of 1,600 kW. The Newport development includes a concrete buttress dam, about 453 feet long and 24 feet high; a reservoir of 102 acres; and a powerhouse with an installed capacity of 1,400 kW. The total project capacity is 3,000 kW. Each development has a transmission line connection and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87–7–000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Downsville Pike, Hagerstown, MD 21740.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89–759 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2391, Virginia]

Potomac Edison Co.; Intent To File an Application for a New License

January 6, 1989.

Take notice that on December 14, 1988, Potomac Edison Company, the existing licensee for the Warren Hydro Station Hydroelectric Project No. 2391, filed a notice of intent to file an application for a new license, pursuant to section 15b(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99–495. The original license for Project No. 2391 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located at the Shenandoah River in Warren County, Virginia. The Warren Hydro Station principal works include a concrete dam; a headrace, about 350 feet long; a powerhouse with an installed capacity of 750 kW; a tailrace; a transmission line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87–7–000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Downsville Pike, Hagerstown, MD 21740.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89–760 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Project No. 2515, West Virginia]

Potomac Edison Co.; Intent To File an Application for a New License

January 6, 1989.

Take notice that on December 14, 1988, Potomac Edison Company, the existing licensee for the Harper's Ferry Hydroelectric Project No. 2515, filed a notice of intent to file an application for a new license, pursuant to section 15(b)(1) of the Federal Power Act (Act), 16 U.S.C. 808, as amended by section 4 of the Electric Consumers Protection Act of 1986, Pub. L. 99–495. The original license for Project No. 2515 was issued effective April 1, 1962, and expires December 31, 1993.

The project is located in the Potomac River in Jefferson County, West Virginia. The Harper's Ferry Project principal works include an 18-foot-high 1,700-foot-long concrete capped log and stone dam; a 4,500-foot-long headrace channel; a powerhouse with an installed capacity of 600 kW; a tailrace; a transmission line; and appurtenant facilities.

Pursuant to section 15(b)(2) of the Act, the licensee is required to make available certain information described in Docket No. RM87–7–000, Order No. 496 (Final Rule issued April 28, 1988). A copy of this Docket can be obtained from the Commission's Public Reference Branch, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426. The above information as described in the rule is now available from the licensee at Downsville Pike, Hagerstown, MD 21740.

Pursuant to section 15(c)(1) of the Act, each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by December 30, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 89–761 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CI89–191–000]

Shell Gas Pipeline Co.; Petition for Declaratory Order

January 6, 1989.

Take notice that on December 20, 1988, Shell Gas Pipeline Company (Shell Gas) filed a petition requesting the Commission to disclaim jurisdiction over certain natural gas facilities that petitioner intends to construct offshore Louisiana on the Outer Continental Shelf (OCS). Petitioner proposes to construct a line that will deliver substantial amounts of gas from a corporate affiliate's production platform in Main Pass Block 252, to an interconnection with a jurisdictional pipeline, which will transport the gas onshore to a processing plant. Petitioner contends that the facilities are gathering and production facilities under section 1(b) of the Natural Gas Act (NGA) and are, therefore, exempt from Commission jurisdiction and the certificate requirements of the NGA.

Petitioner states that the primary function of the proposed line will be to deliver raw gas from the production platform to a jurisdictional pipeline for transportation ashore to a processing plant, where natural gas liquids and liquefiables will be extracted. Residue gas will be sold at the tailgate, and may be moved through one or more of the "Mobile Bay Pipeline Projects" to be considered by the Commission in Docket No. CP88–570–000. Petitioner requests expedited consideration, in part because of the relationship of the subject facilities to the proceedings in Docket No. CP88–570–000.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protest should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, within 15 days after publication of this notice in the **Federal Register.** All protests will be considered by the Commission, but will not serve to make protestants parties to the proceeding. Any person wishing to

become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-762 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-267-004

South Georgia Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 6, 1989.

Take notice that on December 30, 1988, South Georgia Natural Gas Company (South Georgia) tendered for filing the following tariff sheet to its FERC Gas Tariff to be effective October 1, 1988:

Revised Substitute Original Sheet No. 40.

South Georgia states that the proposed tariff sheet is being submitted in compliance with the Commission's order of December 20, 1988 in Docket No. RP88-267-002, South Georgia's proceeding to flow through take-or-pay buy-out and buy-down charges allocated to it by Southern Natural Gas Company. The aforesaid tariff sheet reflects revised charges based upon the inclusion of interruptible customers in the cost allocation calculations and revisions to South Georgia's allocation methodology utilizing the same base and deficiency periods as its upstream pipeline supplier, Southern Natural Gas Company.

South Georgia states that copies of the filing were mailed to all of its jurisdictional purchasers and interested state commissions, as well as the parties to this proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest to 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 285.211 or 385.214). All such motions to protest should be filed on or before January 13, 1989. 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. 89-665 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 1651-010]

Swift Creek Power Co. Inc.; Application for Approval of a Contract for the Sale of Power for a Period Extending Beyond the Term of License

January 6, 1989.

Take notice that on August 25, 1988, Swift Creek Power, Inc. (Swift Creek), pursuant to section 22 of the Federal Power Act (FPA), 16 U.S.C. 815, filed an application for Commission approval of contract for the sale of power from Smith Creek's licensed Upper and Lower Swift Creek Hydroelectric Project No. 1651 to Idaho Power Company, for a period extending beyond the 1992 expiration date of the project license. Swift Creek's Project No. 1651 is located on Swift Creek, partially within the Bridger-Teton National Forest, in Lincoln County, Wyoming. Correspondence to Smith Creek regarding the application should be addressed to McNeill Watkins II, Bishop, Cook, Purcell & Reynolds, 1400 L Street NW., Washington, DC 20005 and E. Farley Eskelson, President, Swift Creek Power Company, Inc., 100 Lindbergh Plaza 2, 5160 Wiley Post Way, Salt Lake City, Utah 84116.

Section 22 of the FPA provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and of the public-service commission or other similar authority in the state in which the sale or delivery of power is made. Swift Creek indicates in its application that in order to get permanent financing for a proposed project rehabilitation it will require Commission approval of a power sale contract with a 25-year term extending beyond the 1992 expiration of the project license. Swift Creek states that it will also pursuant to section 22 of the FPA seek the Idaho Public Utility Commission's (IPUC) approval of the contract and that it will provide the Commission with a copy of its application for IPUC approval.

Comments, Protests, or Motions To Intervene

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 352.210, 352.211, 352.214. In determining the appropriate action to take, the Commission will consider all the protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motion to intervene must be filed on or before February 10, 1989. The Commission's address is: 825 North Capitol Street, NE., Washington, DC 20426. The proposed contract and the application for contract approval are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-763 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP88-228-007]

Tennessee Gas Pipeline Co.; Filing of Changes in Rates

January 6, 1989.

Take notice that on December 30, 1988, Tennessee Gas Pipeline Company (Tennessee) tendered for filing certain tariff sheets to its FERC Gas Tariff pursuant to the Commission's August 31 and October 31, 1988 orders in the referenced proceeding, to be effective February 1, 1989. *Tennessee Gas Pipeline Company*, 44 FERC Para. 61,321, *order on reh'g*, 45 FERC Para. 61,135.

Tennessee states that the revised tariff sheets reflect the following changes required by the August 31 and October 31, 1988 orders:

1. A reduction in Tennessee's claimed cost of service to account for the elimination of the costs of facilities not placed in service by February 1, 1989.

2. The elimination of standby sales service.

3. D_2 nominations submitted by its firm sales and transportation customers.

Additionally, Tennessee states that pursuant to the Commission's October 6 and December 20, 1988 orders in Docket Nos. RP82-121-000, *et al.* (*Tennessee Gas Pipeline Company* 45 FERC ¶61,031, *reh'g granted in part*, 45 FERC ¶———— (December 20, 1988), the following changes have also been reflected in this filing:

1. A 100% load factor rate for interruptible sales under Rate Schedule R.

2. The Opinion No. 352, single centroid Mcf-mile method of allocation of mileage related transmission costs.

3. A one-part rate based on an imputed load factor of 60% for full

requirements customers under Rate Schedule GS.

4. The use of peak-day deliveries to allocate downstream commodity transmission costs to storage services.

The revised tariff sheets also reflect Tennessee's Annual Average Cost of Purchased Gas and the Surcharge for Amortizing the Unrecovered Gas Cost Account as well as the latest GRI and Annual Charge Adjustments, as shown in Tennessee's October 31, 1988 filing in Docket No. TA89–1–9 to be effective on January 1, 1989.

Although Tennessee does not believe any waivers are necessary for the Commission to accept the revised tariff sheets to be effective February 1, 1989, Tennessee requests that the Commission grant any waivers it deems necessary.

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 January 13, 1989. 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. 89–666 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–17–001]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1989.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on December 30, 1988 tendered for filing certain tariff sheets as part of its FERC Gas Tariff.

Texas Eastern states that the purpose of this filing is to revise, pursuant to § 154.305(c)(4) of the Commission's December 2, 1988 (December 2 Filing) annual PGA filing in Docket No. TA89–1–17–000 which is proposed to be effective February 1, 1989.

Texas Eastern states that in compliance with Order No. 483A (page 5) this revision filing is being made in the quarterly format specified by FERC Form No. 542–PGA, consisting of a report containing detailed computations which clearly show the derivation of the current adjustment to be applied to Texas Eastern's effective rates, with the 9-track computer tape format for formal filing with the Commission.

Texas Eastern states that the PGA rate changes proposed to be effective on February 1, 1989 as a result of the combined impact of the December 2 Filing and this revision filing consist of PGA decreases of $.420/dth in the Demand-1 component of Texas Eastern's sales rates and $.0121/dth in the Demand-2 component and an increase of $.3205/dth in the commodity component pursuant to section 23 of Texas Eastern's tariff based upon Texas Eastern's best projection of cost of purchased gas for the period February 1, 1989 through April 30, 1989 as required by § 154.305(c) of the Commission's Regulations and a surcharge rate to amortize the current deferral subaccount balance in Account 191 as of September 30, 1988 over the 12-month period beginning on Feburary 1, 1989 as required by § 154.305(d) of the Commission's Regulations.

Texas Eastern states that the purpose of this revision is to reflect the impact of certain additional supplies for which Texas Eastern has negotiated contracts since the time of the original filing of its annual PGA on December 2, 1988, to reflect projected purchases from United Gas Pipe Line Company, and to reflect the most current prices for gas purchases including rate changes for pipeline suppliers as well as price renegotiations that have been finalized with producer suppliers since the December 2 Filing.

Texas Eastern states that underlying the calculations for the Purchased Gas Cost Adjustment proposed in this filing, (Section 23 of Texas Eastern's General Terms and Conditions) and the EPC Adjustment (Section 26 of Texas Eastern's General Terms and Conditions) as proposed in the December 2 Filing, is the assumption that the Commission will approve and make effective as of or prior to February 1, 1989 Texas Eastern's Compliance Filing of October 26, 1988 in Docket No. RP85–177 *et al.* This assumption has a significant impact on the rate levels proposed in this filing. As a result, in case timely approval of such October 26, 1988 Compliance Filing is not forthcoming, Texas Eastern filed certain tariff sheets as a part of its FERC Gas Tariffs, Fifth Revised Volume No. 1 and Original Volume No. 2, in lieu of the tariff sheets proposed for filing above.

Texas Eastern states that the changes reflected in these alternate tariff sheets consist of (1) utilization of the Base Tariff Rates from Texas Eastern's motion filing of August 31, 1988 in Docket No. RP88–67 and (2) recalculated EPC adjustments under section 26 of Texas Eastern's tariff based upon the difference in Base ELectric Power Cost Units between the RP88–67 Motion and the October 26, 1988 Compliance Filing.

The proposed effective date of the above tariff sheets is February 1, 1989.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Copies have also been mailed to all current Rate Schedule IT–1 shippers.

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 January 3, 1989. 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. 89–667 Filed 1–11–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–1–58–000]

Texas Gas Pipeline Corp.; Proposed Changes in FERC Gas Tariff

January 9, 1989.

Take notice that on January 3, 1989, Texas Gas Pipe Line Corporation (TGPL) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 (Tariff), the below listed tariff sheets are to be effective February 1, 1989 and March 1, 1989, respectively.

Twenty-Third Revised Sheet No. 4a
Twenty-Fourth Revised Sheet No. 4a

TGPL states that the purpose of the instant filing is to reflect rate adjustments pursuant to section 12 of the General Terms and Conditions of TGPL's Tariff (Purchased Gas Cost Adjustments). Specifically, Twenty-Third Revised Sheet No. 4a reflects a net increase in the rate after cumulative adjustment to 177.19¢/Mcf with a current rate Surcharge Adjustment of 9.04¢/Mcf yielding a proposed total rate of 215.70¢/Mcf (at 14.65 psia) to be effective February 1, 1989. The Twenty-Fourth Revised Sheet No. 4a to be

effective March 1, 1989, removes the surcharge adjustment and reflects a rate after cumulative adjustment of 177.19¢/Mcf yielding a proposed total rate of 206.66¢/Mcf (at 14.65 psia).

Copies of the filing were served upon TGPL's jurisdictional customers.

Any person desiring to be heard to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-764 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA89-1-18-001]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1989.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on December 29, 1988, tendered for filing the following revised tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute Fourteenth Revised Sheet No. 10

Substitute Fourteenth Revised Sheet No. 10A.

Texas Gas states that these tariff sheets reflect revisions to the projected purchased gas costs contained in the Annual PGA, Docket No. TA89-1-18-000, filed December 1, 1988, pursuant to the Purchased Gas Adjustment clause of Texas Gas's FERC Gas Tariff and are proposed to be effective February 1, 1989.

Copies of the filing were served upon Texas Gas'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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such protests or motions should be filed on or before January 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-668 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-141-011]

Texas Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

January 6, 1989.

Take notice that Texas Gas Transmission Corporation (Texas Gas), on December 29, 1988, tendered for filing Second Revised Sheet Nos. 22 and 29 to its FERC Gas Tariff, Original Volume No. 1.

Texas Gas states that these tariff sheets are in compliance with the Commission Order Denying Rehearing issued December 7, 1988 whereby Texas Gas's minimum commodity bill under Rate Schedules CD and CDL was eliminated pursuant to Commission Order Affirming in Part and Reversing in Part Initial Decision and eliminating Minimum Bill which was issued on October 6, 1988.

Copies of the filing were served upon Texas Gas'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 §§ 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests should be filed on or before January 13, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 89-669 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-29-000]

Transcontinental Gas Pipe Line Corp.; Proposed Changes

January 9, 1989.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on January 3, 1989, Fifty-Fifth Revised Sheet No. 12, Fifty-Second Revised Sheet No. 15, and Eleventh Revised Sheet No. 15-A to its FERC Gas Tariff, Second Revised Volume No. 1, to be effective February 1, 1989.

Transco states that these tariff sheets reflect an overall rate increase as compared to the currently effective rates of 42.5 cents per dt in the commodity charge under the CD, G, OG, PS, E, ACQ and S-2 Rate Schedules.

Transco states that the increase of 42.5 cents per dt is comprised of (1) a 40.1 cents per dt increase related to the current gas cost portion of commodity rates and (2) a 2.4 cents per dt increase in the Special Transition Gas Cost Surcharge. The instant PGA filing reflects a projected average cost of gas of 282.66 cents/dt for the quarterly period February 1, 1989 through April 30, 1989.

Transco further states that it has filed the necessary schedules in order to comply with § 154.305 and FERC Form 542. Transco has also filed a 9-track magnetic tape as required by FERC 542.

Transco states that copies of the instant filing are being mailed to its jurisdictional customers and interested state commissions. In accordance with the provisions of § 154.16 of the Commission's Regulations, copies of this filing are available for public inspection during regular business hours in Transco's main office.

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 (1989)). All such motions or protests should be filed on or before January 17, 1989. 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. 89-765 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-43-000]

Williams Natural Gas Co.; Proposed Changes in FERC Gas Tariff

January 9, 1989.

Take notice that Williams Natural Gas Company (WNG) on December 30, 1988, tendered for filing the following tariff sheets to its FERC Gas Tariff, Original Volume No. 1:

Substitute Tenth Revised Sheet No. 6
Substitute Ninth Revised Sheet No. 7

A magnetic tape is also being filed in compliance with FERC Form No. 542-PGA.

WNG states that pursuant to the Purchased Gas Adjustment in Article 21 of its FERC Gas Tariff, it proposes to increase its rates effective February 1, 1989, to reflect a $.1141 per Mcf increase in the Cumulative Adjustment.

WNG states that copies of its filing 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 and 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 January 17, 1989. 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. 89-766 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TQ89-2-49-000]

Williston Basin Interstate Pipeline Co.; Purchased Gas Cost Adjustment Filing

January 6, 1989.

Take notice that on December 30, 1988, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, tendered for filing as part of its FERC Gas Tariff the following tariff sheets:

First Revised Volume No. 1

Second Revised Fifteenth Revised Sheet No. 10

Original Volume No. 1-A

Second Revised Tenth Revised Sheet No. 11
Second Revised Thirteenth Revised Sheet No. 12
First Revised Substitute Second Revised Sheet No. 97A

Original Volume No. 1-B

Second Revised Third Revised Sheet No. 10
Second Revised Third Revised Sheet No. 11

Original Volume No. 2

First Revised Seventeenth Revised Sheet No. 10
First Revised Eighth Revised Sheet No. 11B

The Company requests an effective date for the tariff sheets of February 1, 1989.

Williston Basin states Second Revised Fifteenth Revised Sheet No. 10 (First Revised Volume No. 1) reflects an increase in the Cumulative Gas Cost Adjustment applicable to Rate Schedule G-1, SGS-1 and E-1 of 7.687 cents per dkt as compared to the Cumulative Gas Cost Adjustment contained in the Company's September 30, 1988 PGA filing in Docket No. TQ89-1-49-000.

Williston Basin states that it submits First Revised Seventeenth Revised Sheet No. 10 (Original Volume No. 2) reflecting a 7.687 cents per dkt increase in the Cumulative Gas Cost Adjustment for Rate Schedule X-1 as compared to the Cumulative Gas Cost Adjustment contained in the Company's September 30, 1988 annual PGA filing in Docket No. TQ-1-49-000.

The balance of the tariff sheets included in the instant filing reflect a decrease of .229 cents per dkt in the fuel reimbursement charge component of the Company's relevant transportation rates as compared to that contained in the Company's November 29, 1988 filing in Docket No. TQ89-1-49-001. Such decrease in the fuel reimbursement charge is a result of a change in Williston Basin's current cost of purchased gas.

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 January 13, 1989. Protsts 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 to the proceeding must file a motion to intervene. Copies of the filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

FR Doc. 89-670 Filed 1-11-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-44522; FRL-3505-2]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the receipt of test data on biphenyl (CAS No. 92-52-4), 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 Street, 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 Submissions

Test data for biphenyl was submitted by the Chevron Environmental Health Center Inc. pursuant to a test rule at 40 CFR 799.925. It was received by EPA on December 13, 1988. The submission describes the biphenyl oyster shell deposition test. Environmental effects testing is required by this test rule.

Biphenyl is used primarily to produce dye carriers, heat transfer fluids and alkylated biphenyls.

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 the submission's completeness.

II. Public Record

EPA has established a public record for this TSCA section 4(d) receipt of data notice (docket number OPTS-44522). 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, Room. NE-G004, 401 M Street., SW., Washington, DC 20460.

Authority: 15 U.S.C. 2603.

Dated: December 28, 1988.

Gary E. Timm,

Acting Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 89-703 Filed 1-11-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-62071; FRL-3505-1]

Receipt of Application for Approval To Dispose of Polychlorinated Biphenyls

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of receipt of application.

SUMMARY: EPA Headquarters has received an application from International Technology Corporation (IT), Knoxville, Tennessee, for nationwide approval to dispose of polychlorinated biphenyls (PCBs) using their transportable alternative thermal system. This approval process is done under the authority of section 6(e) of the Toxic Subtances Control Act (TSCA). EPA is notifying interested persons of the request, and comments may be submitted.

DATE: Comments must be received by February 13, 1989.

ADDRESS: Three copies of written comments should be addressed to: TSCA Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, Room. L-100, 401 M Street, SW., Washington, DC 20460.

Comments should bear the identifying notation OPTS-62071. The application (without confidential business information) and comments received in response to this notice are available for public inspection and copying in Rm. NE-G004 at the address noted above from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room. EB-44, 401 M Street, SW., Washington, DC 20460, (202-554-1404), TDD-(202-554-0551).

SUPPLEMENTARY INFORMATION: Under 40 CFR 761.60(e), the Regional Administrators and the Assistant Administrator for Pesticides and Toxic Substances (OPTS) share the approval authority for permitting alternative PCB disposal technologies. A Regional Administrator determines whether to approve an application when the disposal will take place in that region only or, in the case of research and development (R and D), and PCB disposal methods involving less than 500 pounds of PCB material. The Assistant Administrator for OPTS determines whether to approve applications for mobile and other types of PCB disposal technologies that may be operated in more than one region or, in the case of R and D, on disposal methods involving 500 pounds or more of material. Notwithstanding, the Assistant Administrator for OPTS may delegate the authority to review and approve any aspect of a disposal system to OPTS staff or to a Regional Administrator. The rationale for permit approval authority is discussed in "Polychlorinated Biphenyls (PCBs); Procedural Amendment of the Approval Authority for PCB Disposal Facilities and Guidance for Obtaining Approval," published in the **Federal Register** of March 30, 1983 (48 FR 13181).

In general, EPA may approve alternatives methods of PCB disposal if they achieve a level of performance equivalent to an incinerator approved under 40 CFR 761.70 or a high efficiency boiler approved under 40 CFR 761.60 and will not present an unreasonable risk of injury to health or the environment. EPA also imposes some protective conditions requiring the application to address such items as testing of all gaseous, liquid, and solid effluent streams for PCBs and any other contaminants which may potentially contribute to the environmental risk of operating the disposal unit. To obtain a permit for an alternative method of PCB disposal, the applicant must supply detailed technical descriptions and drawings of the site, process and control equipment, monitoring and sampling methods, quality assurance plan, and emergency and contingency measures, as well as a full discussion of all cleanup and closure procedures.

When EPA Headquarters receives a permit application, it reviews the application and determines if the permit application is complete. If the application is not acceptable, EPA lists its deficiencies in a letter to the applicant and the applicant can remedy the application. If the application is acceptable, a determination is made whether a process demonstration is needed. If one is needed, the applicant must submit a demonstration test plan to the Agency. After receipt of the process demonstration test plan, EPA either approves, requires modification or additions to the process demonstration test plan, or disapproves it and notifies the applicant. Once the Agency accepts a process demonstration test plan, a demonstration test approval is issued by EPA. As part of this approval, the applicant will be required to give advance written notice of at least 30 days to the EPA regional office and State and local governments where the process demonstration will take place. This 30-day period provides the public an opportunity to discuss local issues related to the planned disposal operation and provides the EPA regional office with information necessary for effective monitoring for compliance with the demonstration approval. If the application cannot be approved because the process demonstration test fails, the problems with the process demonstration are addressed on a case-by-case basis.

EPA will grant or deny approval for full scale operation based on a review of the application package, demonstration test results, and other submitted information. Approval for operation will contain special conditions that EPA finds necessary to protect human health or the environment. It also requires compliance with all applicable State, local, or other Federal requirements. The PCB disposal approval decision process (from receipt of the permit application to issuance of a final approval) generally can take from 6 months to 1 year, depending on the quality of information submitted by the applicant and the complexities involved. If a permit is issued for more than one site, 30-day notice is required before operation may begin at any site other than where the process demonstration took place.

The application from IT is for nationwide permission to operate a transportable alternative thermal system for the destruction of PCB-contaminated soils and sludges. All demonstration tests for the system will take place at IT's Environmental Technology Development Center in Oak Ridge, Tennesse.

In determining whether to approve this application, EPA will take into consideration, along with other factors, the comments received on the application.

Dated: January 5, 1989.

Martin P. Halper

Director, Exposure Evaluation Division, Office of Toxic Substances.

[FR Doc. 89-705 Filed 1-11-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51723; FRL-3505-3]

Toxic and Hazardous Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of forty-seven such PMNs and provides a summary of each.

DATES: Close of review periods:

P 89-181, 89-182—March 12, 1989.
P 89-183, 89-184—March 13, 1989.
P 89-185, 89-186, 89-187—March 14, 1989.
P 89-188, 89-189, 89-190—March 15, 1989.
P 89-191, 89-192—March 18, 1989.
P 89-193—March 12, 1989.
P 89-194, 89-195, 89-196, 89-179—March 19, 1989.
P 89-198, 89-199, 89-200, 89-201—December 29, 1988.
P 89-204, 89-205, 89-206, 89-207, 89-208, 89-209, 89-210, 89-211—March 21, 1989.
P 89-212, 89-213—December 29, 1989.
P 89-214, 89-215, 89-216—March 22, 1989.
P 89-217, March 26, 1989.
P 89-218, 89-219, 89-220, 89-221 89-222, 89-223, 89-224, 89-225—March 22, 1989.
P 89-227, 89-228—March 26, 1989.
P 89-229, 89-230—March 27, 1989.

Written comments by:

P 89-181, 89-182—February 10, 1989.
P 89-183, 89-184—February 11, 1989.
P 89-185, 89-186, 89-187—February 12, 1989.
P 89-188, 89-189, 89-190—February 13, 1989.
P 89-191, 89-192—February 16, 1989.
P 89-193—February 10, 1989.
P 89-194, 89-195, 89-196, 89-197—February 17, 1989.
P 89-198, 89-199, 89-200, 89-201—November 29, 1988.
P 89-204, 89-205, 89-206 89-207, 89-208, 89-209, 89-210 89-211—February 19, 1989.
P 89-212, 89-213—November 29, 1988.
P 89-214, 89-215, 89-216—February 20, 1989.
P 89-217—February 24, 1989.
P 89-218, 89-219, 89-220, 89-221, 89-222, 89-223, 89-224, 89-225—February 20, 1989.
P 89-227, 89-228—February 24, 1989.
P 89-229,, 89-230—February 25, 1989.

ADDRESS: Written comments, identified by the document control number "[OPTS-51723]" and the specific PMN number should be sent to: Document Control Office (TS-790) Office of Toxic Substances, Environmental Protection Agency, 401 M Street, SW,. Room 201 East Tower, 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, D.C. 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 PMNs 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.

P 89-181

Manufacturer. Confidential.

Chemical. (G) Modified epoxy acrylate.

Use/Production. (G) Binder. Prod. range: Confidential.

P 89-182

Manufacturer. Minnesota Mining & Manufacturing Co.

Chemical. (G) Substituted urethane.

Use/Production. (G) Isolated intermediate for coating; destructive use. Prod. range: Confidential.

P 89-183

Manufacturer. Toray Industries (America) Inc.

Chemical. (S) -2,3-dihydroxybutanedioic acid-bis(1-methylethyl) ester.

Use/Production. (S) Catalyst for asymmetric epoxidation. Prod. range: 2,000-10,000 kg/yr.

P 89-184

Manufacturer. Confidential.

Chemical. (G) Alkylbenzene sulfonic acid salt.

Use/Production. (G) Dispersive use. Prod range: Confidential.

Toxicity Data. Acute oral toxicity: LD50< 5 g/kg species (rat). Acute dermal toxicity: LD50 < 5 g/kg species (rabbit). Eye irritation: none species (rabbit). Skin irritation: Slight species (rabbit).

P 89-185

Manufacturer. Confidential.

Chemical. (G) Substituted alkenoic amide, polymer with alkylalkenoates.

Use/Production. (G) Pigment binder. Prod. range: Confidential.

P 89-186

Importer. Rohm and Haas Company.

Chemical. (G) Vinyl heterocycle alkyl methacrylate copolymer.

Use/Import. (G) Additive for petroleum oil products. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (rat). Acute dermal toxicity: LD50 2 g/kg species (rabbit). Static acute toxicity: LC50 >1,000 mg/l time species (rainbow trout). Eye irritation: Moderate species (rabbit). Skin irritation: Moderate species (rabbit). Skin sensitization: negative species (guinea pig).

P 89-187

Importer. Rohm and Haas Company.

Chemical. (G) Alkyl methacrylate copolymer.

Use/Import. (G) Additive for petroleum oil products. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (rat). Acute dermal toxicity: LD50 >2 g/kg species (rabbit). Static acute toxicity: LD50 >1,000 mg/l time species (rainbow trout). Eye irritation: Moderate species (rabbit). Skin irritation: Moderate species (rabbit). Skin sensitization: Negative species (guinea pig).

P 89-188

Manufacturer. Confidential.

Chemical. (G) Vinyl alcohol acrylic acid copolymer.

Use/Production. (G) Water absorbing sealant. Prod. range: Confidential.

P 89-189

Manufacturer. Confidential.

Chemical. (G) Aryl novolac resin.

Use/Production. (G) Resin as a raw material. Prod. range: Confidential.

P 89–190

Manufacturer. Rohm and Haas Company.

Chemical. (G) Vinyl heterocycle alkyl methacrylate copolymer.

Use/Production. (G) Petroleum additive. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5 g/kg species (rat). Acute dermal toxicity: LD50 >2 g/kg species (rabbit). Static acute toxicity: LC50 >1,000 mg/1 time species (rainbow trout). Eye irritation: Moderate species (rabbit). Skin irritation: Moderate species (Rabbit). Skin sensitization: Positive species (guinea pig).

P 89–191

Importer. Confidential.

Chemical. (G) Acrylic ester.

Use/Import. (G) Acrylic polymer for open nondisperive use. Import range: Confidential.

P 89–192

Importer. Confidential.

Chemical. (S) Aluminum chloride hydroxide sulfate.

Use/Import: (S) Coagulant for water treatment. Import range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 11.8 mg/kg species (rat). Static acute toxicity: LC50 220 ppm times 24 h species (daphnia). Eye irritation: Slight species (rabbit). Skin irritation: Negligible species (rabbit). Mutagencity: Negative.

P 89–193

Manufacturer. Confidential.

Chemical. (G) Polyester with neopentyl glycol.

Use/Production. (G) Coating with an open use. Prod. range: 30,000–78,000 kg/yr.

P 89–194

Manufacturer. Confidential.

Chemical. (G) Alkenes reaction products with 2,5-furandione and substituted alkyl amines.

Use/Production. (G) Surface active agent: Prod. range: Confidential.

P 89–195

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Polyphosphonic acid-alkaline salt mixture.

Use/Production. (G) Dye bath additive. Prod. range: Confidential.

P 89–196

Manufacturer. Alkaril Chemicals, Inc.

Chemical. (G) Alkyl glyceryl ethers and condensates.

Use/Production. (G) Fiber additive. Prod. range: Confidential.

P 89–197

Manufacturer. Confidential.

Chemical. (S) Polymer of ethylene; 1-butene; and 1-octene.

Use/Import. (S) Film for packaging. Import range: Confidential.

P 89–198

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Additive used in plastic industry. Prod. range: Confidential.

P 89–199

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Additive used in plastic industry. Prod. range: Confidential.

P 89–200

Manufacturer. Confidential.

Chemical. (S) Polyester resin.

Use/Production. (G) Additive used in plastic industry. Prod. range: Confidential.

P 89–201

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (G) Additive in plastic industry. Prod. range: Confidential.

P 89–204

Manufacturer. Confidential.

Chemical. (G) Aromatic aliphatic poliester.

Use/Production. (G) Industrially used in coating with open use. Prod. range: 20,000–60,000 kg/yr.

P 89–205

Manufacturer. Minnesota Mining & Manufacturing Co.

Chemical. (G) Styrene containing acrylate polymer.

Use/Production. (S) Adhesive or tape. Prod. range: Confidential.

P 89–206

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) 1, 3, 5-Triazine-2,4-diamine,6-chloro-N-(1,2-dimethylpropyl)-N'-ethyl.

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1869 mg/kg species (Rat). Acute dermal toxicity: LD50 3,100 mg/kg species(Rabbit). Inhalation toxicity: LC50> 710 mg/m3 species (Rat). Eye irritation: none species (Rabbit). Skin irritation: Slight species (Rabbit). Skin sensitization: Positive species (Guinea pig).

P 89–207

Manufacturer. Ciba-Geigy Corporation.

Chemical. (S) 1,3,5-Triazine-2,4-diamine,6-chloro-N-methyl-N'-(1-methylethyl).

Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 1869 mg/kg species (Rat). Acute dermal toxicity: LD50 > 3,100 mg/kg species(Rabbit). Inhalation toxicity: LC50 > 710 mg/m3 species(Rat). Skin irritation: Negligible species (Rabbit). Skin sensitization: Positive species (Guinea pig).

P 89–208

Manufacturer. Monsanto Company.

Chemical. (G) Pyridine carboxylate.

Use/Production. (G) Manufacturing, process intermediate chemical. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 3,550 mg/kg species (Rat). Acute dermal toxicity: LD50 5010 mg/kg species (Rabbit). Eye irritation: Slight species (Rabbit). Skin irritation: Negligible species (Rabbit).

P 89–209

Manufacturer. Monsanto Company.

Chemical. (G) Pyridine carboxylic acid.

Use/Production. (G) Manufacturing, process intermediate chemical. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5,010 mg/kg species (Rat). Acute dermal toxicity: LD50 > 5,010 mg/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: Negligible species(Rabbit).

P 89–210

Manufacturer. Monsanto Company.

Chemical. (G) Pyradine carbonylchloride.

Use/Production. (G) Manufacturing, process intermediate chemical. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 5,010 mg/kg species (Rat). Acute dermal toxicity: LD50 2,000–5,010 mg/kg species (Rabbit). Eye irritation: Slight species(Rabbit). Skin irritation: Slight species (Rabbit).

P 89–211

Manufacturer. ARCO Chemical Company.

Chemical. (S) 2-Methyl-1,3-Propanediol.

Use/Production. (S) Intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Acute dermal toxicity: LD50 > 2 g/kg species

(Rabbit). Eye irritation: none species(Rabbit). Skin irritation: Negligible species (Rabbit).

P 89-212

Manufacturer. Confidential.

Chemical. (G) Trifluoromethane sulfonate ester.

Use/Production. (G) Integrated circuit manufacture. Prod. range: Confidential.

Toxicity Data. Skin irritation: negligible species(Rabbit). Skin sensitization: Positive species (Guinea pig).

P 89-213

Manufacturer. Confidential.

Chemical. (G) Polystyrene copolymer.

Use/Production. (G) Integrated circuit manufacture. Prod. range: Confidential.

Toxicity Data. Skin irritation: negligible species(Rabbit). Skin sensitization: Negative species (Guinea pig).

P 89-214

Manufacturer. SICPA Securink Corporation.

Chemical. (G) Alkyd resin.

Use-Production. (S) Manufacture of printing inks. Prod. range. Confidential.

P 89-215

Manufacturer. SICPA Securink Corporation.

Chemical. (G) Intaglio varnish.

Use-Production. (S) Manufacture of printing inks. Prod. range. Confidential.

P 89-216

Manufacturer. SICPA Securink Corporation.

Chemical. (G) Intaglio varnish.

Use/Production. (S) Manufacture of printing inks. Prod. range: Confidential.

P 89-217

Manufacturer. Baker Performance Chemicals Incorporated.

Chemical. (G) Thiocarbamate potassium salt.

Use/Production. (S) Water clarifier. Prod. range: Confidential.

P 89-218

Manufacturer. Alkaril Chemicals, Inc.

Chemical. (G) Guerbet alcohol ester.

Use/Production. (G) Thermoplastic lubricant intermediate. Prod. range: Confidential.

P 89-219

Manufacturer. Alkaril Chemicals, Inc.

Chemical. (G) Guerbet diester.

Use/Production. (S) Internal lubricant for use in manufacture of polycarbonate sheets. Prod. range: Confidential.

P 89-220

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted aminophenyl (chloroheterocycle).

Use/Production. (G) Chemical intermediate. Prod. range: 2,000–8,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species (Rabbit). Eye irritation: Moderate species (Rabbit). Skin irritation: Slight species (Guinea pig). Skin sensitization: Negative species (Guinea pig).

P 89-221

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted nitrophenyl (chloroheterocycle).

Use/Production. (G) Chemical intermediate. Prod. range: 2,000–10,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species (Rabbit). Eye irritation: moderate species (Rabbit). Skin irritation: Slight species (Guinea pig). Skin sensitization: Negative species (Guinea pig).

P 89-222

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted phenylheterocyclic acid, derivative.

Use/Production. (G) Chemical intermediate. Prod. range: 7,000–18,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Skin irritation: Slight species (Guinea pig).

P 89-223

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted nitrophenylheterocyclic acid.

Use/Production. (G) Chemical intermediate. Prod. range: 6,000–18,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Skin irritation: Slight species (Guinea pig).

P 89-224

Manufacturer. Eastman Kodak Company.

Chemical. (G) Substituted nitrophenylheterocycle.

Use/Production. (G) Chemical intermediate. Prod. range: 5,000–12,000 kg/yr.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Acute dermal toxicity: LD50 >2,000 mg/kg species (Rabbit). Eye irritation: Slight species (Rabbit). Skin irritation: Slight species (Guinea pig). Skin sensitization: Negative species (Guinea pig).

P 89-225

Manufacturer. Confidential.

Chemical. (G) Bis-substituted-phenol.

Use/Production. (G) Pressure sensitive agent. Prod range: Confidential.

Toxicity Data. Acute oral toxicity: LD50 >5,000 mg/kg species (Rat). Eye irritation: None species (Rabbit). Skin irritation: Negligible species (Rabbit).

P 89-227

Manufacturer. Enzyme Bio-Systems, Ltd.

Microorganism. (G) *Bacillus subtilis* was modified using recombinant DNA techniques to contain an intra-generic amylase gene. Fragments of inter-generic vectors were also introduced into this strain.

Use/Production. This microorganism will be used for the biosynthesis of an enzyme: *Alpha* amylase. Prod. range: Confidential.

Test data. Pathogenicity and toxicity testing showed no adverse effects of the production strain or the enzyme on the mammalian species tested. For the production strain, pathogenicity studies by intraperitoneal or oral intubation to mice showed no pathogenic potential. Toxicity testing of the production strain was also performed and showed no cytotoxicity against Vero cells in 7 days in culture. The production strain used to make the enzyme is asporogenic.

Exposure. Workers in laboratory and production areas.

Environmental Release/Disposal. During production, live cells are maintained in closed vessels. At the end of the production cycle, cells are inactivated in the production vessels. Disposal of cell waste: Solid wastes will be discharged to a permitted landfill. The liquid waste is discharged to a pretreatment facility shared by other industries. Air emissions are filtered through NIH validated sterile air filters or through a cyclone separator scrubber system that traps and inactivates the organisms using a caustic/chlorine solution. Airborne emissions are anticipated to be incidental particulates.

P 89-228

Importer. Confidential.

Chemical. (S) 2-Propenoic acid, monoester with 1, 2-propanediol, polymer with chloroethene.

Use/Import. (S) Paint vehicle. Import range: 12,000–48,000 kg/yr.

89–229

Importer. Hoechst Celanese Corporation.

Chemical. (G) Di-substituted naphthalene sulfonic acid.

Use/Import. (S) Dyestuff for cellusosic fibers. Import range: 1,200–3,600 kg/yr.

Toxicity Data. Skin irritation: Negligible species (Rabbit). Mutagenicity: Negative.

P 89–230

Manufacturer. Confidential.

Chemical. (S) 2-methylpentamethylenediamine 1,4-cyclohexanediamethanol; isophthalic acid; zinc oxide.

Use/Production. (G) Industrial. Prod. range: 200,000-375,000 kg/yr.

Date: January 5, 1989.

Steve Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89–704 Filed 1–11–89; 8:45 am]

BILLING CODE 6560–50–M

FARM CREDIT ADMINISTRATION

Order Appointing Receiver of the Richmond Production Credit Association

ACTION: Notice.

SUMMARY: Pursuant to the provisions of section 4.12(a) of the Farm Credit Act of 1971, as amended (1971 Act), 12 U.S.C. 2183(a) and 12 CFR 611.1160, the Farm Credit Administration (FCA) Board hereby appoints James C. Larson (Receiver), an individual with a business address of P.O. Box 923, San Andreas, California 95249, as Receiver of the Richmond Production Credit Association, P.O. Box 2, Sugar Land, Texas 77487–0002 (Institution). The FCA Board takes this action following the receipt of a request to appoint a receiver for the Richmond Production Credit Association by the Association's Board of Directors which voted on November 8, 1988, to voluntarily liquidate. The Receiver shall take possession of all assets of the Institution, wind up its business operations, liquidate its property and assets, pay its creditors, and distribute the remaining proceeds to its stockholders in accordance with the 1971 Act, FCA regulations, the FCA Receivership Manual, and this Order and any amendment hereto. In his capacity as receiver, James C. Larson, as agent for the FCA, is granted possession of all of the assets of the Institution and is empowered to execute, acknowledge, and deliver any instrument necessary for any authorized purposes and such instruments are valid and effectual as if they had been executed by the Institution's officers by authority of its board of directors. The Order authorizes James C. Larson to sign any and all documents as Receiver and to delegate signatory authority to any employee of the Institution-in-receivership.

Dated: January 6, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89–776 Filed 1–11–89; 8:45 am]

BILLING CODE 6705–01–M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

December 28, 1988.

The Federal Communications Commission has submitted the following information collection requirement to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act, as amended (44 U.S.C. 3501 *et seq.*).

Copies of the submission may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037. For further information on this submission contact Jerry Cowden, Federal Communications Commission, (202) 632–7513. Persons wishing to comment on this information collection should contact Eyvette Flynn, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395–3785.

OMB Number: 3060–0330.

Title: Part 62, Applications to Hold Interlocking Directorates.

Action: Extension.

Respondents: Individuals, businesses (including small businesses).

Frequency of Response: On occasion.

Estimated Annual Burden: 30 responses; 60 total hours; avg. 2 hours each.

Needs and Uses: Information is used by the Commission to ensure that interlocking directorates among cummunications common carriers will not have an anticompetitive impact in the telecommunications industry.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–637 Filed 1–11–89; 8:45 am]

BILLING CODE 6712–01–M

Executive Resources and Performance Review Board; Appointment of Members

As required by the Civil Service Reform Act of 1978 (Publ. L. 95–454), Chairman Dennis R. Patrick has appointed the following SES members to the Executive Resources and Performance Review Board:

Edward J. Minkel—Managing Director, Chairman

Richard M. Smith—Chief, Field Operations Bureau

Alex D. Felker—Chief, Mass Media Bureau

Diane S. Killory—General Counsel

Gerald W. Brock—Chief, Common Carrier Bureau

Ralph A. Haller—Chief, Private Radio Bureau.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–638 Filed 1–11–89; 8:45 am]

BILLING CODE 6712–01–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. 232–011225

Title: Benargus/Autoship Space Charter Agreement

Parties: K/S Benargus A/S & Co. ("Benargus"); Autoship, Inc. ("Autoship")

Synopsis: The proposed agreement would permit Autoship to charter space aboard any United States-flag vessels (up to a maximum of four vessels) owned, operated or chartered by Benargus in the trade between U.S. East Coast ports and all points via such ports, and Atlantic ports in Spain, Portugal, France, Belgium,

Netherlands, West Germany, Denmark, Norway, Sweden, Finland, Poland and East Germany, ports in the United Kingdom and Ireland, and all points via such ports.

By Order of the Federal Maritime Commission.

Dated: January 6, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-608 Filed 1-11-89; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants; Rical Express, Inc., et al.

Notice is given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR Part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarder and Passenger Vessel Operations, Federal Maritime Commission, Washington, DC 20573.

Rical Express, Inc., 9400 W. Foster/Suite 100, Chicago, IL 60656; Officers: Ricky C.K. Leung, President; Mr. Calvin Ng, Stockholder; Charles Ozburn, Sec./Vice Pres./Treas.

Cargo U.K., Inc., 4694 Aviation Parkway, #H, Atlanta, GA 30349; Officers: Roger Harold Botting, President; Regina Jacqueline Botting, Sec./Treas.

Pacific Relocating Services, Inc., 1415 W. Torrance Blvd., Torrance, CA 90501; Officers: Henry A. Pontes, President; Earl M. Herrmann, Vice President; Louis R. Petrili, Sec./Treas.

International Commerce and Transportation, Inc., 2215 Harbor Blvd., Houston, TX 77020; Officers: Elizabeth Sue Kenley, President; Josephine Wells Cummins, Sec./Treas.

Hallmark Intermodal, Inc., 3400 McIntosh Rd., Port Everglades, FL 33316; Officers: Joseph V. Maquez, President; Dina Mizner, Vice President/Sec./Treas.

Ship and Strap, Inc., 7262 NW. 70th St., Miami, Fl 33166; Officers: Clyde J. Barrett, President Jose L. Ceballos, Vice President/Sales Patrick O'Brien, Vice President/Ops.

Ransar International, Inc., 1034 Jericho Turnpike, Smithtown, NY 11787; Officer: Fortunato C. Rana, President

Logistic Distribution Systems USA Inc., 433 Blair Road, Avenel, New Jersey 07001; Officers: Salvatore Salomone, President/Director; Riccardo Del Mastro, Asst. Vice Pres.; Nisith Mitra, Treasurer; George M. Pavia, Secretary; Bruno Bigi, Director; Masssimo Petrozzi, Director

Product Transportation Group, Inc., 370 Adams Street, Newark, New Jersey 07114-2902; Officers: Michael R. Ryan, President/Director; Arthur Menzel, Vice President/Director; Allan J. Leonard, Sec.-Treas./Dir.; Anthony LaFortenzza, Vice President

ARI Shipping Corporation dba International Freight Forwarders, 156 Fifth Ave., #420, New York, NY 10010; Officers: Ilan Fidler, President; Carol Polishuk, Vice President; Paul Polishuk, Treasurer

International Freight Forwarders of Tampa, Inc., 333 Falkenburg Rd., Suite A116, Tampa, Fl 33619; Officers: Deborah L. Page, President; Charles H. Fallen, Vice President; Richard L. Kimes, Vice President

Daniel C. Griffith (Sampler & Analysts) U.S.A., Inc., 131 North Tatar, Pasadena, TX 77501; Officers: Stephen C. Fitzer, President/Director; Noel B. Manning, Sec./Treas.; Francis Holmes, Director; Jerome P. Clark, Director

Shandorry Freight Forwarding, Inc., 3700 Koppers St., Baltimore, MD 21227; Officers: Kenneth Eugene Milner, Pres./Dir.; Michael Daly, Vice Pres.; Marie Milner, Sec.

Intermar Steamship Corporation; 80 Business Park Dr., #104; Armonk, NY 10504; Officer: Joshua Podell, President

By the Federal Maritime Commission.

Dated: January 6, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89-609 Filed 1-11-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

January 6, 1989.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulation on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Nancy Steele—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822).

OMB Desk Officer—Gary Waxman—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-7340).

Final approval under OMB delegated authority of the extension, with revision, of the following report:

Report Title: Pretest of the 1989 Survey of Consumer Finances.

Agency Form Number: FR 3058.

OMB Docket Number: 7100-0238.

Frequency: One-time.

Reporters: Sample of households nationwide.

Annual reporting hours: 63.

Estimated Average Hours Per Response: 3/4 hour.

Estimated Number of Respondents: 50.

Small businesses are not affected.

General Description of Report: This information collection is voluntary (12 U.S.C. 225a, 1828(c), 1842 and 1843). No problem of confidentiality arises since names and other characteristics that would permit personal identification of respondents will not be provided to survey sponsors.

This pretest will allow the testing of quetions anticipated for the 1989 Survey of Consumer Finances to collect data on the assets, debts, income, work history, pension rights, use of financial services, and attitudes of a sample of U.S. households. The pretest will consist of in-person interviews from a sample of approximately 50 households.

Board of Governors of the Federal Reserve System, January 6, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-623 Filed 1-11-89; 8:45 am]

BILLING CODE 6210-01-M

Annapolis Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of

Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than February 3, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Annapolis Bancshares, Inc.*, Annapolis, Maryland; to become a bank holding company by acquiring 100 percent of the voting shares of Bank of Annapolis, in organization, Annapolis, Maryland, a *de novo* bank.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc.89-624 Filed 1-11-89; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies; Employees' Profit-Sharing Plan of United States Trust Company of New York and Affiliated Companies

The notifications listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 26, 1989.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Employees' Profit-Sharing Plan of United States Trust Company of New York and Affiliated Companies*, New York, New York; to acquire 16 percent of the voting shares of U.S. Trust Company, New York, New York, and thereby indirectly acquire United States Company of New York, New York.

2. *Charles L. Whigham*, Newark, New Jersey; to acquire 30.91 percent of the voting share of City National Bancshares Corporation, Newark, New Jersey, and thereby indirectly acquire City National Bank of New Jersey, Newark, New Jersey.

Board of Governors of the Federal Reserve System, January 6, 1989.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 89-625 Filed 1-11-89; 8:45 am]

BILLING CODE 6210-01-M

Application To Engage in Various Securities, Foreign Exchange and Financial Advisory Activities; The Nippon Credit Bank, Ltd., Tokyo, Japan

The Nippon Credit Bank, Ltd., Tokyo, Japan, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) ("BHC Act") and § 225.23(a) (2) and (3) of the Board's Regulation Y (12 CFR 225.23(a) (2) and (3)), to acquire a company in organization ("Newco") and thereby engage in a number of securities, foreign exchange and financial advisory activities, some of which have not been previously approved by the Board.

Previously Approved Activities

Applicant proposes to engage through Newco in the following activities that have been previously approved:

(1) Underwriting and dealing in obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks are authorized to underwrite and deal in under 12 U.S.C. 24 and 335 ("bank-eligible securities") pursuant to 12 CFR 225.25(b)(16) and engaging in activities incidental thereto, including repurchase and reverse repurchase transactions on bank-eligible securities, collateralized borrowing and lending of such securities, clearing and settling bank-eligible securities transactions, and providing accounting, record keeping and other ancillary services to counterparties that do not maintain accounts with clearing agencies, pursuant to 12 CFR 225.21(a)(2) and in accordance with *The Long-Term Credit Bank of Japan*, 74 Federal Reserve Bulletin 573 (1988);

(2) Purchasing and selling futures, forward and options contracts for bank-eligible securities for hedging purposes in accordance with 12 CFR 225.142; *Midland Bank, PLC*, 74 Federal Reserve Bulletin 577 (1988); and *Security Pacific Corporation*, 70 Federal Reserve Bulletin 238 (1984);

(3) Acting an introducing broker with respect to transactions in exchange-traded futures and options contracts on bank-eligible securities and foreign exchange pursuant to *The Long-Term Credit Bank of Japan, supra; The Sanwa Bank, Limited*, 74 Federal reserve Bulletin 578 (1988); *Sovran Financial Corporation*, 72 Federal Reserve Bulletin 146 (1986); *Security Pacific Corporation, supra;* and as a component of Futures Commission Merchants under 12 CFR 225.25(b)(18);

(4) Dealing in foreign exchange pursuant to *The Long-Term Credit Bank of Japan, supra;* and *Standard and Chartered Banking Corporation*, 38 FR 27552 (1973);

(5) Providing transactional services with respect to foreign exchange by arranging for "swaps" among customers with complementary foreign exchange exposures, including the arrangement for execution of forward contracts on foreign exchange, and for the execution of foreign exchange transactions pursuant to 12 CFR 225.25(b)(17);

(6) Providing, on an explicit fee basis, discretionary management of short-term monies for a small number of institutional customers pursuant to *Sovran Financial Corporation*, 73 Federal Reserve Bulletin 744 (1987); and *J.P. Morgan & Co., Incorporated*, 73 Federal Reserve Bulletin 810 (1987);

(7) Providing portfolio investment advice and research and furnishing general economic information and advice, general economic statistical forecasting services and industry studies, primarily in conjunction with and as an incident to its proposed bank-eligible activities but also providing such advice and research with respect to a customer's entire portfolio of bank-eligible securities and in the context of specific transactions involving bank-eligible securities, as well as advice with respect to securities other than bank-eligible securities pursuant to 12 CFR 225.25(b)(4) (iii) and (iv); *The Bank of Nova Scotia*, 74 Federal Reserve Bulletin 249 (1988); *The Royal Bank of Canada*, 74 Federal Reserve Bulletin 334 (1988); and *Manufactures Hanover Corporation*, 70 Federal Reserve Bulletin 661 (1984);

(8) Providing financial advice to state and local governments pursuant to 12 CFR 225.25(b)(4)(v) and *Texas Commerce Bancshares, Inc.* 72 Federal Reserve Bulletin 803 (1986);

(9) Providing advice in connection with the structuring of and arranging for interest rate and currency "swaps", interest rate "caps" and similar

transactions pursuant to *SunTrust Banks, Inc.*, 74 Federal Reserve Bulletin 256 (1988); and *Signet Banking Corporation*, 73 Federal Reserve Bulletin 59 (1987);

(10) Providing advice for unaffiliated institutional customers in connection with merger, acquisition, divestiture and financing transactions and valuations and fairness opinions in connection with merger, acquisition, and similar transactions pursuant to *The Royal Bank of Canada, supra; SunTrust Banks, Inc., supra; The Bank of Nova Scotia, supra; Signet Banking Corporation, supra; Security Pacific Corporation;* and *Sovran Financial Corporation, supra;* and

(11) Purchasing and selling municipal revenue bonds as agent under certain limited circumstances and pursuant to *Sovran Financial Corporation, supra.*

Activities Not Previously Approved

Applicant has also applied to purchase and sell futures, forward and options contracts for foreign exchange for its own account for hedging purposes and to provide transactional services for such activities. Applicant contends that the permissibility of such trading is supported by 12 CFR 225.142; *Midland Bank, PLC, supra;* and *Security Pacific Corporation, supra.* Applicant requests, however, suspension of the Board's consideration of this proposed activity until after the Board has made its decision on a pending application to so engage in this activity.

Applicant contends that its proposed acquisition of Newco will provide Newco with access to Applicant's financial strengths and Applicant's expertise in developing more efficient financial services. Applicant submits that the proposal will not result in adverse effects and will, in fact, add a new competitor to provide services that are important to the funding of the operations of the United States government and to the stability of financial markets.

In publishing the proposal for comment, the Board does not take any position on issues raised by the proposal under the BHC Act. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets or is likely to meet the standards of the BHC Act.

Any views or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than February 10, 1989. Any request for a hearing must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, January 6, 1989.

Barbara R. Lowrey,

Associate Secretary of the Board.

[FR Doc. 89-627 Filed 1-11-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Research To Improve the Accuracy of Long-Term Forecasts of the Social Security and Medicare Trust Funds; Applications for Grants

Pursuant to section 1110A of the Social Security Act, the Assistant Secretary for Planning and Evaluation (hereafter the Assistant Secretary) is seeking applications for research in the area of income security policy from States, public, non-profit, and for-profit organizations.

A. Type of Application Requested

This announcement seeks applications for projects to develop and conduct a program of research relating relating to predicting long-term costs and income for the Old Age and Survivors Insurance (OASI), Disability Insurance (DI), and Health Insurance (HI) Trust Funds. The Boards of Trustees, which include the Secretaries of the Departments of Health and Human Services, Labor, and Treasury and two public trustees, annually agree on economic, demographic, and other assumptions to forecast the size of the OASI, DI, and HI trust funds.

The assumptions chosen and methodologies developed are often used by private insurance firms, Federal, State and local governments, and private researchers for a variety of purposes.

Successful applicants must be willing to participate in an ASPE-sponsored conference in Washington, DC, to be held in the spring of 1990. The conference will serve as a forum for discussion of important issues related to trust fund forecasts, and will enable researchers to share their results with others.

The following paragraphs describe the general area of interest in greater detail by enumerating high priority areas of research. The questions they contain are intended as illustrations of specific concerns. Applications should be for projects that address one or more of the priority areas discussed below; other, closely-related issues may also be included if they are shown to be relevant to the general areas of interest.

A. The high priority research areas for which applications for the proposed program of research are most desired are as follows:

1. *Productivity and real wage growth.* Explaning the decline in American productivity and forecasting future rates of productivity and wage growth are economic issues with major implications for trust fund forecasts. There are several issues that should be addressed.

(a) Increased integration of the U.S. economy into world markets has had an important short-run impact, and may affect long-term productivity growth.

(b) One unresolved issue involves the choice of part time-periods as a basis for forecasts of productivity and real wage growth.

(c) New forecasts of immigration and of human and physical capital growth may imply different forecasts of productivity growth.

(d) Other explanations for the productivity slowdown, including "statistical myopia" may be worth exploring.

2. *Immigration.* Important changes in immigration law with the passage of the Immigration Reform and Control Act of 1986 and in the global political and economic environment may imply dramatic changes in the pattern of immigration. It may be useful to incorporate these changes formally in projecting the number and employment characteristics of immigrants. Furthermore, immigration will affect overall fertility rates, earnings, and other aspects of the trust fund forecast. New data may permit the examination of these and related issues, such as the relationship between illegal immigration and benefit payments.

3. *Uncertainty, confidence intervals, and long-term forecasts.* Questions in this area include:

(a) Is there greater uncertainty in the projection of some variables than others? How important are these variables to the accuracy of the trust fund projections?

(b) Do the policy consequences differ depending on whether the system is in surplus or deficit and the size of the projected imbalance? Would more formal means (e.g. a loss-function approach) be helpful in taking into account possible asymmetric costs of projection errors?

(c) Should formal means be used to incorporate the greater uncertainty of distant-year forecasts compared with the forecast for years in the not-so-distant future? How could confidence intervals be established for the projections? Is the current practice of using 75 years as the long-term projection reasonable?

4. *The future labor force*—(a) *Women in the labor force.* The earnings and labor force participation of women, given the dramatic changes in the past twenty years, is an area where forecasts could be improved with better knowledge of current behavior. In particular, improved projections of women's *lifetime* labor force participation patterns and the male/female earnings differential would be useful in forecasting revenues, the number and types of beneficiaries, as well as the level of benefits. The effects of reduced fertility and increased divorce rates are important considerations in modeling and predicting women's earnings and labor force participation rates. For example, actual or anticipated divorce may increase labor force participation; increased labor market experience in turn could lead to higher wage rates as well as increased lifetime earnings.

(b) *Older workers.* The current pattern of substantial pre-age 65 retirement may be dramatically influenced by changes in the demographic and economic environment, and by shifting government and employer policies. Do participation-rate forecasts accurately reflect current expectations in these areas?

Other areas, including fertility and mortality assumptions, the rate of inflation, interest rates, and the rate of return on capital, division of compensation between money wages and fringe benefits, and the internal consistency of assumptions could be candidates for supported research. However, preference will be given to well-designed research in the high priority areas.

Details about the assumptions, methods, and acturial estimates are contained in Actuarial Studies published by the Office of the Actuary, Social Security Administration, and are available upon request from that office. Interested parties can request the latest actuarial studies on economic and demographic projections, e.g., *OASDI Long-Range Beneficiary Projection: 1987* (Actuarial Study No. 100), *Economic Projections for OASDIHI Cost and Income Estimates: 1987* (Actuarial Study No. 101), *Social Security Area Population Projections: 1988* (Actuarial Study No. 102). Write to: Office of Actuary, Social Security Administration, Room 700, Altmeyer Bldg., Baltimore, Maryland 21235. phone: (301)–965–3015

1. Products

The applicant should present a schedule for delivery of interim progress reports and a final report. It is expected that the final report will include: (1) Analysis of past trends for the variable; (2) well-developed explanations of the historical experience; (3) empirical tests of these explanations; and (4) forecasts of future trends based on the analysis.

2. Potential Users

The research is expected to be useful to the Trustees in choosing the assumptions and/or to the actuaries in refining the methodologies used to make their predictions. Professionals in actuarial science, demography, economics, sociology, and related fields are potential users of the results. Because many of those who will be interested in this research lack advanced technical training, it is important that the results of projects be presented in a fashion accessible to such an audience. This will involve the submission of a separate, non-technical executive summary.

3. Types of Projects Excluded

Because of the nature of the work, projects from local service delivery organizations will not be funded.

4. Content and Organization of the Applications

The application must begin with a cover sheet followed by the required application forms and an abstract (of not more than two pages) of the application. Failure to include the abstract may result in delays in processing the application. Each application should include a discussion of the relevant literature, a statement of the issue(s) being examined, the probable direction the research will take, a discussion of some of the likely hypotheses to be tested, and a discussion of possible data sources to test the hypotheses. Resumes of staff should be included, as should a full budget and a schedule of tasks for the proposed projects.

B. Applicable Regulations

1. "Grants Programs Administered by the Office of the Assistant Secretary for Planning and Evaluation" (45 CFR Part 63), Code of Federal Regulations, Revised as of October 1, 1987.

2. "Administration of Grants" (45 CFR Part 74), Code of Federal Regulations, Revised as of October 1, 1987.

C. Effective Date and Duration

1. The grants awarded pursuant to this announcement are expected to be made on or about April 15, 1989; however some may be made subsequent to this date.

2. In order to avoid unnecessary delays in the preparation and receipt of applications, this notice is effective immediately. The closing dates for applications are specified in Section F and G below.

3. It is expected that projects will be completed within a nine-to-twelve-month period. Longer projects will not be considered as the grantees are expected to present their results at an ASPE–sponsored conference in the spring of 1990.

D. Statement of Funds Available

1. $150,000 has been set aside for grants to be awarded in Fiscal Year 1989 by the Assistant Secretary for Planning and Evaluation as a result of this announcement. In addition, the Department of Labor, Assistant Secretary for Policy is expected to provide an additional $30,000. Applications may be for any amount, but it is expected that most awards will be for single projects of no more than $50,000.

Applicants are encouraged to seek additional funds from other sources for this project. Applicants should discuss any commitments, plans, or hopes for additional funds, including size and sources. When it is judged that successful completion of a proposed project depends on outside funding, this office's funding commitment will be made contingent on complete demonstration of that outside funding.

2. Funds may be obligated fully at the time of award of these grants or incrementally.

3. Nothing in this application should be construed as committing the Assistant Secretary to make any award.

E. Application Processing

1. Applications will be initially screened for relevance to the needs defined in section A (as well as additional areas of interest persuasively shown to be relevant by the grantee). If judged relevant, the application will

then be reviewed by a government review panel, possibly augmented by outside experts. *Three (3) copies* of each application are required. Applicants are encouraged to send an additional *seven (7) copies* of their application to ease processing, but applicants will not be penalized if these extra copies are not included.

2. Applications will be judged as to eligibility, quality, and relevance, according to the criteria set forth in item 5.

3. An unacceptable rating on any individual criterion may render the application unacceptable. Consequently, applicants should take care to ensure that all criteria are fully addressed in the application.

4. Applications should be as brief and concise as is consistent with the information requirements of the reviewers. Applications should be limited to 25 doubled-spaced typed pages, exclusive of forms, abstract, resumes, and proposed budget; they should neither be unduly elaborate nor contain voluminous supporting documentation.

5. *Criteria for Evaluation.* Evaluation of applications will employ the following criteria. The relative weights are shown in parentheses.

a. *Usefulness.* The potential usefulness of the objectives and anticipated results of the proposed project for improving the accuracy of long-term trust fund forecasts. (25 points)

b. *Clarity and Understanding.* Understanding and knowledge of prior work in the area. The cost effectiveness of the proposal and the clarity of statement of objectives, methods, and anticipated results (15 points)

c. *Research Strategy.* The appropriateness and soundness of the research design and modeling strategy. Probability of successful completion of the study. (40 points)

d. *Experience and Qualifications of Personnel.* Principal Investigator's and other key staff's experience in this or related areas and indications of innovative approaches and creative potential. Indication of the ability of key staff to produce publishable quality reports or articles. (20 points)

F. Applications Sent by Mail

Applications may be sent by either the U.S. Postal Service or a commercial carrier. Applications sent by U.S. Postal Service will be considered to be received on time by the Grants Officer if the application was sent by first class, registered or certified mail not later than March 14, 1989, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable proof of timely mailing. Applications sent by a commercial carrier will be considered to be received on time by the Grants Officer if sent not later than March 14, 1988, as evidenced by a receipt from the commercial carrier.

G. Hand-Delivered Applications

An application to be hand-delivered must be taken to the Grants Officer at the address listed at the end of this announcement. Hand-delivered applications will be accepted daily between 9:00 a.m. and 4:30 p.m., Washington, DC, time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after close-of-business on March 15, 1989.

H. Disposition of Applications

1. *Approval, disapproval, or deferral.* On the basis of the review of the application, the Assistant Secretary will either (a) approve the application as a whole or in part; (b) disapprove the application; or (c) defer action on the application for such reasons as lack of funds or a need for further review.

2. *Notification of disposition.* The Assistant Secretary will notify the applicants of the disposition of their application. A signed notification of grant award will be issued to the contact person listed on the check list of the application.

I. Application Instructions and Forms

Copies of applications should be requested from and submitted to: Grants Officer, Office of the Assistant Secretary for Planning and Evaluation, Department of Health and Human Services, 200 Independence Avenue, SW., Room 426F, Hubert H. Humphrey Building, Washington, DC 20201, Phone (202) 245–1794. Questions concerning the preceding information should be submitted to the Grants Officer at the same address. Neither questions nor requests for applications should be submitted after January 15, 1989. *Important*—Application for Federal Assistance (Standard Form 424) must be submitted on new form revised 4/88.

J. Federal Domestic Assistance Catalog

This announcement is not listed in the Federal Domestic Assistance Catalog.

K. Intergovernmental Review of Federal Programs

This program is not subject to Executive Order 12372, "Intergovernmental Review of Federal Programs" or its implementing regulations 45 CFR Part 100.

Date: January 5, 1989.

Robert B. Helms,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 89–675 Filed 1–11–89; 8:45 am]

BILLING CODE 4150–04–M

Alcohol, Drug Abuse, and Mental Health Administration

Mental Health Services Demonstration Grants for Severely Mentally Ill Adults; Community Services Demonstration Projects

AGENCY: National Institute of Mental Health, HHS.

ACTION: Notice of restricted eligibility.

SUMMARY: The National Institute of Mental Health (NIMH) announces the availability of Mental Health Services Demonstration Grants for adults with severe, long-term mental illness. These grants will be made under the authority of section 520A of the Public Health Service (PHS) Act which authorizes funds for demonstrations of mental health services for the long-term, severely mentally ill population.

The goal of this program is to respond to the needs of long-term, severely mentally ill adults by supporting the demonstration and evaluation of various approaches to providing three key service components: Case management services, community crisis response services, and psychiatric rehabilitation services.

In fiscal year 1989, NIMH will fund a total of approximately 8 to 12 projects averaging $250,000 to $300,000 per year in the three service areas. NIMH is limiting potential applicants for demonstrations under this announcement to State mental health authorities. There are three reasons for this eligibility restriction. First, because multiple agencies and providers are generally involved in implementing these demonstration initiatives, centralized State assistance is needed to assure that sufficient resources will be allocated to the project and appropriate staff and organizations will be involved. The State mental health authorities are best qualified to undertake this coordination function, since they oversee a wide range of mental health service providers. Prior NIMH demonstration efforts under section 504(f) of the PHS Act (NIMH Community Support Program (CSP) and Child and Adolescent Service Systems Program (CASSP)) have shown the State mental

health authorities to be extremely effective in coordinating community-based services.

Second, a related Federal initiative focused on the long-term mentally ill population, authorized under Pub. L. 99-660, The State Comprehensive Mental Health Planning Act, requires State governments to coordinate services for these persons. The service demonstrations supported through the grant will facilitate State efforts to plan and implement effective, coordinated services for the long-term mentally ill population. Finally, if the programs stimulated through these grants are to survive beyond the grant period, it is probable that the main source of funding will come from State mental health authorities and other related State human service agencies. Based on previous program experience, involving States in the demonstration projects greatly increases the probability that they will provide continuation funding for the new services.

In making application for assistance, the State mental health authority must designate the type of grant (CSP Community Services Demonstration Projects). Each State may submit only one application for a grant.

For a copy of the Request for Proposals (RFA, MH-88-11) or additional program guidance, potential applicants should contact: Neal Brown, Chief, Community Support and Advocacy Branch, Division of Education and Service Systems Liaison, National Institute of Mental Health, 5600 Fishers Lane, Room 11C-22, Rockville, Maryland 20857, Telephone: (301) 443-3653.

The Catalog of Federal Domestic Assistance number for this program is 13.125.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89-622 Filed 1-11-89; 8:45 am]

BILLING CODE 4160-20-M

New Techniques Small Grants for Alcohol Researchers

AGENCY: National Institute on Alcohol Abuse and Alcoholism, HHS.

ACTION: Notice of limited competition.

SUMMARY: The National Institute on Alcohol Abuse and Alcoholism (NIAAA) announces a request for applications entitled, "New Techniques Small Grants for Alcohol Researchers." Due to the rapid emergence of new research technology, the ability of some established investigators in the alcohol community to pursue new directions has been impaired by the lack of experience in the most current technology. The purpose of this small grant program is to provide an opportunity for established alcohol researchers to acquire personal expertise in the utilization of specialized techniques applicable to alcoholism research. The award is for 3 to 6 months and a maximum of $35,000. This is a one time announcement. About 5 to 10 awards will be made in FY 1989. The awards will be made under the authority of sections 301 and 510 of the Public Health Service Act (42 U.S.C. 241 and 290bb) The Catalog of Federal Domestic Assistance Number is 13.273. NIAAA is limiting competition to current grantees and investigators who have had NIAAA grants within the past 3 years. This restriction will enable active alcohol researchers to update their research skills and will increase the likelihood of the techniques being applied to alcohol research.

CONTACT: Additional information may be obtained from: Helen M. Chao, Ph.D., Chief, Biomedical Research Branch, Division of Basic Research, National Institute on Alcohol Abuse and Alcoholism, Parklawn Building, Room 14C-20, 5600 Fishers Lane, Rockville, Maryland 20857 (301) 443-4223.

Betty J. Cook,

Acting Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89-686 Filed 1-11-89; 8:45 am]

BILLING CODE 4160-20-M

Mental Health Services Demonstration Grants for Severely Mentally Ill Adults; Community Services Demonstration Projects

AGENCY: National Institute of Mental Health, HHS.

ACTION: Notice of restricted eligibility.

SUMMARY: The National Institute of Mental Health (NIMH) announces the availability of Mental Health Services Demonstration Grants for adults with severe, long-term mental illness. These grants will be made under the authority of section 520A of the Public Health Service (PHS) Act which authorizes funds for demonstrations of mental health services for the long-term, severely mentally ill population.

The goal of this program is to respond to the needs of long-term, severely mentally ill adults by supporting the demonstration and evaluation of various approaches to providing three key service components: Case management services, community crisis response services, and psychiatric rehabilitation services.

In fiscal year 1989, NIMH will fund a total of approximately 8 to 12 projects averaging $250,000 to $300,000 per year in the three service areas. NIMH is limiting potential applicants for demonstrations under this announcement to State mental health authorities. There are three reasons for this eligibility restriction. First, because multiple agencies and providers are generally involved in implementing these demonstration initiatives, centralized State assistance is needed to assure that sufficient resources will be allocated to the project and appropriate staff and organizations will be involved. The State mental health authorities are best qualified to undertake this coordination function, since they oversee a wide range of mental health service providers. Prior NIMH demonstration efforts under section 504(f) of the PHS Act (NIMH Community Support Program (CSP) and Child and Adolescent Service Systems Program (CASSP)) have shown the State mental health authorities to be extremely effective in coordinating community-based services.

Second, a related Federal initative focused on the long-term mentally ill population, authorized under Pub. L. 99-660, The State Comprehensive Mental Health Planning Act, requires State governments to coordinate services for these persons. The service demonstrations supported through the grant will facilitate State efforts to plan and implement effective, coordinated services for the long-term mentally ill population. Finally, if the programs stimulated through these grants are to survive beyond the grant period, it is probable that the main source of funding will come from State mental health authorities and other related State human service agencies. Based on previous program experience, involving States in the demonstration projects greatly increases the probability that they will provide continuation funding for the new services.

In making application for assistance, the State mental health authority must designate the type of grant (CSP Community Services Demonstration Projects). Each State may submit only one application for a grant.

For a copy of the request for Proposals (RFA, MH-88-11) or additional program guidance, potential applicants should contact: Neal Brown, Chief Community Support and Advocacy Branch, Division of Education and Service Systems Liaison, National Institute of Mental Health, 5600 Fishers Lane, Room 11C-22,

Rockville, Maryland 20857, Telephone: (301) 443–3653.

The Catalog of Federal Domestic Assistance number for this program is 13.125.

Joseph R. Leone,

Associate Administrator for Management, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 89–621 Filed 1–11–89; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

Carson Chemicals, Inc.; Withdrawal of Approval of NADA's

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of two new animal drug applications (NADA's) held by Carson Chemicals, Inc. The NADA's provide for anthelmintic use of piperazine adipate powder in horses, dogs, and cats, and piperazine adipate tablets in dogs, puppies, cats, and kittens. The firm requested the withdrawal of approvals.

EFFECTIVE DATE: January 23, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: Carson Chemicals, Inc., P.O. Box 466, New Castle, IN 47362–0466, is the sponsor of two NADA's. NADA 9–821, approved March 15, 1955, provides for anthelmintic use of Asca-Trol #3 (piperazine adipate tablets) in dogs, puppies, cats, and kittens. NADA 9–951, approved May 18, 1955, provides for anthelmintic use of piperazine dipate powder (100 percent) in drinking water, feed, or as a drench in horses, dogs, and cats.

By letters dated February 18, 1988, the sponsor requested the withdrawal of approvals because the products are no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that the approval of NADA's 9–821 and 9–951 and all supplements thereto is hereby withdrawn, effective January 23, 1989.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing the entries for "Carson Chemicals, Inc." and its drug sponsor/labeler code from the list of sponsors of approved NADA's in 21 CFR 510.600(c)(1) and (c)(2), and removing 21 CFR 520.1801a(d) and 520.1801c and reserving them.

Dated: January 3, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89–633 Filed 1–11–89; 8:45 am]

BILLING CODE 4160–01–M

Norden Laboratories, Inc.; Withdrawal of Approval of NADA'S

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of three new animal drug applications (NADA's) held by Norden Laboratorites, Inc. The firm requested the withdrawal of approvals.

EFFECTIVE DATE: January 23, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: Norden Laboratories, Inc., Lincoln, NE 68501, is the sponsor of the following NADA's:

1. NADA 7–404 provides for use of Histosol (pyrilamine maleate) Injectable in horses for treating conditions in which antihistaminic therapy may alleviate some signs of disease. The NADA was approved on May 9, 1950.

2. NADA 12–746 provides for use of Nortran (trifluomeprazine) Tablets in dogs for tranquilization and chemical restraint. The NADA was approved on October 3, 1972.

3. NADA 45–628 provides for use of Paracide (dichlorophene/toluene) Capsules in dogs and cats as an anthelmintic. The NADA was approved on March 18, 1972.

By letter of January 13, 1988, the sponsor requested withdrawal of approval of the above-mentioned NADA's because the products have not been manufactured or marketed for several years.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA's 7–404, 12–746, and 45–628 and all supplements thereto is hereby withdrawn, effective January 23, 1989.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing the sponsor's drug labeler code No. "011519" from 21 CFR 520.480(b)(1) and 522.2063(b). In addition, 21 CFR 520.2560 is being removed.

Dated: January 3, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89–634 Filed 1–11–89; 8:45 am]

BILLING CODE 4160–01–M

The Purdue Frederick Co.; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) held by the Purdue Frederick Co. The NADA provides for use of triethanolamine polypeptide oleate-condensate otic solution in dogs and cats for removal of earwax. The firm requested the withdrawal of approval.

EFFECTIVE DATE: January 23, 1989.

FOR FURTHER INFORMATION CONTACT: Mohammad I. Sharar, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: The Purdue Frederick Co., 100 Connecticut Ave., Norwalk, CT 06856, is the sponsor of NADA 12–817 which provides for use of Cerumenex-V Drops (triethanolamine polypeptide oleate-condensate) in dogs and cats to help remove excess or impacted earwax. The NADA was originally approved on November 17, 1972.

In a letter dated April 5, 1988, the sponsor requested the withdrawal of approval because the product is no longer being marketed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345–347 (21 U.S.C. 360b(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 12–817 and all supplements thereto is hereby withdrawn, effective January 23, 1989.

In a final rule published elsewhere in this issue of the **Federal Register**, FDA is removing the entry for "The Purdue

Frederick Co." from the list of sponsors of approved NADA's in 21 CFR 510.600(c)(1), the drug labeler code No. "000034" from 21 CFR 510.600(c)(2), and 21 CFR 524.2542.

Dated: January 3, 1989.

Gerald B. Guest,

Director, Center for Veterinary Medicine.

[FR Doc. 89-635 Filed 1-11-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0007]

Drug Export; Factor IX, Purified

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Alpha Therapeutic Corp., has filed an application requesting approval for the export of the biological product Factor IX, Purified to West Germany.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Alpha Therapeutic Corp., 5555 Valley Blvd., Los Angeles, CA 90032, has filed an application requesting approval for the export of the biological product Factor IX, Purified, to West Germany. Factor IX, Purified is a concentrate derived from Factor IX Complex powder, and as a finished product is intended for therapeutic use in hemophilia B patients who would be at risk of thromboembolic episodes after treatment with Factor IX Complex preparations. The application was received and filed in the Center for Biologics Evaluation and Research on December 15, 1988, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by January 23, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99-660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: December 23, 1988.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-714 Filed 1-11-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0006]

Drug Export; Procaterol Hydrochloride Tablets

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Parke-Davis has filed an application requesting approval for the export of the human drug Procaterol Hydrochloride Tablets to Canada.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Rudolf Apodaca, Division of Drug Labeling Compliance (HFD-310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8063.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99-660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice of the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Parke-Davis Pharmaceutical Research Division, Warner-Lambert Co., 2800 Plymouth Rd., Ann Arbor, MI 48105-2430, has filed an application requesting approval for the export of the drug Procaterol Hydrochloride Tablets, to Canada. This drug product is to be used as a bronchodilator. The application was received and filed in the Center for Drug Evaluation and Research on December 22, 1988, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by January 23, 1989, and to provide an additional copy of the

submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802, Pub. L. 99–660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: January 3, 1989.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89–636 Filed 1–11–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88D–0125]

Guideline Labeling Texts for Progestational Drug Products for Human Use

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing the revised guideline texts for professional and patient labeling for prescription progestational drug products. The revised texts reflect important new information about progestational drug products. Any person may rely upon the revised texts in meeting labeling requirements for these drug products. The revised texts apply only to progestational drug products subject to the requirements of 21 CFR 310.516 and not to progestogen-containing oral contraceptive drug products, which are subject to regulation under 21 CFR 310.501. Elsewhere in this nature of the **Federal Register**, FDA is amending its regulation for labeling for progestational drug products to reflect these revised guideline texts.

EFFECTIVE DATE: Effective January 12, 1989, interested persons may adopt the revised labeling guideline texts for progestational drug products and rely on them to meet FDA's professional labeling requirement for a boxed warning, and the patient labeling requirement for progestational drug products set forth in 21 CFR 310.516.

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

FOR FURTHER INFORMATION CONTACT: Adele S. Seifried, Center for Drug Evaluation and Research (HFD–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8049.

SUPPLEMENTARY INFORMATION: This notice contains revised guideline texts for professional and patient labeling for progestational drug products.

FDA is charged with assuring that drugs are safe and effective for their intended uses and that a drug's labeling provides adequate information for such uses and is not false or misleading. The full disclosure of information to physicians and, where appropriate, labeling directed to patients concerning the benefits and risks of drug use is an important element in the discharge of that responsibility. The statutory scheme anticipates that new information concerning the safety and effectiveness of marketed drugs may require, for example, that FDA prescribe changes in product labeling to reveal limitations on use or warn of previously unanticipated hazards.

Guideline texts for professional and patient labeling were previously published in a July 22, 1977 (42 FR 37646 through 37648), Drug Efficacy Study Implementation notice establishing the conditions for the safe and effective use of these drugs. The notice required that professional labeling for progestational products be revised to reflect reports in the scientific literature about the possible teratogenicity of such products. In particular, the notice required that profesional labeling contained a boxed warning recommending against the use of progestational products during the first 4 months of pregnancy. The boxed warning discussed the potential problems associated with progestational drug use in pregnancy, noting, in part, that "* * * [s]everal reports suggest an association between intrauterine exposure to female sex hormones and congenital anomalies, including congenital heart defects and limb reduction defects * * *."

The July 1977 notice also contained a guideline text for patient labeling reflecting the same information about the use of progestational products in pregnancy. Patient labeling for progestational drug products was initially required in a rule published in the **Federal Register** of October 13, 1978 (43 FR 47178). This is currently codified at 21 CFR 310.516. The regulation requires that patients be provided with information about the benefits and risks of progestational drug use, including information about the potential teratogenicity of such drug products.

New information about the potential teratogenicit of progestational drugs has prompted the agency to revise the guideline professional and patient labeling texts for progestational drug products. This notice revised the guideline texts by (1) deleting the warning about possible congenital heart defects and limb reduction defects, and (2) adding a warning stating that the use of progestational drugs in pregnancy may cause certain genital abnormalities. The revisions are based on a number of studies reported in the scientific literature since 1977 and on further evaluation and analysis of previously reported data.

Like the current labeling for progestational products, the revised texts continue to warn against the use of progestational products during the first 4 months of pregnancy.

The revisions are the product of the combined efforts of FDA scientists in the Center for Drug Evaluation and Research and the members of FDA's Advisory Committee on Fertility and Maternal Health Drugs. In developing the guideline texts, FDA also considered reports in the published literature regarding effects on the fetus of exposure in utero to progestational agents and a citizen petition filed by the National Women's Health Network.

This notice publishes in full the revised guideline texts for progestational drug products. It should be emphasized that these revised guideline texts apply only to progestational drug products subject to the requirements of § 310.516, and not to progestogen-containing oral contraceptive drug products, which are subject to regulation under § 310.501.

The revised guideline texts are issued under 21 CFR 10.90(b), which provides for the use of guidelines to establish procedures or standards of general applicability that are not legal requirements but are acceptable to the agency. A person who follows the guideline texts is assured that his or her conduct is acceptable to the agency. FDA advises that compliance with the professional labeling guideline texts for progestational drug products can be relied on by manufacturers in meeting pertinent professional labeling requirements (21 CFR Part 201). Also, compliance with the patient labeling guideline texts satisfies the requirements of § 310.516. The guideline texts can be relied upon by any person to meet these specific regulatory requirements. Under the provisions of 21 CFR 314.70, a holder of an approved application for a new drug is required to submit a supplemental application to obtain approval for a change in the text of professional labeling or patient labeling. However, under § 314.70(c), these guideline labeling texts may be used before approval of supplements covering the revisions, provided a supplement for the changes is submitted

at the time the changes are made. An applicant may choose to use a labeling text that is different than the guidelines. If an applicant chooses to depart from a guideline, the applicant should first discuss the matter further with the agency to prevent expenditures of money and effort for labeling that the agency may later determine to be unacceptable.

The patient labeling texts published in this notice comply with the patient labeling requirement in § 310.516 and can be relied upon by manufacturers, packers, and distributors to meet those requirements.

Effective January 12, 1989, a person may adopt the guideline texts for progestational drug products that are the subject of this notice.

Interested persons may submit written comments on these guideline texts to the Dockets Management Branch (address above). Comments will be considered in determining whether future changes to the guidelines are necessary. Two copies should be submitted, except that individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. The guidelines and comments received may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Guideline Professional Labeling Text for Progestational Drug Products—Boxed Warning

The professional labeling for such products should continue to include under the Contraindications section the following contraindictation:

As a diagnostic test for pregnancy.

The professional labeling should continue to contain a Boxed Warning, revised as follows:

The Use of (Name of Drug) During the First 4 Months of Pregnancy Is Not Recommended

Progrestational agents have been used beginning with the first trimester of pregnancy in an attempt to prevent habitual abortion. There is no adequate evidence that such use is effective when such drugs are given during the first 4 months of pregnancy. Furthermore, in the vast majority of women, the cause of abortion is a defective ovum, which progestational agents could not be expected to influence. In addition, the use of progestational agents, with their uterine-relaxant properties, in patients with fertilized defective ova may cause a delay in spontaneous abortion. Therefore, the use of such drugs during the first 4 months of pregnancy is not recommended.

Several reports suggest an association between intrauterine exposure to progestational drugs in the first trimester of pregnancy and genital abnormalities in male and female fetuses. The risk of hypospadias, 5 to 8 per 1,000 male births in the general population, may be approximately doubled with exposure to these drugs. There are insufficient data to quantify the risk to exposed female fetuses, but insofar as some of these drugs induce mild virilization of the external genitalia of the female fetus, and because of the increased association of hypospadias in the male fetus, it is prudent to avoid the use of these drugs during the first trimester of pregnancy.

If the patient is exposed to (name of drug) during the first 4 months of pregnancy or if she becomes pregnant while taking this drug, she should be apprised of the potential risks to the fetus.

Patient Labeling for Progestational Drug Products

The kind of information to be contained in the patient labeling is specified in § 310.516. This notice contains a text that can be used to meet the requirements of the regulation. The text of such patient labeling is revised as follows:

Guideline Patient Labeling Text for (Name of Drug) Warning for Women

Progesterone or progesterone-like drugs have been used to prevent miscarriage in the first few months of pregnancy. No adequate evidence is available to show that they are effective for this purpose. Furthermore, most cases of early miscarriage are due to causes which could not be helped by these drugs.

There is an increased risk of minor birth defects in children whose mothers take this drug during the first 4 months of pregnancy. Several reports suggest an association between mothers who take these drugs in the first trimester of pregnancy and genital abnormalities in male and female babies. The risk to the male baby is the possibility of being born with a condition in which the opening of the penis is on the underside rather than the tip of the penis (hypospadias). Hypospadias occurs in about 5 to 8 per 1,000 male births and is about doubled with exposure to these drugs. There is not enough information to quantify the risk to exposed female fetuses, but enlargement of the clitoris and fusion of the labia may occur, although rarely.

Therefore, since drugs of this type may induce mild masculinization of the external genitalia of the female fetus, as well as hypospadias in the male fetus, it is wise to avoid using the drug during the first trimester of pregnancy.

These drugs have been used as a test for pregnancy but such use is no longer considered safe because of possible damage to a developing baby. Also, more rapid methods for testing for pregnancy are now available.

If you take (name of drug) and later find you were pregnant when you took it, be sure to discuss this with your doctor as soon as possible.

Dated: December 23, 1988.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-713 Filed 1-11-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

[BERC-486-PN]

Medicare Program; Inherent Reasonableness for Home Dialysis Supplies and Equipment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: In this notice, we propose to establish a special reasonable charge payment limit for home dialysis equipment and supplies. The proposal is intended to prevent excessive payment for these items.

DATE: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on March 13, 1989.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-486-PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-486-PN. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Ave., SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Bob Niemann, (301) 966-4569.

SUPPLEMENTARY INFORMATION:

I. Background

A. Statute and Regulations

Section 1842(b)(3) of the Social Security Act (Act) requires that all payments under Part B of the Medicare program must be reasonable.

Reasonable charge determinations under Part B are generally based on customary and prevailing charges derived from historic charge data. The reasonable charge for a service is generally the lowest of—(1) the actual charge; (2) the customary charge made by a particular physician or supplier; or (3) the prevailing charge, which is set at the 75th percentile in the range of customary charges for similar services in the locality. An economic index limits the annual increases in prevailing charges only for physicians' services. However, an inflation-indexed charge limitation applies to all nonphysician services and items paid on a reasonable charge basis.

This standard method of determining the reasonable charge for service can, in some instances, result in payments that may not be reasonable. When this occurs, section 1842(b)(8) of the Act authorizes the Secretary to adopt special reasonable charge limits.

The regulations at 42 CFR 405.502 (a)(7) and (g) implement the statute and set forth factors to be considered and procedures to be followed in establishing special reasonable charge limits. The regulations specify that we may set a limit if we determine that the standard rules for calculating reasonable charges result in grossly deficient or excessive charges. The limits may be in the form of either a specific dollar amount or a special method to be used in determining reasonable charges to be allowed for a particular service or category of service.

The regulations at § 405.502(g)(1)(i) provide examples of circumstances which may result in grossly excessive charges. These include but are not limited to following circumstances:

- The marketplace is not competitive.
- Medicare is the primary source for payment.
- The charges involve the use of new technology for which an extensive charge history does not exist.
- The charges do not reflect changing technology, increased facility with that technology, or changes in acquisition or supplier costs.
- Prevailing charges in a locality are grossly in excess of prevailing charges in other localities.
- Charges are grossly in excess of acquisition or production costs.

The regulations further specify, at § 405.502(g)(3), that we publish in the **Federal Register** a proposed notice and a final notice of any national limit before it is adopted. Section 405.502(g)(3) also provides that the notices set forth the criteria and circumstances, if any, under which a specific exceptions process to the special limit would be established.

B. Home Dialysis Equipment and Supplies

Traditionally, the term "home dialysis" has always meant an arrangement whereby the patient is trained for home dialysis in an approved ESRD facility and subsequently dialyzes himself or herself at home with the aid of a trained partner. A relatively new development in the provision of dialysis services is staff-assisted home dialysis. In "staff-assisted" home dialysis, the patient is not trained for home dialysis because the dialysis treatment is performed entirely by a staff member from a facility or supplier of dialysis equipment. The services performed by the staff member are not Medicare-covered services; however, the supplies and equipment furnished to an eligible Medicare beneficiary generally are covered.

There are two methods of payment for home dialysis supplies and equipment under Medicare. Under Method I (also called the composite rate), the same rate is paid to approved dialysis facilities for dialysis provided in the home as is paid for dialysis provided in the facility. The facility is responsible for furnishing (directly or indirectly) all items and home dialysis support services necessary for the patient to dialyze at home. Program payment for all these items and services is included under the composite rate.

Under Method II (also called direct dealing), payment is made on a fee-for-service basis. Support services furnished by an approved dialysis facility are paid for by the Medicare intermediary. (For hospital-based facilities, these services are paid on the basis of cost; for independent facilities, on the basis of charges related to cost.) Claims for supplies and equipment are paid by the carrier to beneficiaries or, in the case of assigned claims, to the supplier, on the basis of reasonable charges.

The beneficiary is given the option of payment methods. If he or she elects to change the method of payment, generally the change in the method of payment for home dialysis (that is, from Method I to Method II or vice versa) is effective January 1 of the year after the calendar year in which the change was elected.

II. Provisions of This Notice

We have determined that the standard methodology for determining reasonable charges for home dialysis equipment and supplies reimbursed under Method II results in charges that are grossly excessive. Charges are grossly in excess of acquisition costs. We believe this occurs in part because Medicare is the primary source for payment. In accordance with the procedures described in § 405.502(g), we are proposing to establish an upper limit on the amount of payment we make for home dialysis equipment and supplies.

A. Circumstances Requiring a Limit

In order to determine the cost of home dialysis, HCFA selected a random sample of dialysis facilities to be audited. Medicare intermediaries (or, in some cases, subcontractors of intermediaries) and the Office of the Inspector General (OIG) conducted audits of those ESRD facilities in the fall of 1983 (see 51 FR 29411). The data gathered in those audits suggest that charges made for home dialysis supplies and equipment are disproportionate to actual acquisition, maintenance, and repair costs, and that suppliers may not be competing among themselves for business from Medicare beneficiaries. These data show that Medicare carriers are allowing aggregate charges that are substantially in excess of the composite rate paid to Medicare approved dialysis facilities for the same items. Moreover, because the composite rate paid to dialysis facilities covers additional costs incurred by those facilities that are not incurred by suppliers (for example, home dialysis support services, certain laboratory tests, facility overhead), this is a clear indication that dialysis facilities are paying suppliers substantially less than the Medicare carriers' prevailing charge in the same area for the same products.

Also, the OIG, in its recent report on CAPD, "Payments for Continuous Ambulatory Peritoneal Dialysis Supplies" (CIN: A–09–87–00108), states that Medicare carriers pay 75 percent more than ESRD facilities or suppliers related to them for CAPD supplies. This study consisted of onsite reviews of all 9 suppliers of CAPD supplies in HCFA regions IX (consisting of California, Nevada, Arizona, Hawaii, Guam, and Samoa) and X (consisting of Washington, Oregon, Idaho, and Alaska), and 4 dialysis units located in Veterans Administration hospitals. Most of these suppliers were related to a dialysis facility by ownership or control. This study showed similar results to the audits referred to above. The average amount paid by dialysis facilities, or by suppliers related to them, for CAPD supplies for their home dialysis patients, was approximately $1200 per month. The manufacturers of these supplies also supplied Medicare beneficiaries on whose behalf they billed the Medicare

program directly under Method II. However, the average charge to Medicare was about 75 percent higher than the charge to facilities or to suppliers related to them for the same items.

Currently, 71 percent of all home dialysis patients have elected Method I, and the average Medicare allowed charge per patient is approximately $1550 per month. The remainder of Medicare home dialysis patients' claims for supplies and equipment are paid under Method II. Method II claims can range from $2100 to over $3000 per month for supplies and equipment for each patient. This is more than twice the allowed average charge under Method I. We believe that this is inappropriate and that Congress' intent in authorizing Method II (through section 1881(b)(2)(A) of the Act) was to afford the beneficiary the option of obtaining home dialysis equipment and supplies directly from a supplier (rather than through a dialysis facility) if he or she chooses to do so. The intent was not to undermine the otherwise mandated composite rate by providing an alternative reimbursement system that would result in program payments that are twice as much as the composite rate.

Payment limits may be set (notwithstanding the reasonable charge limits that would otherwise apply) under certain circumstances. Examples of these circumstances are found at 42 CFR 405.502(g)(1). In the case of home dialysis equipment and supplies, two of those circumstances apply, that is: (1) Medicare is the primary payer (over ninety percent of the end stage renal disease (ESRD) patients in the country are covered under Medicare); and (2) when carriers use Method II to compute charges for home dialysis equipment and supplies, the charges are grossly in excess of acquisition costs. Many Medicare carriers have already taken steps to deal with this problem under their independent authority. This notice is not intended to interfere with these carrier actions. Rather, it will result in a national maximum limit for all carriers. Carriers would continue to have the responsibility and authority under § 405.502(g) to establish lower payment allowances than this national limit. Section 405.502(g) allows a carrier to establish special reasonable charge limits if it determines that the standard rules for calculating reasonable charges result in grossly deficient or excessive charges. Section 405.502(g)(4) sets forth the procedures carriers must follow to inform affected suppliers of the special limits.

B. Proposed Limit

This notice would require Medicare carriers to set their maximum allowed charge for home dialysis equipment and supplies paid under Method II at the lower of—

1. The national maximum allowable charge as described below; or
2. The limit determined by the carrier, taking local practices into account, in accordance with the procedures in 42 CFR 405.502(g)(4).

The national maximum allowable charge for home dialysis supplies and equipment under Medicare would be computed by taking the average number of dialysis treatments for the applicable billing period (12.4 per month, 3.1 per week, .4429 per day) and multiplying it by the national average composite rate for independent dialysis facilities (currently $125). The composite rate is considered to be a reasonable limit for several reasons: (1) It was derived only after exhaustive research, audits, and public comment on the methodology; (2) approximately 71 percent of all home dialysis patients are under the composite rate; and (3) the proposed rate is sufficient to cover the cost of all supplies and services furnished to beneficiaries receiving infacility dialysis.

The national maximum limit would not relieve the individual carriers of their ongoing responsibility to set their payment allowance at a lower amount, if appropriate. To that end, carriers would determine whether the principles of inherent reasonableness substantiate the national maximum limit in the areas under their jurisdiction. Carriers may do this by checking with dialysis facilities for the prices they are charged by suppliers of home dialysis equipment and supplies, and comparing these charges to the amounts suppliers are charging the carriers directly for the same items. Carriers may wish to refer to the OIG's recent report on CAPD, "Payments for Continuous Ambulatory Peritoneal Dialysis Supplies" (CIN: A-09-87-00108), in which a similar but broader approach was used. Carriers should bear in mind that the audits of ESRD facilities referred to above (see 51 FR 29411) showed that the cost of home dialysis is $96.18 per treatment. These costs reflect the fact that suppliers charge facilities less than they charge the Medicare program directly through Method II for the same items. Furthermore, these costs include additional costs (for example, home dialysis support services and facility overhead) that suppliers do not incur.

When a Medicare carrier makes a reduction in charges based on this notice, the carrier would notify all affected beneficiaries (beneficiaries who have elected Method II and on whose behalf the carrier has paid benefits under Method II) and all affected Method II suppliers. The notice would state that payment would be reduced for supplies or equipment furnished on or after 45 days after the date of the letter notifying beneficiaries and suppliers of the reduction. The notice would also state that the beneficiary would have the option, during the period beginning with the date of the notification and ending with December 31 of that year, to change to Method I with an immediate effective date. This option would be provided in order to help beneficiaries whose Method II suppliers may not continue to accept assignment or who may not provide supplies at the reduced rate. Only beneficiaries and suppliers who had submitted a claim for home dialysis supplies or equipment by the time this notice is published in final would be notified. Beneficiaries and suppliers submitting their first claims after publication of the final notice would not require notification of the reduction, since they would have never been paid at the higher rate.

C. Illustrations

The effect of the provisions of this proposed notice is illustrated in the following examples—

Example 1

Beneficiary A is a home hemodialysis patient. The carrier receives a claim on her behalf from a single supplier for all home dialysis supplies and equipment furnished to her for the month of January: Declotting equipment (HCPCS code A4810), hemodialysis supply kit (A4820), labor charges for home dialysis repair (A4840), kidney dialysis delivery machine (E1510), heparin infusion pump (E1520), and a reverse osmosis water purification system (E1610). This claim is representative of one month's supplies and equipment rental. The special reasonable charge limit for all of these home dialysis items would be $1550, a figure arrived at by taking the average number of dialysis treatments in a month (12.4), and multiplying it by the national average composite rate for independent dialysis facilities (currently $125). It would not be reasonble to allow any additional amount for any other costs the supplier might incur in dealing directly with a Medicare carrier as opposed to receiving payment through individual dialysis facilities. This is because the composite rate paid by the Medicare intermediary includes additional costs incurred by facilities that are not incurred by suppliers, and these additional costs adequately offset any possible additional supplier costs.

Example 2

Beneficiary B is a home dialysis patient on continuous ambulatory peritoneal dialysis (CAPD). The carrier receives a claim on behalf of the beneficiary from ABC supplier for a CAPD supply kit (HCPCS code A4900) for the month of April. This claim represents one month of supplies, and, because the modality is CAPD, no equipment is involved. The payment limit would be equal to $1550, a figure arrived at by multiplying the national average composite rate for independent dialysis facilities (currently $125) by 12.4 treatments per month. The factor 12.4 is used even though CAPD is not furnished in discrete sessions because program rules (48 FR 21272–3) establish a payment equivalence between CAPD and hemodialysis. Under the composite rate, CAPD is paid on a daily or a weekly basis. Thus, under the special payment limit, a facility's weekly payment rate (7 calendar days) for a CAPD patient would be 3.1 times its composite rate for a single hemodialysis treatment. The weekly rate is bsed on the equivalency of one week of CAPD to one week of hemodialysis, an equivalency set forth when we originally implemented the composite rate (see 48 FR 21272–3, published on May 11, 1983).

Example 3

Beneficiary C is a home hemodialysis patient. The carrier receives the following claims on her behalf from different suppliers. These claims are representative of one month of services:

Code	Description	Prevailing charge
A4802	Hemodialysis supply kit	$1,000
A4880	Storage tanks	200
A4680	Activated carbon filters	60
A4690	Dialyzers (1 month's supply)	700
E1560	Blood leak detector	10
E1510	Kidney dialysis delivery machine.	600
E1520	Heparin infusion pump	100
E1610	Reverse osmosis water purification system.	200
E1620	Blood pump	100
	Total	2,970

The national average composite rate for independent dialysis facilities is currently $1550 per month, a figure determined by multiplying the average number of dialysis treatments in a month (12.4) by the national average composite rate for independent dialysis facilities (currently $125). Thus, the total charge of $2970 is 1.83 times greater than the composite rate and should be reduced to a reasonable total. The carrier would then compare these charges against (1) the charges for similar supplies and equipment used by home or, if appropriate, infacility, patients who are treated by facilities under the composite rate; or (2) other prevailing charges in other carrier areas where the carrier has made the comparison described in (1) to determine the amount by which each individual prevailing charge should be decreased in order to achieve the correct total charge ($1550 in this example). As long as the aggregate specific reasonable charge limit is not exceeded, the carrier has discretion to apportion individual reductions in prevailing charges.

D. Exceptions Process

The provisions of the regulations under which this limit on reasonable charges is being issued (§ 405.502(g)) state that the proposed notice will set forth the criteria and circumstances under which a carrier may grant an exception to the limit. While we are not proposing to establish any special exceptions policy in this notice, carriers do have the authority under § 405.506 to reimburse additional amounts if there are unusual circumstances or medical complications requiring additional charge, if it is acceptable medical practice in the locality to make an extra charge in these cases.

III. Regulatory Impact Statement

A. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to publish a regulatory impact analysis for regulations and other documents that are likely to meet the criteria for a major notice. A major notice is one that would result in: (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies, or any geographic regions; or (3) 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. We have determined that none of the criteria of E.O. 12291 have been met and therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

We prepare and publish a regulatory flexibility analysis consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) for notices unless the Secretary certifies that the notices would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we consider all ESRD facilities and suppliers to be small entities. Since this proposed notice would have significant economic impact on some small entities, we have prepared a regulatory flexibility analysis.

In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any proposed rule that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital with fewer than 50 beds located outside a metropolitan statistical area. We have determined, and the Secretary certifies, that this proposed regulation would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

1. Affected Entities

We expect suppliers of ESRD equipment and medical supplies, ESRD facilities and beneficiaries to be affected by this regulation. (We expect that some Method II patients will return to facilities for all items and services.) However, we do not have sufficient data to predict exactly which suppliers and facilities would be most affected by this notice nor the magnitude of the impact upon specific suppliers and facilities.

If the Method II form of reimbursement is left unchecked, we expect that the patient population choosing Method II reimbursement would grow due to effective advertising on the part of suppliers who have an economic incentive to encourage the choice of Method II. We believe that as a result of this notice, we would be removing any economic incentives to use Method II reinbursement. Thus, program expenditures would not increase.

a. *Suppliers.* Suppliers would be affected to a greater or lesser degree depending upon the extent of reimbursement they currently receive through Method II for equipment and medical supplies. Some suppliers are likely to experience a reduction in payments as a result of the application of the upper payment limit. The extent of the impact on supplier income would be affected by such factors as the availability of other payment sources (for example, other health insurance held by the beneficiary and its payment limits) and the extent to which a supplier's income is derived from ESRD equipment and supplies furnished under Method II. Possible responses on the part of the suppliers may be to raise charges for other items and services, reduce the number of claims for which they are willing to accept assignment, or not continue to supply this particular line of equipment and supplies. Because of the number of dialysis facilities participating in the program, we do not believe this will adversely affect beneficiary access to these items and services.

We estimate that the proposed upper limit would result in the following savings to the Federal government and potential reductions in reimbursement to some suppliers.

SAVINGS ESTIMATES

Fiscal year	Savings in millions [1]
1989	$30
1990	10
1991	5
1992	5
1993	5

[1] Rounded to nearest $5 million.

In deriving these figures, we used the assumption that Method II reimbursement would equal $2500 per patient monthly. Additionally, we included an inflation factor and a growth rate factor to reflect the growth in the number of patients receiving dialysis treatment. We also used the assumption that the number of beneficiaries choosing reimbursement under Method II would be a constant percentage of the total dialysis population.

In addition, in calculating these savings, we offset against the national savings estimates attributable to the proposed notice the estimated savings resulting from the special reasonable charge limits that some carriers are already applying in accordance with the provisions of §405.502(g).

We also note that there are exceptions to this payment methodology permitted under § 405.506 to reimburse additional amounts if there are unusual circumstances or medical complications requiring additional time, effort, or expense that support an additional charge.

b. *Facilities.* As of June 1988, there were 667 hospital-based ESRD facilities and 1002 independent ESRD facilities. If some suppliers make a management decision not to provide the equipment and supplies to some or all the beneficiaries they previously provided, we would expect that those beneficiaries would elect to receive services or equipment through hospital or independent facilities or perhaps from other suppliers willing to accept assignment or to charge no more than the upper payment limit. Thus, it is possible that facilities would experience some increased demand for services.

c. *Beneficiaries.* Beneficiaries would be affected by the imposition of the upper payment limit for services. We estimate that this notice would affect the majority of the approximately 5,300 current Method II beneficiaries. These beneficiaries represent approximately five percent of the total population receiving renal dialysis. Under the proposed upper limit, many beneficiaries could experience a decrease in coinsurance because Medicare's reasonable charge would be reduced. In those cases where Medicaid pays the coninsurance for Medicare patients who are also Medicaid-eligible, Medicaid may also show a decrease in program expenditures. Some of the alternatives suppliers may choose that could affect beneficiaries are that they may raise charges for other items and services, reduce the number of claims for which they are willing to accept assignment, or not continue to supply home dialysis equipment and supplies. However, as explained in section I.B. of this preamble, beneficiaries would be given sufficient notice and reasonable time to change to a different reimbursement methodology if they choose to do so. They also could elect to switch to dialysis treatment in a facility.

2. Conclusion

We believe that the overall benefits to society from this proposed notice more than offset any resulting liabilities. For the most part, we expect that the result would be reduced payment to certain suppliers.

The primary benefit expected to result from this proposed notice is the anticipated reduction in the cost to the Medicare program for ESRD equipment and medical supplies. As a result, additional Trust Fund monies would be available for quality health care for Medicare beneficiaries. If, as anticipated, the costs to the Medicare program are reduced, then beneficiary coinsurance liability would also be reduced.

The application of the upper payment limit to equipment and supplies is expected to produce substantial economic benefits, eliminating wide variations in Medicare payment for virtually identical equipment and supplies, and limiting upward pricing trends in the health care marketplace.

IV. Other Required Information

A. Response to Comments

Because of the large number of items of Correspondence we normally receive on a proposed notice, we are not able to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "Date" section of this preamble, and, if we proceed with a final notice, we will respond to the comments in the preamble of that notice.

B. Paperwork Reduction Act

This proposed notice does not impose any information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 through 3511).

(Sections 1842(b) (8) and (9), and 1881 of the Social Security Act (42 U.S.C. 1395u(b) (8) and (9), and 139rr; 42 CFR 405.502 (a)(7) and (g)); (Catalog of Federal Domestic Assistance Program No. 13.774, Medicare—Supplementary Medical Insurance.)

Dated: November 4, 1988.

William L. Roper,

Administrator, Health Care, Financing Administration.

Approved: November 22, 1988.

Otis R. Bowen,

Secretary.

[FR Doc. 89-369 Filed 1-11-89; 8:45 am]

BILLING CODE 4120-01-M

Medicaid Program; Hearing; Reconsideration of Disapproval of a Portion of a Nebraska State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on February 8, 1989, in Kansas City, Missouri to reconsider our decision to disapprove a portion of Nebraska State Plan Amendment 88-7.

DATE: Closing date: Requests to participate in the hearing as a party must be received by the Docket Clerk (on or before January 27, 1989).

FOR FURTHER INFORMATION CONTACT: Docket Clerk, HCFA Hearing Staff, 300 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 966-4471.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove a portion of Nebraska State Plan Amendment 88-7.

Section 1116 of the Social Security Act and 42 CFR Part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice,

in accordance with the requirements contained in 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 42 CFR 430.76(c).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

Nebraska SPA 88-7 revised Medicaid eligibility and posteligibility policies for a person who is institutionalized or receiving home and community based services.

The issues in this matter are whether the proposed spousal and family allowances on pages 4 and 5 of Attachment 2.6-A and the proposed policy for transferring a portion of couple's combined resources to the community spouse on Supplement 5 to Attachment 2.6-A violate section 1902(a)(17) of the Social Security Act and Federal Regulations at 42 CFR 435.733(c) (2) and (3) and 42 CFR 435.735(c) (2) and (3). Another issue is whether the proposed changes are approvable under section 303 of the Medicare Catastrophic Coverage Act of 1988 (MCCA) or are protected by the moratorium under section 2373(c) of the Deficit Reduction Act of 1984 as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987.

Until recently, States could not use methodologies in determining financial eligibility that were more liberal than the methodologies used in the most closely-related cash assistance program (in this case, the Supplemental Security Income (SSI) program.) This prescription was derived from the requirement in section 1902(a)(10) of the Social Security Act that States (with certain specified exceptions) use SSI requirements and methodologies to determine eligibility for the aged, blind, and disabled categorically needy and medically needy, respectively.

On July 1, 1988, section 303 of the Medicare Catastrophic Coverage Act of 1988 was enacted permitting States to use more liberal methodologies in additional cases. Section 303(a) added section 1924 to the Social Security Act. Section 1924 is designed to avoid the impoverishment of the spouse of an institutionalized person in order for the person to receive medical assistance. The amendment generally would permit one-half of the couple's combined resources, up to $60,000, to be transferred to the community spouse and, thus, not considered in determining the institutionalized spouse's eligibility for Medicaid. However, the amendment does not become effective until October 1, 1989.

Section 303(e)(5), effective October 1, 1982, added section 1902(r)(2)(A) to the Social Security Act, permitting States to use methodologies for the aged, blind, and disabled that are more liberal than those under SSI for all eligibility groups except those for whom Medicaid eligibility is based upon the receipt of SSI benefits or on deemed receipt of SSI benefits.

Section 2373(c) of the Deficit Reduction Act of 1984 (DEFRA) as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987 enacted a moratorium on adverse Departmental fiscal actions against States.

Under the moratorium provision, the Secretary is prohibited from taking disallowance, compliance, penalty or other regulatory action against States because a plan (or its operation) uses eligibility standards (other than income and resources limitations) and methodologies that the Secretary finds to be more liberal than required under section 1902(a)(10)(A)(ii) (IV), (V), or (VI) or section 1902(a)(10)(C) of the Social Security Act. *However, the use of more liberal policies may not result in a recipient's income exceeding FFP limits.*

The moratorium provision does not prevent the Secretary from disapproving moratorium plan amendments as part of the official State plan. The provision merely permits States, without fiscal penalties, to use more liberal eligibility criteria during the moratorium period (from October 1, 1981, until February 17, 1989) while Congress considers whether Medicaid rules should be tied to the eligibility rules of the cash assistance programs.

Eligibility Rules

Nebraska's proposed change in eligibility rules is to permit a qualified person, together with his or her spouse who is neither eligible for Medicaid nor institutionalized, to assign one-half of the couple's combined resources, up to $25,000, to the spouse. Resources so assigned would not be considered in determining the qualified person's eligibility for Medicaid. This results in the use of a methodology that is more liberal than that under the SSI program in determining Medicaid eligibility for certain persons based upon resources. HCFA found this change, though permitted by section 303(a) of the Medicare Catastrophic Coverage Act of 1988, not to be approvable under that provision. This is because the provision only becomes effective on October 1, 1989, and then, is only effective with respect to individuals who begin continuous periods of institutionalization on or after September 30, 1989.

Section 1902(r) of the Act permits the use of more liberal methodologies. However, under section 1902(a)(17) of the Social Security Act, eligibility requirements must be comparable for each categorical group within the eligibility group (in this case, the aged, blind, or disabled). Because the amendment did not apply to all members within each group, HCFA disapproved it.

The comparability requirements of section 1902(a)(17) also apply to groups covered by the DEFRA moratorium. The DEFRA moratorium only protects States from fiscal sanctions which derive from violations of certain sections of section 1902(a)(10). Because it does not protect States from the consequences arising from the use of methodologies in a manner contrary to the comparability requirements of section 1902(a)(17), HCFA found that the amendment did not qualify for protection under the moratorium.

Posteligibility Rules

Nebraska's proposed changes in posteligibility rules relate to the computation of an institutionalized person's income that is applicable toward the cost of his or her care. The State proposes to:

- Increase the deduction for an institutionalized person's personal needs to include, in certain cases, a higher earned income exclusion;
- Increase the monthly deduction for the maintenance of the noninstitutionalized spouse from $354 to $475, with the present rate reflecting the State's categorically-needy income level for the aged, blind, and disabled;
- Increase the monthly deduction for the maintenance of family members, in the case of families and children, from $375 for one or two persons and $75 for each additional person to $475 each, with the present rates reflecting the State's medically-needy income level.

The proposed increase in the personal needs deduction to cover the higher earned income exclusion was approved. The proposed increases in the spousal and family maintenance allowances were disapproved. The regulations at 42 CFR 435.733(a) (2) and (3) and 42 CFR 435.735(c) (2) and (3) relate the maximum permissible allowances in a 209(b) State to the higher of the State's categorically-needy or medically-needy income level. The proposed rates exceed these limits.

HCFA determined that the moratorium cannot be used to override

the regulatory limits on spousal and family maintenance allowances. The moratorium prohibits certain adverse actions against States because they are applying more liberal financial *eligibility* standards and methods than specified in section 1902(a)(10) of the Act. However, the income deductions for spousal and family allowances are *not* a part of the State's *eligibility* methodology. Rather, they are part of the state's *posteligibility* methodology for determining the amount of income which an institutionalized individual will be expected to contribute toward the cost of his or her care.

Section 1924(d) of the Social Security Act, added by section 303(a) of the Medicare Catastrophic Coverage Act of 1988, relates the maximum permissible allowances to the poverty line. This new limit might accommodate the State's proposed increases. However, as stated above, section 1924 does not become effective until September 30, 1989, and, thus, HCFA concluded that it does not provide the State the benefit of its provisions at this time.

The notice to Nebraska announcing an administrative hearing to reconsider the disapproval of its State plan amendment reads as follows:

Mr. Kermit R. McMurry,
Director, Department of Social Services, P.O. Box 95026, Lincoln, Nebraska 68509–5026

Dear Mr. McMurry: I am advising you that your request for reconsideration of the decision to disapprove a portion of Nebraska State plan amendment 88–7 was received on December 7, 1988. This amendment proposes a revision to Medicaid eligibility and posteligibility policies for a person who is institutionalized or receiving home and community based services.

There are two issues in this matter. The first issue is whether the proposed spousal and family allowances on pages 4 and 5 of Attachment 2.6–A and the proposed policy for transferring a portion of a couple's combined resources to the community spouse in Supplement 5 to Attachment 2.6–A violate section 1902(a)(17) of the Social Security Act and Federal regulations at 42 CFR 435.733(c) (2) and (3) and 42 CFR 435.735(c) (2) and (3). The second issue is whether the proposed changes are approvable under section 303 of the Medicare Catastrophic Coverage Act of 1988 or are protected by the moratorium under section 2373(c) of the Deficit Reduction Act of 1984 as amended by section 9 of the Medicare and Medicaid Patient and Program Protection Act of 1987.

I am scheduling a hearing on your request to be held on February 8, 1989, at 10 a.m. in Room 215, New Federal Office Building, 601 East 12th Street, Kansas City, Missouri. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed in 42 CFR Part 430.

I am designating Mr. Stanley Katz as the presiding officer. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 966–4471.

Sincerely,

William L. Roper, M.D.,
Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316); 42 CFR 430.18)

(Catalog of Federal Domestic Assistance Program NO. 13.714, Medicaid Assistance Program)

Dated: January 6, 1989.

William L. Roper,
Administrator, Health Care Financing Administration.

[FR Doc. 89–730 Filed 1–11–89; 8:45 am]
BILLING CODE 4120–03–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Great Lakes Coastal Barrier Act of 1988; Availability of Draft Maps of Undeveloped Coastal Barriers Along the Shore Areas of the Great Lakes

AGENCY: Department of the Interior.

ACTION: Notice of availability.

SUMMARY: Under the provisions of Pub. L. 100–707, the Secretary of the Interior is required to make recommendations to the Congress and prepare maps identifying undeveloped, unprotected coastal barriers along the Great Lakes shoreline appropriate for inclusion in the Coastal Barrier Resources System (System). The final maps will be transmitted to Congress and Congress will determine which areas to include in the System. This notice is to announce the availability of draft maps for public review and comments prior to transmittal of the final maps to Congress.

DATE: Comments should be received no later than February 6, 1989.

ADDRESS: Great Lakes Coastal Barriers Study Group, U.S. Department of the Interior, National Park Service—473, Washington, DC 20013–7127.

FOR FURTHER INFORMATION CONTACT: Dr. Albert G. Greene, Jr., Great Lakes Coastal Barriers Coordinator, National Park Service, Washington, DC 20013–7127, (202) 343–5881.

SUPPLEMENTARY INFORMATION: On November 23, 1988, President Reagan signed into law the Disaster Relief and Emergency Assistance Amendments Act (Pub. L. 100–707). Section 204 of the Act, entitled "Great Lakes Coastal Barrier Act of 1988," amends section 4 of the Coastal Barrier Resources Act of 1982 (CBRA) to expand the Coastal Barrier Resources System to include "those undeveloped coastal barriers along the shore areas of the Great Lakes that are designated by Congress by law after considering the recommendations of the Secretary."

Section 4 of the CBRA established a Coastal Barrier Resources System (System) of 186 undeveloped coastal barrier units along the shorelines of the Atlantic Ocean and the Gulf of Mexico. Sections 5 and 6 of the CBRA prohibit all new Federal expenditures and financial assistance within units of the System unless specifically excepted by the CBRA.

For further information and clarification on CBRA restrictions see the October 6, 1983, **Federal Register** (48 FR 45664).

The Great Lakes Coastal Barrier Act requires the Secretary of the Interior, within 3 months of enactment, to recommend to Congress and prepare maps identifying the boundaries of undeveloped coastal barriers along the shore areas of the Great Lakes that the Secretary considers appropriate for inclusion in the System. Before recommending any undeveloped coastal barrier units, the Secretary is required to update and consider the draft inventory maps issued for public comment in January 1985 and consult with and provide opportunity for comment by appropriate U.S. Government agencies, State agencies of the States bordering the Great Lakes, and the public.

This notice invites comment on the draft maps. Under the 1988 Act, the Secretary may not recommend for inclusion in the System any areas that are publicly owned and protected by Federal, State, or local government law, or held by a privately owned organization primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes. The limitations on the use of Federal expenditures or financial assistance within those units designated by Congress will not apply to existing highways located within the State of Michigan.

The criteria used for delineating the undeveloped coastal barriers on the draft maps are those set forth in the Coastal Barrier Resources Act of 1982 and the March 4, 1985, **Federal Register** (42 FR 8698). The draft maps have been revised from those issued in 1985 based on aerial photography specifically taken for this study and comments received during the 1985 comment period. Areas that are protected by Federal, State, or

local laws or held by a privately owned organization for recreational or natural resource conservation purposes have been deleted.

Since 117 areas delineated on 88 maps have been identified as meeting the criteria, it is impractical to publish the maps or list the unit designations in this notice.

To facilitate public review, anyone interested in receiving individual maps or learning the nearest location at which they may review a set of maps may call the National Park Service at (202) 343–5881 between the hours of 8:00 a.m. and 4:00 p.m. EST Monday through Friday.

The original maps may be inspected at, and hand delivered comments may be taken to the National Park Service, Room 3327, Main Interior Building, 1800 C Street NW., Washington, DC.

Date: January 9, 1989.

Susan Recce Lamson,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–732 Filed 1–11–89; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[CA–060–09–4410–08]

Intent for 1989 Amendment Review of the California Desert Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management is initiating the 1989 Review of the California Desert Conservation Area Plan in accordance with the amendment procedures outlined in Chapter 7 of the Plan. The purpose of this review is to consider the need for possible amendments to the Plan based on requests from individuals, public and private organizations, and the Bureau's own observations.

DATE: Proposed amendments are being accepted from the public until March 10, 1989.

ADDRESS: For further information contact: Gerald E. Hillier, District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: Requests for amendments or changes in the California Desert Plan are now being accepted from public agencies, interested individuals, and organizations. Supporting nationale should be provided for each proposed change. Requests will be considered in light of the following criteria:

(1) Is the proposed amendment based on new data not considered when the Plan was developed?

(2) Does the information represent a change in legal or regulatory mandate?

(3) Is the supporting detail sufficient and the problem clearly stated so that the request can be considered?

(4) Does the information represent a formal change in State or local government or agency plan?

The California Desert District Advisory Council will review the suggested amendments at its public meeting on or about March 30–31, 1989 in Riverside, California. This meeting will serve as a scoping meeting for the environmental document to be prepared on the amendments.

Please send your comments and proposals to the following address: 1989 Plan Amendments, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, CA 92507.

Dated: January 6, 1989.

Gerald E. Hillier,

District Manager.

[FR Doc. 89–725 Filed 1–11–89; 8:45 am]

BILLING CODE 4310–40–M

[ID–030–09–4830–12]

Idaho Falls District Advisory Board; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Idaho Falls District Advisory Board.

SUMMARY: The Idaho Falls District Advisory Board will meet Thursday, February 23, 1989. Notice of this meeting is in accordance with Pub. L. 92–463. The meeting will begin at 9:00 a.m. at the Idaho Falls District Office on 940 Lincoln Road, Idaho Falls, Idaho. The meeting is open to the public; public comments will be accepted from 9:30 a.m. to 10:00 a.m.

The agenda of this meeting includes, but is not limited to: Election of officers, District highlights, noxious weed program, Blackfoot River fence, and project funding to include both 8100 projects and Advisory Board projects.

Detailed minutes of the Board meeting will be maintained in the District office and will be available for public review during regular business hours (7:45 a.m. to 4:30 p.m. Monday through Friday) within 30 days following the meeting.

DATE: February 23, 1989.

ADDRESSES: Written comments should be submitted to the District Manager, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, ID 83401.

FOR FURTHER INFORMATION CONTACT: Bernie Jansen, A.D.M. Operations, Telephone (208) 529–1020.

Dated: December 28, 1988.

Lloyd H. Ferguson,

District Manager.

[FR Doc. 89–677 Filed 1–11–89; 8:45 am]

BILLING CODE 4310–66–M

[OR–030–08–2120–11–GP8–023]

Motor Vehicles; Area Closure to Off-Road Vehicle Use: Oregon

AGENCY: Vale District, Bureau of Land Management, Interior.

ACTION: Notice of area closure to off-road vehicle use.

SUMMARY: The following order, affecting approximately 507 acres of public land in T. 9 S., R. 41 E., W.M., sections 5 and 6, was issued on December 13, 1988.

The operation of off-road vehicles in this area poses a significant threat to cultural resources, specifically the National Historic Oregon Trail. Furthermore, off-road vehicle use has caused adverse impacts to soils, vegetation and scenic resources, resulting in increased reclamation costs within the area. Under the authority of 43 CFR 8341.2(a), the above described public lands are limited to off-road vehicle use. Vehicle use of the area is restricted to identified roads.

Persons exempt from this order shall include emergency services personnel, law enforcement personnel, persons performing the official administrative functions of the Bureau of Land Management, and persons acting under specific authorizations granted by the Bureau of Land Management.

This area vehicle limitation shall remain in effect until further notice.

DATE: Effective December 13, 1988.

ADDRESS: Baker Resource Area, 1550 Dewey Avenue, P.O. Box 987, Baker, OR 97814.

FOR FURTHER INFORMATION CONTACT: Gerard Hubbard, Bureau of Land Management, Vale District, P.O. Box 700, 100 Oregon Street, Vale, OR 97918.

Jack D. Albright,

Area Manager.

[FR Doc. 89–687; Filed 1–11–89; 8:45 am]

BILLING CODE 4301–33–M

[WY-920-09-4111-15; WYW30484]

Proposed Reinstatement of Terminated Oil and Gas Lease; Wyoming

January 5, 1989.

Pursuant to the provisions of Pub. L. 97-451, 96 Stat. 2462-2466, and Regulation 43 CFR 3108.2-3(a) and (b)(1), a petition for reinstatement of oil and gas lease WYW30484 for lands in Sweetwater County, Wyoming, was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and not less than 16⅔ percent, respectively.

The lessee has paid the required $500 administrative fee and $125 to reimburse the Department for the cost of this Federal Register notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (3) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW30484 effective September 1, 1988, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 89-686 Filed 1-11-89; 8:45 am]

BILLING CODE 4310-22-M

[AZ-050-09-4212-11; AZA-23406]

Realty Action, Lease of Lands; Mohave County, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action—lease of lands, Mohave County, Arizona.

SUMMARY: The following described lands and interests therein have been determined to be suitable to be classified for lease under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*) and the regulations established by 43 CFR Parts 2740 and 2910.

T. 15 N., R. 19 W. Gila and Salt River Meridian, Arizona,
Sec. 6, S½SE¼SW¼SE¼, containing 5 acres more or less.

This notice terminates the segregation established by Federal Register Notice AZ-050-07-4212-13; A-22311 published in Vol. 52, No. 115, page 22855 dated June 16, 1987, which proposed an exchange of the subject lands.

The Desert Hills Fire Department has applied to lease the above described lands for public purposes. The Fire Department proposes to use these lands to construct a fire station.

Subject to all valid existing rights, the lands are hereby segregated from appropriations under any other public land law, including location under the mining laws. This segregation will terminate upon issuance of a lease, publication of a Notice of Termination, or 18 months from the date of this publication, whichever occurs first.

DATES: For a period of 45 days from the date of publication of this Notice, interested parties may submit comments to the District Manager, 3150 Winsor Avenue, Yuma, Arizona 85365. Any 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, effective 60 days from the date of publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Mike Ford, Area Manager, Havasu Resource Area, Bureau of Land Management, 3189 Sweetwater Avenue, Lake Havasu City, Arizona 86403, 602-855-8017.

Dated: January 5, 1989.

Herman L. Kast,

Yuma District Manager.

[FR Doc. 89-689 Filed 1-11-89; 8:45 am]

BILLING CODE 4310-32-M

[NV-930-09-4212-11; N-41262]

Realty Action; Lease/Purchase for Recreation and Public Purposes; Clark County, NV

The following described public land in Laughlin, Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 *et seq.*). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the Federal Register.

Mount Diablo Meridian, Nevada

T. 32 S., R. 66 E.,
Sec. 15, S½NW¼.
Aggregating 80.00 acres (gross)

This parcel of land contains approximately 80.00 acres. The Clark County School District intends to use the land for a school site. The Bureau of Land Management will prepare the required documents which include Environmental Assessment/Land Report, cultural resources report/survey, and mineral report. A final determination on the application will not be made until completion of these reports. The lands have been identified for disposal in the Clark County Management Framework Plan. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

and will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area. The purpose of this notice is to classify the lands and is not authorization for any surface disturbing activities.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

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 District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this notice will become effective 60 days from the date of publication in the Federal Register.

Dated: January 3, 1989.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 89-690 Filed 1-11-89 8:45 am]

BILLING CODE 4310-HC-M

[UT-020-09-4212-13; U-53698]

Realty Action; Exchange of Public Lands in Tooele County, UT

The following described 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:

T. 6 S., R. 8 W., SLM.,
Section 10: N½NE¼;
Section 11: NW¼, N½SW¼, SE¼SW¼.
Comprising 360.00 acres of public land.

In exchange for these lands, the United States will acquire the following described lands from Dennis D. and Shirley O. Andrus:

T. 6 S., R. 7 W., SLM,
Section 18: Lots 2–4;
Section 19: Lots 1, 2.
T. 6 S., R. 8 W., SLM,
Section 24: N½NE¼, SE¼NE¼.
Comprising 319.83 acres of private lands.

The purpose of this exchange is to acquire the non-Federal lands which have high public values for livestock grazing. The exchange would create a more logical and efficient land management pattern. The acquisition of the water rights on the offered lands will benefit the range resource as well as providing water for wildlife. The public interest will be served by completing the exchange.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Dennis D. and Shirley O. Andrus of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to the following reservation: A right-of-way thereon for ditches and canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945 (1982).

Publication of this notice segregates the public lands from the operation of all other public land laws, including the general mining laws, for a period of 2 years from the date of first publication.

Further information concerning the exchange, including the EA, is available for review at the Salt Lake District Office.

For a period of 45 days from the date of first publication, interested parties may submit comments to Salt Lake District Office, 2370 S. 2300 W., Salt Lake City, Utah 84119.

Deane H. Zeller,

Salt Lake District Manager.

[FR Doc. 89–691 Filed 1–11–89; 8:45 am]

BILLING CODE 4310-DQ-M

Fish and Wildlife Service

Intent To Prepare an Environmental Impact Statement on Protection of the Endangered California Least Tern and Light-Footed Clapper Rail at the Seal Beach National Wildlife Refuge and Naval Weapons Station-Seal Beach, Orange County, CA

AGENCIES: (Joint EIS): U.S. Department of the Interior, Fish and Wildlife Service (Lead Agency), and U.S. Department of the Navy.

ACTION: Notice of intent and meeting.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) and the U.S. Department of the Navy (Navy) intend to gather information necessary for the preparation of a joint Environmental Impact Statement (EIS) for the protection of the endangered California least tern and light-footed clapper rail at the Seal Beach National Wildlife Refuge and Naval Weapons Station-Seal Beach, Orange County, California. A public scoping meeting to solicit comments from all interested parties regarding the scope and content of the EIS will also be held. This notice is being furnished pursuant to the National Environmental Policy Act's (NEPA) Regulations (40 CFR 1501.7) to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS.

Scoping Meeting Information: A public meeting will be held from 7:00 p.m. to 9:00 p.m., at the Seal Beach City Hall, 211 8th Street, Seal Beach, California, 90740, on Thursday, February 2, 1989. Persons wishing to participate in the scoping meeting are encouraged to contact the Public Affairs Officer at the Naval Weapons Station-Seal Beach (address and phone listed below), as soon as possible. Interested agencies, organizations, and individuals are encouraged to attend the scoping meeting to identify and discuss major issues, concerns, and opportunities that should be addressed in the EIS. Interested parties are reminded that the primary purpose of the scoping process is to identify, rather than debate the significant issues related to the proposed action. Those persons providing oral presentations at the scoping meeting are requested to provide a written copy of their statement to agency representatives.

FOR FURTHER INFORMATION CONTACT: Ms. Tracey Schwarze Public Affairs Officer, Code 01P, U.S. Navy, Naval Weapons Station, Seal Beach, California 90740–5000, (213) 594–7214.

Written Comments Information: Written comments should be received by February 15, 1989. Written comments will also be accepted at the scoping meeting in Seal Beach.

ADDRESS WRITTEN COMMENTS TO: Mr. Charles J. Houghten, Natural Resource Specialist, Refuges and Wildlife Service, 2800 Cottage Way, Room E–1823, Sacramento, California 95825.

SUPPLEMENTARY INFORMATION: The Service and the Navy propose to examine alternatives for the protection of the endangered California least tern and light-footed clapper rail at Seal Beach National Wildlife Refuge and Naval Weapons Station-Seal Beach. The purpose of this EIS is to satisfy the requirements of NEPA and the U.S. Court of Appeals for the Ninth Circuit, which has held that the 1986 Environmental Assessment prepared by the service for control of the red fox at Seal Beach National Wildlife Refuge and Naval Weapons Station-Seal Beach was inadequate. See *Animal Lovers Volunteer Association, Inc., v. Carlucci, Secretary of Defense, et al.*, 86–6428 9th Cir. 1988. The EIS will provide Service and Navy decisionmakers with a comprehensive analysis of alternative actions. Furthermore, the EIS will provide the rationale for selecting the best management actions and techniques which could be implemented or continued at the Seal Beach National Wildlife Refuge and Naval Weapons Station-Seal Beach to ensure the protection and enhancement of the endangered species and other wildlife, while minimizing impacts to other resources.

The purpose of and the need for action is the protection of the endangered California least tern, and the endangered light-foot clapper rail at Seal Beach National Wildlife Refuge/ Naval Weapons Station-Seal Beach. The implementation of actions to protect these two endangered species is necessary due to the species' limited habitat, environmental factors, and particularly predation of these birds and their nests by red fox, thereby seriously limiting the possibility of a stable or growing population of these endangered species. The EIS will address various measures which afford protection of these two endangered species at Seal Beach National Wildlife Refuge/Naval Weapons Station-Seal Beach. The EIS will also address efforts which may assist in the overall recovery of these endangered species as mandated by the Endangered Species Act of 1973, 16 U.S.C. 1531, *et seq.*, as amended. A principal focus of the EIS will be on

predation problems and predator control techniques.

Alternatives will be examined for their potential benefits and impacts to other wildlife resources, including predators such as the red fox. Impacts on Navy operations, and the surrounding environment, including potential social impacts such as the presence and observation of red fox in surrounding neighborhoods will also be analyzed.

The Service and the Navy urge all interested parties to provide comments regarding the scope of this EIS, the alternatives to be developed, and the potential significant environmental impacts which may occur from the implementation of alternative actions. The ideas and concerns of interested parties may be expressed at the scoping meeting or provided in writing to the address listed above. Written comments must be received by the Service by February 15, 1989.

The environmental review of this project will be conducted in accordance with the requirements of NEPA, 42 U.S.C. 4371, *et seq.*, NEPA Regulations, 40 CFR Part 1500, *et seq.*, other appropriate Federal regulations, and Service and Navy policy for compliance with those regulations.

It is estimated that a Draft EIS will be made available for public review and comment during June 1989.

Dated: January 6, 1989.

David L. McMollen,

Acting Regional Director, Fish and Wildlife Service.

[FR Doc. 89-653 Filed 1-11-89; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Development Operations Coordination Document; ARCO Oil and Gas 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 ARCO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 9408, Block 248, West Cameron 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 Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on January 5, 1989. Comments must be received within 15 days of the publication date of this Notice for 15 days after the Coastal Management Section receive 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. W. Williamson; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2874.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, what 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: January 6, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-692 Filed 1-11-89; 8:45 am]

BILLING CODE 4310-MR-M

Development Operations Coordination Document; Kerr-McGee Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 7802, Block 94, Main Pass Area, offshore Louisiana and Mississippi. 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 Hopedale, Louisiana.

DATE: The subject DOCD was deemed submitted on January 3, 1989. Comments must be received within 15 days of the publication date of this Notice 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, Lousiana (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: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/ Development Plans Unit; Telephone (504) 736-2867.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public 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: January 4, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89-693 Filed 1-11-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Amendment to the 1976 Master Plan; Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area; CA, Availability of Draft Finding of no Significant Impact

SUMMARY: The National Park Service proposes to implement a minerals management plan for the Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area, Shasta County, California, in accordance with Alternative A as described in the Amendment To The 1976 Master Plan and Environmental Assessment. The availability of the Amendment and Aassessment was announced in the **Federal Register** on September 8, 1988 and the public review ended on October 31, 1988. Alternative A provides for 4% of the Whiskeytown Unit to remain open for mineral leasing. Two other alternatives were considered including no action or retaining the present 60% of the Unit open for mineral leasing, and the complete closure of the Unit to mineral leasing.

In accordance with the Council on Environmental Quality regulations at 40 CFR 1501.4(e)(2)(i), a draft Finding of No Significant Impact (FONSI) is being made available for public review for a period of 30 days from the date of this notice. Copies of the draft FONSI and Amendment To The 1976 Master Plan/ Environmental Assessment are available for inspection from the Superintendent, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area, P.O. Box 188, Whiskeytown, CA 96095.

Date: January 4, 1989.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 89-717 Filed 1-11-89; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 283X)]

CSX Transportation, Inc.; Abandonment Exemption in Nicholas and Fayette Counties, WV

Applicant has filed a notice of exemption under 49 CFR Part 1152, Subpart F—*Exempt Abandonments* to abandon its 3.4-mile line of railroad between milepost 0.0 at Open Fork Jct., WV, and milepost 3.4 at Bentree, WV, in Nicholas and Fayette Counties, WV.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over the lines; and (3) no formal complaint filed by a user of rail service on the line (or a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on February 11, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by January 23, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by February 1, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Charles M. Rotenberger, CSX Transportation, Inc., 500 Water Street, Jacksonville, FL 32202.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by January 17, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275-7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: January 6, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceeding.

Noreta R. McGee,

Secretary.

[FR Doc. 89-711 Filed 1-11-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; United States v. Armco Inc.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on December 29, 1988, a proposed Consent Decree in *United States* v. *Armco Inc.*, Civil No. 87-2221, was lodged with the United States District Court for the Western District of Pennsylvania. The proposed Consent Decree arises from a civil action filed on October 19, 1987 under the Clean Water Act, 33 U.S.C. 1251 *et seq.* The complaint alleged that Armco, Inc. ("Armco"), a specialty steel manufacturing plant in

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the Section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988). Any entity seeking a stay involving environemntal concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and act on the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the **Federal Register** on December 22, 1987 (52 FR 48440-48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

Butler, Pennsylvania, has been in violation of the discharge limitations and other terms and conditions of its National Pollutant Discharge Elimination System ("NPDES") permit issued pursuant to section 402 of the Clean Water Act, 33 U.S.C. 1362, and seeks injunctive relief and civil penalties. The Consent Decree provides for payment of an $800,000 civil penalty, the performance of an environmental assessment of the wastewater treatment facilities at the plant by an independent consultant and the implementation of all recommended measures to improve wastewater treatment at the plant.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Armco Inc.*, DJ Ref. 90–5–1–1–2944.

The proposed Consent Decree may be examined at the Office of the United States Attorney, Western District of Pennsylvania, 633 U.S. Post Office & Courthouse, 7th Avenue & Grant Street, Pittsburgh, Pennsylvania, and at the Region III Office of the Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pennsylvania, 19107. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy please enclose a check in the amount of $2.10 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–620 Filed 1–11–89; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act; Spokane, WA, et al.

In accordance with Departmental policy, 28 CFR 50.7, and section 122(d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. 9622(d)(2), notice is hereby given that on January 9, 1989, a proposed consent decree in *United States, et al.* v. *County of Spokane, et al.*, Civil Action No. C89–033–RJM, was lodged with the United States District Court for the Eastern District of Washington. The complaint filed by the United States alleged that the County of Spokane is the owner and operator of the Colbert Landfill and that Key Tronic Corp. generated and arranged for the transportation or disposal of hazardous substances at the Landfill; that there have been releases of hazardous substances into the environment at the facility; that the releases have caused the United States to incur response costs; that the Administrator of the U.S. Environmental Protection Agency (EPA) has determined that there is or may be an imminent and substantial endangerment to the public health, welfare or the environment because of the actual or threatened releases. The complaint sought injunctive relief to require the defendants to abate and remedy the imminent and substantial endangerment and the effects of the actual or threatened releases from the facility. The complaint further sought the reimbursement of past costs which were incurred by the United States in responding to the actual or threatened releases.

The consent decree requires the County of Spokane to implement the remedy selected by EPA. Key Tronic Corp. will contribute to the cost of implementing the remedy. In addition, the decree provides for payment of costs incurred by EPA in responding to releases of hazardous substances at the site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Chief, Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *County of Spokane, et al.*, D.J. Ref. No. 90–11–2–359. The proposed consent decree may be examined at the office of the United States Attorney, Eastern District of Washington, 851 U.S. Courthouse, West 920 Riverside, Spokane, Washington; at the Region X Office of the Environment Protection Agency, 1200 Sixth Avenue, Seattle, Washington; and at the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044. In requesting a copy, please refer to *United States* v. *County of Spokane, et al.*, D.J. Ref. No. 90–11–2–359, and enclose a check in the amount of $17.80 payable to the Treasurer of the United States.

Roger J. Marzulla,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89–849 Filed 1–11–89; 8:45 am]

BILLING CODE 4401–01–M

Antitrust Division

National Cooperative Research Act of 1984; West Agro, Inc.; Iodophors Joint Venture

Notice is hereby given that, on December 13, 1988, pursuant to section 6(a) of the National Cooperative Research Act of 1984, 15 U.S.C. 4301 *et seq.* ("the Act"), West Agro, Incorporated—Iodophors Joint Venture ("Joint Venture") filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in the Joint Venture membership. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the Joint Venture advised that Lonza, Inc. has become a member of the Joint Venture.

No other changes have been made in either the membership or planned activity of the Joint Venture.

On December 15, 1987, the Joint Venture filed its original notification pursuant to section 6(a) of the Act. The Department of Justice ("the Department") published a notice in the **Federal Register** pursuant to section 6(b) of the Act on January 15, 1988, 53 FR 1074, as corrected by 53 FR 4232. On May 24, 1988, the Joint Venture filed an additional written notification, in response to which the Department published a notice in the **Federal Register** on June 13, 1988, 53 FR 22059.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 89–617 Filed 1–11–89; 8:45 am]

BILLING CODE 4410–01–M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Knoll Pharmaceuticals

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on November 7, 1988, Knoll Pharmaceuticals, 30 North Jefferson Road, Whippany, New Jersey 07981, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance hydrocodone (9193).

Any other such applicant and any person who is presently registered with DEA to manufacture such substance may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than February 13, 1989.

Dated: January 9, 1989.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 89-718 Filed 1-11-89; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[88-106]

National Environmental Policy Act; Availability of Draft Environmental Impact Statement; Galileo Mission (Tier 2)

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of Draft Environmental Impact Statement.

SUMMARY: Notice is hereby given of the public availability of the draft Environmental Impact Statement (EIS) for the Galileo Mission (Tier 2). Comments on the EIS and on matters set forth therein are solicited from and may be submitted by State and local agencies and members of the public. Comments should be submitted to Dr. Dudley G. McConnell, NASA HQs/Code EL, Washington, DC 20546. Comments must be received within 45 days of the Environmental Protection Agency Notice of Availability in order to be considered in the preparation of the final EIS. Copies of the draft statement may be obtained or examined at any of the following locations:

(a) NASA HQs Public Documents Room (Room 126), 600 Independence Avenue, SW., Washington, DC 20546.

(b) NASA/Ames Research Center, Building 201, Room 17, Moffett Field, CA 94035.

(c) NASA/Ames Research Center, Dryden Flight Research Facility, Building 4800, Room 1017), P.O. Box 273, Edwards, CA 93523.

(d) NASA/Goddard Space Flight Center, Building 8, Room 150, Greenbelt, MD 20771.

(e) NASA/Johnson Space Center, Building 1, Room 136, Houston, TX 77058.

(f) NASA/Kennedy Space Center, HQs Bldg., Room 1207, Kennedy Space Center, FL 32899.

(g) NASA/Langley Research Center, Bldg. 1219, Room 304, Hampton, VA 23665.

(h) NASA/Lewis Research Center (Administration Bldg., Room 120, 21000 Brookpark Road, Cleveland, OH 44135.

(i) NASA/Marshall Space Flight Center, Bldg. 4200, Room G-11, Huntsville, AL 35812.

(j) NASA/John C. Stennis Space Center, Bldg. 1100, Room A-213, Stennis Space Center, MS 39529.

(k) Jet Propulsion Laboratory, Bldg. 180, Room 600, 4800 Oak Grove Drive, Pasadena, CA 91109.

(l) NASA/Goddard Space Flight Center, Wallops Flight Facility, Library Bldg., Room E-105, Wallops Island, VA 23337.

Dated: December 29, 1988.

Billie J. McGarvey,

Assistant Associate Administrator for Facilities Management.

[FR Doc. 89-606 Filed 1-11-89; 8:45 am]

BILLING CODE 7510-01-M

[89-02]

NASA Advisory Council (NAC), Space Science and Applications Advisory Committee (SSAAC), Communications and Information Systems Subcommittee; 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 Science and Applications Advisory Committee, Communications and Information Systems Subcommittee.

Date and time: January 31, 1989, 8:30 a.m. to 5 p.m., and February 1, 1989, 8:30 a.m. to 12:30 p.m.

ADDRESS: NASA Headquarters, Room 226B, 600 Independence Avenue SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Ray J. Arnold, Code EC, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1510).

SUPPLEMENTARY INFORMATION: The Space Science and Applications Advisory Committee consults with and advises the NASA Office of Space Science and Applications (OSSA) on long range plans for, work in progress on, and accomplishments of NASA's Space Science and Applications programs. The Communications and Information Systems Subcommittee provides technical support to the Committee and will conduct ad hoc studies and assessments. The Committee is chaired by Mr. Donald G. MacLellan and is composed of 7 members. The meeting will be open to the public up to the capacity of the room (approximately 15 including Committee members).

Type of Meeting: Open.

Agenda: Tuesday, January 31

8:30 a.m.—Introduction and Opening Remarks.

8:45 a.m.—Division Goals, Organization, FY 1990 Budget, Plans and Issues.

9:30 a.m.—Communications and Information Systems New Initiatives: Information Systems Strategic Planning Project (ISSP), NASA Research Announcement (NRA) for Communications Technology, NRA for Information Systems, and International Interface for Information Systems.

1:30 p.m.—Project Overviews.

3:45 p.m.—Development of Subcommittee Plans.

5 p.m.—Adjourn.

Wednesday, February 1

8:30 a.m.—Project Overviews.

10:30 a.m.—Radio Science/Propagation: Optical Communications, Data Management and Archiving.

10:45 a.m.—Subcommittee Networking Plans.

12 Noon—Scientific Computing and Future Plans.

12:30—Adjourn.

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 89-607 Filed 1-11-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Humanities; Meeting

January 4, 1989.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended) notice is hereby given that a meeting of the National Council on the Humanities will be held in Washington, DC on February 9-10, 1989.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out her functions, and to review applications for financial support and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on February 9-10, 1989, will not be open to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: Trade secrets and commercial of financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which will constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which would significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated January 15, 1978.

The agenda for the sessions on February 9, 1989, will be as follows:

Committee Meetings

8:30-9:30 a.m.—Coffee for Council Members—Room 527 (Open to the Public)

9:30-10:30 a.m.—Committee Meetings—Policy Discussion

Education Programs—Room 730

Fellowship Programs—Room 316-2

General Programs—Room 415

Research Programs/Preservation Grants—Room 315

State Programs/Challenge Grants—Room M-07

10:30 a.m. until adjourned—(Closed to the Public for the reasons stated above)—Consideration of specific applications

(Closed to the Public)

Discussion of Jefferson Lecture Nominees and Review of Frankel Awards

1:30 p.m. until—Joint Meeting of State and General Committees to review Frankel Awards—Room 415

3:00 p.m. until adjourned—Jefferson Lecture Committee—Room 430

The morning session on February 10, 1989, will convene at 9:00 a.m., in the 1st Floor Council Room, M-09, and will be open to the public. The agenda for the morning session will be as follows:

(Coffee for Staff and Council members attending the meetng will be served from 8:30-9:00 a.m.)

Minutes of the Previsous Meeting

Reports

A. Introductory Remarks

B. Introduction of New Staff

C. Contracts Awarded in the Previous Quarter

D. Application Report and Matching Report

E. Status of Fiscal Year 1989 Funds

F. Drug Free Workplace Regulations

G. Committee Reports on Policy and General Matters

1. Education Programs
2. Fellowship Programs
3. Research Programs
4. Preservation Programs
5. General Programs
6. State Programs
7. Challenge Grants
8. Jefferson Lecture
9. Frankel Award

The remainder of the proposed meeting will be given to the consideration of future budget requests and specific applications (closed to the public for the reasons stated above).

Further information about this meeting can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, Washington, DC 20506, or call area code (202) 786-0322.

Stephen M. McCleary,

Advisory Committee Management Officer.

[FR Doc. 89-694 Filed 1-11-89; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-206]

Southern California Edison Co., and San Diego Gas and Electric Co., San Onofre Nuclear Generating Station, Unit No. 1; Environmental Assessment and Finding of No significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption to Southern California Edison Company, *et al.*, (the licensees), for operation of San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California.

Environmental Assessment

Identification of Proposed Action

Paragraph III.D.2(b)(ii) of Appendix J to 10 CFR Part 50, "Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors", states that air locks that have been opened during periods when containment integrity is not required by the plant's technical specifications shall be tested at the end of such periods at not less than Pa (calculated peak containment pressure for design-basis events). The licensees have requested a partial exemption from this requirement. The licensees propose to conduct the above test only when maintenance has been conducted that could affect the sealing capability of the air lock door seals. Otherwise, the air lock would be tested at least every six months at Pa (49.4 psig) and also within 72 hours after each closing at 10 psig test pressure.

The Need for the Proposed Action

The proposed exemption is required to allow the licensees to revise the air lock testing requirements as described above.

Environmental Impacts of the Proposed Action

The NRC staff has completed its safety evaluation of licensees' request and has concluded that (1) under the conditions described, the door seal test of 10 psig is sufficient to demonstrate the continuing integrity of the air lock and (2) the licensees proposed alternative method accomplishes the intent of the regulation.

The proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident

would not be significantly greater than previously determined. The proposed exemption does not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed exemption. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed exemption does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts asociated with the proposed exemption.

The Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the Federal Register on September 7, 1988 (53 FR 34611). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Because the Commission has concluded that there are no significant environmental impacts associated with the proposed aciton, there is no need to examine alternatives to the proposed action.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of San Onofre Nuclear Generating Station, Unit No. 1, dated October 1973.

Agencies and Persons Consulted

The NRC staff has reviewed the licensees' request that supports the proposed exemption. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated March 20, 1987, as supplemented July 22, 1988 which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 6th day of January, 1989.

For the Nuclear Regulatory Commission.

Harry Rood,

Acting Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-708 Filed 1-11-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co.; The Connecticut Light and Power Co. and The Western Massachusetts Electric Co., Millstone Nuclear Power Station, Unit No. 2; Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied, in part, a request by Northeast Nuclear Energy Company (NNECO/licensee), an amendment to Facility Operating License No. DPR-65, issued to the licensee for operation of Millstone Nuclear Power Station, Unit No. 2, located in the Town of Waterford, Connecticut.

One proposed change to the Technical Specification (TS) contained in NNECO's September 30, 1988 application for licensee amendment, was found to be unacceptable. The proposed change addresses the surveillance program to be undertaken following a plant shutdown resulting from high primary-to-secondary leakage per TS 4.4.5.1.3. The proposed TS change would delete the requirement for a general steam generator tube inspection, per TS Table 4.4-6, and institute an inspection aimed specifically at detecting and repairing the source of the leakage. It is our position that the existence of a leaking steam generator tube may suggest a more widespread problem that can only be investigated via the normal sample inspection specified in TS Table 4.4-6.

Accordingly, the NRC staff has denied NNECO's proposed change to TS 4.4.5.1.3.

The other provision of the amendment relating to TS 4.4.5.1.4.a.8 request has been approved by Amendment No. 138 dated January 3, 1989. Notice of Issuance of that amendment will be published in the Commission's biweekly **Federal Register** notice.

The licensee was notified of the Commission's denial of the proposed TS change by the letter transmitting Amendment No. 138.

By February 13, 1988, the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel—Rockville, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Garfield, Esq., Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated September 30, 1988, and (2) the letter to the licensee with the Commission's Safety Evaluation dated January 3, 1989, issued with Amendment No. 138 to DPR-65.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 3rd day of January 1989.

For the Nuclear Regulatory Commission.

David H. Jaffe,

Project Manager, Project Directorate I-4, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89-709 Filed 1-11-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-206]

Southern California Edison Co. and San Diego Gas and Electric Co., San Onofre Nuclear Generating Station, Unit No. 1; Consideration of Issuance of Amendment to Provisional Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-13 issued to Southern California Edison Company, *et al.* (the licensee), for operation of San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The request for amendment was submitted by letter dated December 8, 1988.

The proposed amendment is a request to revise Appendix A Technical Specifications to incorporate Limiting Conditions for Operation and Surveillance requirements for the revised Auxiliary Feedwater System (AFWS). To eliminate single failure susceptibilities in the AFWS, a third pump will be added. The revised system configuration will consist of two trains, with the new pump on one train and the existing two pumps on the other train. The new system will start automatically with a lead train providing the necessary decay heat removal capability, and the second train remaining in standby to provide flow should a malfunction occur on the lead train. To preclude exceeding water hammer limits, train interlocks and mechanical flow restrictors will be incorporated into the new design. In addition, the minimum volume of water required to be available in the AFW storage tank would be changed from 150,000 gallons to 190,000 gallons.

By February 13, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject provisional 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 hearing and a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene must 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 aspects(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.

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, 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 date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel-White Flint, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Charles R. Kocher, Assistant General Counsel, and James Beoletto, Esq., Southern California Edison Company, P.O. Box 800, Rosemead, California 91770, attorneys for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i-(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and the General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 3rd day of January, 1988.

For the Nuclear Regulatory Commission.

George W. Knighton,

Project Director, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 89-710 Filed 1-11-89; 8:45 am]

BILLING CODE 7590-01-M

RAILROAD RETIREMENT BOARD

Calendar Year 1989 Contribution Rate Under the Railroad Unemployment Insurance Act

Pursuant to Pub. L. 100-647, except for commuter railroads, the contribution rate to finance the railroad unemployment insurance program for calendar year 1989 shall be 8.0 percent of an employee's monthly wages calculated on the basis of section 1(i) of the Act. In calendar year 1989, the monthly compensation base under section 1(i) is $710. Public commuter railroads will be informed of their individual contributions directly by the Railroad Retirement Board. Such contributions shall be based on the amount of benefits paid by the Board to the employees of each commuter railroad, plus an amount equal to 0.65 percent of the monthly compensation paid for services rendered by each employee in a calendar month up to the monthly compensation base of $710.

By Authority of the Board.
Dated: December 28, 1988.

Beatrice Ezerski,
Secretary to the Board.

[FR Doc. 89-719 Filed 1-11-89; 8:45 am]
BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26420; File No. SR-Amex-88-33]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange Relating to Exchange Fee Increases

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on December 19, 1988, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex is increasing option transaction charges, option clearance charges, and various floor fees imposed on members and member organizations. The schedule of fee increases is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange is increasing a number of charges imposed on members and member organizations. Transaction charges for index options will increase from $.15 to $.20 per contract for customer trades where the premium is under $1.00 and from $.30 to $.40 per contract for customer trades where the premium is equal to or greater than $1.00. Proprietary trades will increase from $.06 to $.08 per contract.

Option comparison charges are being increased from $.004 to $.04 per contract side for agency business and from $.004 to $.02 for professional business. The options keypunch charge is being raised from $.11 to $.50 per card.

All floor fees imposed on members and member organizations are being raised, including the floor facilities fee, post privilege fee, floor wire fee, booth rental fees, clerk fees, and various telephone fees.

The fees proposed to be changed for the most part have not been increased since 1977, and in some cases since 1975. Nevertheless, the Exchange's costs in providing trading support facilities and services have increased during this time well beyond the capacity of floor fees to fund them. While even at the increased levels trading support services are not fully funded by fees, the proposed increases attempt to assure that users of the various services provided by the Exchange pay a fair share toward their cost. While the percentage increases are large in some cases, the new fee levels are equal to or below fees charged by other equity and options exchanges for similar faclities and services.

In the case of the options comparison charge, it is proposed that the Exchange charge a differential between agency and proprietary comparison. This is reflective of Amex's other options charges which have always included such a differential, and of members' increased per trade costs as a result of payment of the other facilities and service fees. The new agency comparison charge is equal to that of the CBOE.

The proposed floor fee increases are to be implemented in two phases, the first to commence January 1, 1989, and the second January 1, 1990. The phasing is an attempt to spread the financial impact of the charges over a period of time which will minimize hardship on smaller member firms.

(2) Basis

The Exchange fee increases are consistent with section 6(b) of the Act in general and further the objectives of section 6(b)(4) in particular in that they are intended to assure the equitable allocation of reasonable dues, fees, and other charges among members, issuers, and other persons using the Exchange's facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange fee increases will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the Exchange's fee increases.

III. Conclusion and Date of Effectiveness of the Proposed Rule Change

The Commission finds that the proposed increase in the Exchange's 1988 and 1989 options and floor fees is reasonable and consistent with section 6(b)(4) of the Act. Although in some cases the increases are substantial when compared to current fees, we note that the designated fees have remained unchanged at their current levels since 1977. At the same time, the Exchange notes that the costs of providing trading support facilities and services have increased during this period beyond the capacity of the Exchange's current floor fees to adequately cover the costs. Accordingly, the proposed fee increase is designed to ensure that the Exchange recovers more of the costs associated with providing services and that users of the facilities and services pay a fair share toward their costs. In approving

this proposal, we have reviewed the total fee increase that will be implemented in two parts (January 1, 1989 and January 1, 1990) over the next year. In implementing the total increase over the course of a year, we believe that the Amex should achieve its desired objective of minimizing the impact the fee increase will have on smaller member firms. Further, the incremental increases should provide all member firms sufficient time to incorporate the 1990 fees into their budgeting and planning process. For the reasons noted above, we find that the proposed fee increase is reasonable and consistent with the Act.

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, at the above address. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should be submitted by February 2, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: January 5, 1989.

[FR Doc. 89-676 Filed 1-11-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26429; File No. SR-NASD-89-1]

Self-Regulatory Organizations; Notice of Rule Change by National Association of Securities Dealers, Inc. Relating to Automated Submission of Trading Data

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on January 4, 1989, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is filing herewith proposed amendments to Schedule D and Schedule H of the NASD By-Laws. The proposed amendments will require members to submit certain customer and proprietary trading information in an automated format to the NASD. The following is the full text of the proposed rule changes. New language is italicized.

Part VI, Section 4, Schedule D to the NASD By-Laws

* * * * *

(d) *Automated Submission of Trading Data. A member shall submit the trade data specified below in automated format as may be prescribed by the NASD from time to time. This information shall be supplied with respect to any transaction or transactions that are the subject of a request for information made by the NASD:*

(1) If the transaction was a proprietary transaction effected or caused to be effected by the member for any account in which such member, or person associated with a member, is directly or indirectly interested, such member shall submit or cause to be submitted the following information:

(a) Clearing house number, or alpha symbol as used by the member submitting the data;

(b) Clearing house number(s), or alpha symbol(s) as may be used from time to time, of the member(s) on the opposite side of the transaction;

(c) Identifying symbol assigned to the security;

(d) Date transaction was executed;

(e) Number of shares, or quantity of bonds or options contracts for each specific transaction and whether each transaction was a purchase, sale, short sale and if on options contract whether open long or short or close long or short;

(f) Transaction price;

(g) Account number; and

(h) Market center where transaction was executed.

(2) If the transaction was effected or caused to be effected by the member for any customer account, such member shall submit or cause to be submitted the following information:

(a) Data elements (a) through (h) as contained in paragraph (1) above; and

(b) Customer name, address(es), branch office number, registered representative number, whether order was solicited or unsolicited, date account opened and employer name and the tax identification number(s).

(c) If transaction was effected for a member broker-dealer customer, whether the broker-dealer was acting as principal or agent on the transaction or transactions that are the subject of the NASD's request.

(3) In addition to the above trade data, a member shall submit such other information in such automated format as may from time to time be required by the NASD.

(4) The NASD may grant exceptions from the requirement that the data prescribed in paragraphs (1) and (2) above be submitted to the NASD in an automated format, in such cases and for such time periods as it deems appropriate.

* * * * *

Schedule H

* * * * *

Section 3—Automated Submission of Trade Data

Each member shall submit the trade data specified in Part VI, Section 4, Schedule D to the NASD By-Laws in automated format as may be prescribed by the NASD from time to time with respect to any transaction or transactions involving non-NASDAQ securities that are the subject of a request for information made by the NASD.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of, and basis for, the proposed rule changes and discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the

places specified in Item IV below. The NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule amendments will provide for the automated submission of trading data by member firms to the NASD. A universal automated format for the transmission of firm's proprietary and customer transaction data has been developed by the Intermarket Surveillance Group and the Securities Industry Association at the request of the Securities and Exchange Commission ("SEC" or "Commission"). Currently, customer and proprietary trading data is submitted manually by member firms to the NASD (commonly referred to as "blue sheet information"). In addition, in response to trade data requests, members often submit a variety of data formats other than the standard blue sheet format to the NASD. The current manual blue sheeting process has created substantial processing burdens for the NASD. The automated format could enable market surveillance analysts to evaluate blue sheet information quickly and thoroughly.

The proposed rules provide that the NASD may require the submission in an automated format of certain information for transactions involving proprietary trades. Among the items of information that may be submitted by the member firms pursuant to the proposed rule changes are the symbol of the clearing house for the member submitting the information, the clearing house symbol on the opposite side of the transaction, the identifying symbol assigned to the security, and the date the transaction was executed. In addition, with respect to transactions effected for a customer's account, the proposed rules require that the member submit in an automated format the data elements required for proprietary trades, plus additional information identifying the customer. Further, the proposed rule changes mandate that a member must disclose whether a broker-dealer customer was acting as principal or agent on the transaction. Finally, the proposed rules provide that the NASD may require the submission of additional information in automated format and permits the NASD to grant exceptions to the rules' provisions on a case-by-case basis where appropriate.

The proposed rule changes will require member firms to submit the same information that is currently requested by the NASD in an automated format prescribed by the NASD. For example, members that are NASDAQ subscribers will be required to use their NASDAQ/Harris Terminals, NASDAQ Workstations, or authorized foreign-terminal emulations to submit the data elements requested by the NASD.

The proposed rule should not impose a significant regulatory burden on larger member firms. Because smaller member firms, however, may have greater difficulties in adopting the automated reporting requirement format, the proposed rule authorizes the NASD to grant exceptions to the rules' provisions where it deems appropriate.

The NASD believes that the implementation of the proposed rule amendments will facilitate the collection and storage of trade data elements in connection with the NASD's surveillance of the over-the-counter market more rapidly and effectively than under the current system. As such, the NASD believes that the proposed rule changes are consistent with the provisions of section 15A(b)(6) under the Act because the proposed new rule amendments are "designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade and, in general, to protect investors and the public interest."

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the NASD consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submissions, 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 Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–89–1 and should be submitted by February 2, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Dated: January 6, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–733 Filed 1–11–89; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26428; File No. SR–NYSE–88–35]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Extension of Public Comment Period of Proposed Rule Change Relating to Extensions of Time for Payment or Delivery of Securities

On November 16, 1988, the New York Stock Exchange, Inc. ("NYSE") submitted a proposed rule change to the Securities and Exchange Commission ("Commission") pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) and Rule 19b–4 thereunder, to require all member organizations for which the NYSE has been appointed the designated examining authority by the Commission pursuant to Rule 17d–1 under the Act to submit requests for extensions of time for payment or delivery of securities to the NYSE. Notice of the proposed rule change was provided by the issuance of a Commission release (Securities Exchange Act Release No. 26341, December 5, 1988) and by publication in

the Federal Register (53 FR 49808, December 9, 1988).

The NYSE, on January 6, 1989, consented to an extension of the period for public comment on the proposed rule change until January 31, 1989.[1]

The Commission hereby extends the period for public comment on the proposed rule change until January 31, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: January 6, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-734 Filed 1-11-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26427; File No. SR-NYSE-88-39 and SR-NYSE-88-40]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Extension of Public Comment Period

On December 12, 1988 and December 19, 1988 the New York Stock Exchange, Inc. ("NYSE" or "Exchange") submitted proposed rule changes pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder, to establish listing standards for constituent securities of common stock (NYSE-88-39), and to provide an exception from paragraph (c)(3) of Rule 19c-4 under the Act regarding the meaning, administration or enforcement of Rule 19c-4 with respect to constituent securities of common stock (NYSE-88-40). Notice of SR-NYSE-88-39 was provided in Securities Exchange Act Release No. 26383, Dec. 21, 1988 (53 FR 52554, Dec. 28, 1988). Notice of SR-NYSE-88-40 was provided in Securities Exchange Act Release No. 26390, Dec. 23, 1988 (53 FR 53113, Dec. 30, 1988).

The NYSE has consented to an extension of the period for public comment on both proposals until February 3, 1989 (a 14 day extension for NYSE-88-40 and a 16 day extension for NYSE-88-39).

The Commission hereby extends the period for public comment on the proposed rule changes until February 3, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[1] Telephone conversation between Edward Kwalwasser, Senior Vice President, NYSE, and Howard Kramer, Assistant Director, Commission, on January 6, 1989.

Date: January 6, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-736 Filed 1-11-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-26426; File No. SR-PSE-87-1]

Self-Regulatory Organizations; Pacific Stock Exchange, Inc.; Order Approving Proposed Rule Change

On January 27, 1987, the Pacific Stock Exchange, Inc. "PSE" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] a proposed rule change to allow a summary sanction to be issued against a party for a position limit violation.

The proposed rule change was noticed in Securities Exchange Act Release No. 24670 (July 2, 1987), 52 FR 26112 (July 10, 1987). No comments were received by the Commission on the proposed rule change.

The PSE proposes to amend its position limit rule to provide for summary sanction procedures for position limit violations. The Exchange states that the purpose of the proposed rule change is to reduce the inordinate amount of time that is spent on formal disciplinary actions for position limit violations, especially in light of the objective nature of such actions. At present, when one of the Committees that reviews position limit violations ("Committee")[3] determines that a member, firm, or customer has violated the Exchange's position limit rule, it must authorize the issuance of a complaint against the person or organization alleged to have committed a violation ("respondent"), wait for an answer to the complaint, and then either hold a hearing on the matter or settle the matter after receipt of an offer of settlement. The Exchange states that the respondent, in most position limit cases, either does not answer the compliant, wherein a default is issued, or asks the Committee for appropriate settlement guidelines, but only after the matter has proceeded as a formal disciplinary action. Rarely has the respondent ever contested the allegations of violating the position limit rule.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1988).

[3] The Options Floor Trading Committee reviews position limit violations of members who trade on the floor; the Ethics and Business Conduct Committee reviews upstairs firms' position limit violations.

The Exchange has determined that it could save a substantial amount of time by summarily issuing a sanction against a party for a position limit violation. The proposed summary procedure will be implemented in the following way. Upon discovery by the Exchange staff of a possible position limit violation, the party believed to be in violation will be informed, by letter, of the Exchange's intent to bring the matter to the attention of the Committee and will be given an opportunity to produce a written response that will be read by the Committee at the same time the Committee first reviews the staff report, prior to any Committee determination. If the Committee determines that a violation of the position limit rule has occurred, it may issue an appropriate sanction, using the fine schedule guidelines for position limit violations established by the PSE's Ethics and Business Conduct Committee.[4] The party that receives that sanction has the right to appeal the decision of the Committee or the sanction imposed by the Committee and request a hearing or review pursuant to Section 11 of Exchange Rule XX (Hearings and Review of Actions Other Than Disciplinary Actions or Arbitrations).[5]

The Exchange states that this procedure is substantially similar to the Exchange's simplified procedure for the disposition of minor rule violations ("Procedure"). Minor rule violations under the Procedure include (1) any act or omission tending to disrupt the orderly conduct of business on the floor of which causes serious interference with the personal comfort or safety of other persons on the floor, and (2) any failure of a member or member organization to comply with any on-floor or off-floor operational procedures established by the Exchange. A member who receives a sanction under the Procedure is served with a written notice setting forth the rule(s) allegedly violated, the act or omission constituting each such violation, the fine for each violation, and the date by which such determination becomes final and such fine becomes due and payable or such

[4] *See* letters from Craig R. Carberry, Director, Options Compliance, PSE, to Mary Revell, Esq., Division of Market Regulation, Commission, dated November 21, 1988 and January 5, 1989.

[5] Section 11 provides procedures for persons aggrieved by Exchange action taken pursuant to the Rules of the Exchange wherein a member has received a fine or sanction from Exchange actions other than formal disciplinary actions or arbitrations. Section 11 provides parties with an opportunity to be heard and/or to have the complained-of action reviewed by a hearing panel, and with a right to review by application to the Board of Governors.

determination must be contested.[6] A member receiving such a sanction under the Procedure is afforded the opportunity to submit a response to the Exchange under section 11 of Exchange Rule XX. The charge is then referred to the appropriate committee at the same time that the committee first reviews the sanction, but prior to the committee's determination of the matters.

The summary position limit violation procedure is intended to deal with those violations that are considered to be either of an incidental nature or that do not involve members with recurring position limit violations. If the Committee believes that the violation did not meet those requirements, or if other circumstances made the violation more complicated, the Committee would retain the right to proceed with a formal disciplinary action rather than issuing a summary sanction.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6,[7] and the rules and regulations thereunder. In particular, the summary sanction procedure for position limit violations will help to create a more efficient regulatory procedure while providing adequate due process protection for members believed to be in violation of the position limit role. More specifically, the Commission finds that the summary sanction procedure is consistent with section 6(d)(1) of the Act, which describes what an exchange must do in order to comply with due process in any disciplinary proceeding.[8] Prior to any Committee action, members are notified of the Exchange's intention to being the matter to the attention of the Committee and are given an opportunity to submit a response to the Exchange staff's report to the Committee. The Commission believes this procedure, for a technical rule such as position limits, provides members an adequate opportunity to present their defense to the charges before the Committee makes a determination in the matter. This is especially true in light of the PSE's assertion that respondents rarely contest the allegations in a position limit proceeding. Moreover, should the Committee determine that a violation of the position limit rule has occurred, the party aggrieved by the determination has a right to have the complained-of action reviewed, and has a further right to review by application to the Board of Governors.

The Commission believes that the PSE's summary sanction procedure will faciliate the Exchange's ability to comply with its obligations as a self-regulatory organization to surveil and regulate its market. The proposal will permit the Exchange to allocate its limited resources to other surveillance and compliance matters of a more complicated nature or that are more difficult to prove. Because this summary sanction procedure is not included within PSE's minor rule violation plan,[9] however, the PSE will be required to file promptly with the Commission notice of any disciplinary action taken under the summary sanction procedure as required by paragraph (c)(1) of Rule 19d–1 under the Act.[10]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Dated: January 6, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–735 Filed 1–11–89; 8:45 am]

BILLING CODE 8010–01–M

[6] *See* Securities Exchange Act Release No. 22653 (November 21, 1985), 50 FR 48852, approving the PSE's establishment of a simplified procedure for the disposition of minor rule violations.

[7] 15 U.S.C. 78f (1982).

[8] 15 U.S.C. 78(d)(1) (1982).

[9] Pursuant to paragraph (c)(2) of Rule 19d–1 under the Act, any disciplinary action taken by a self-regulatory organization ("SRO") for violation of an SRO rule that has been designated a minor rule pursuant to a minor rule violation plan may be reported on a periodic, as opposed to immediate, basis. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23838.

[10] 17 CFR 240.19d–1 (1988).

[11] 15 U.S.C. 78s(b)(2) (1982).

[12] 17 CFR 200.30–3(1)(12) (1988).

SMALL BUSINESS ADMINISTRATION

Region I Advisory Council; Public Meeting; Rhode Island

The U.S. Small Business Administration Region I Advisory Council, located in the geographical area of Providence, will hold a public meeting at 9:00 a.m. on Thursday, February 9, 1989 at the Rhode Island Hospital Trust Bank, 28th Floor, Rhode Island Hospital Trust Tower, Providence, Rhode Island, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call the Office of the District Director, U.S. Small Business Administration, Providence District Office, 380 Westminister Mall, Providence, Rhode Island 02903, 401/528–4580.

Jeannette M. Pauli,

Acting Director, Office of Advisory Councils.

January 4, 1989.

[FR Doc. 89–654 Filed 1–11–89; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes February 14, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

NEW EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10089-N	Phillips Petroleum Co., Bartlesville, OK.	49 CFR 173.206(a)	To authorize shipment of Potassium metal classed as a flammable solid in non-DOT cylinders similar to the DOT specification 4BW cylinders except that they are constructed of Type 304, 316 and 347 stainless steel. (Modes 1, 2, and 3.)
10101-N	Liquid Carbonic Specialty Gas Corporation Chicago, IL.	49 CFR 173.34(e)	To discontinue the prefill hammer test on 3A and 3AA cylinders used exclusively for oxygen, nitrogen, argon, helium, hydrogen, and mixtures of these gases with carbon dioxide. (Mode 1.)
10102-N	ENPAC Corp., Jacksonville, FL	49 CFR 173.3(c) Part 173 Subparts D, E, F, H.	To authorize manufacture, marking, and sale of non-DOT specification, polyethylene 20 gallon containers for shipment of those hazardous materials presently authorized for shipment in a DOT spec. 21C drum and hazardous materials in damaged or leaking packages. (Modes 1, 2, and 3.)
10103-N	General Motors Corp., Warren, MI	49 CFR Parts 100-177	To authorize shipment of a sodium azide-based air bag module, classed as an explosive Power Device Class C, packaged in a foam molded polyethylene copolymers on a high density polyethylene pallet contained by stretch wrapping as an unregulated item. (Mode 1.)
10104-N	Bowater Bulk Packaging Limited, West Yorkshire England.	49 CFR 173.182	To manufacture, mark and sell non-DOT specification flexible intermediate bulk containers constructed of woven polypropylene fabric not to exceed 2200 pounds capacity for shipment of ammonium nitrate fertilizer, classed as an oxidizer. (Modes 1, 2, and 3.)

Note.—Application 10088-N, Hedwin Corporation, Baltimore, Md., published in the December 19, 1988 **Federal Register**, Volume 53, No. 243 on Page 51026 is corrected to include rail freight and cargo vessel as requested modes of transportation.

This notice of receipt of applications for new exemptions is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 9, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-741 Filed 1-11-89; 8:45 am]

BILLING CODE 4910-60-M

Applications For Renewal Or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regualtions (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier **Federal Register** publications, they are not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closes January 27, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
2000-X	Union Carbide Industrial Gases, Inc., Danbury, CT.	2000
3095-X	Dowell Schlumberger, Inc., Tulsa, OK.	3095
3667-X	Groendyke Transport, Inc., Enid, OK.	3667
4338-X	Stauffer Chemical Co., Shelton, CT.	4338
4453-X	Brandywine Explosives & Supply, Inc., Lexington, KY.	4453
4453-X	Quick Supply Co., Des Moines, IA.	4453
4803-X	Dowell Schlumberger, Inc., Tulsa, OK.	4803
5600-X	Amoco Oil Co., Whiting, IN	5600
6126-X	Rhone-Poulenc Inc., Princeton, NJ.	6126
6126-X	Monsanto Agricultural Co., St. Louis, MO.	6126
6614-X	Cellasto Plastics Corp., Marshall, MI.	6614
6614-X	Esbro Chemical, Redwood, CA.	6614
6614-X	Jones Chemicals, Inc., Caledonia, NY.	6614
6614-X	Continental Chemical Co., Sacramento, CA.	6614
6874-X	Degussa Corp., Ridgefield Park, NJ [1].	6874
7413-X	Chilton Metal Products Division, Chilton, WI.	7413
7451-X	Union Carbide Corp., Danbury, CT.	7451
7625-X	Hydrite Chemical Co., Milwaukee, WI.	7625
7628-X	Allied-Signal Inc., Morristown, NJ.	7628
7721-X	Applied Companies, San Fernando, CA.	7721
7835-X	Wilson Oxygen and Supply, Inc., Austin, TN.	7835
7835-X	Airco, The Boc Group, Inc., Murray Hill, NJ.	7835
7835-X	General Air Service & Supply, Denver, CO.	7835
8099-X	Rhone-Poulenc Ag Co., Resarch Triangle Park, NC.	8099
8196-X	Compagnie des Containers Reservoirs, Paris, France.	8196
8214-X	Morton Thiokol, Inc., Ogden, UT [2].	8214
8225-X	Hoover Group, Inc., Beatrice, NE [3].	8225
8232-X	Compagnie des Containers Reservoirs, Paris, France.	8232
8451-X	IRECO Inc., Salt Lake City, UT.	8451
8569-X	General Dynamics Corp., Fort Worth Division, Fort Worth, TX.	8569

Application No.	Applicant	Renewal of exemption
8571-X	EM Science, Cincinnati, OH ...	8571
8692-X	Mitsubishi International Corp., New York, NY.	8692
8723-X	Atlas Power Co., Dallas, TX [4].	8723
8802-X	EVA Eisenbahn-Verkehrsmittel GmbH, Dusseldorf, West Germany.	8802
8815-X	Atlas Powder Co., Dallas, TX.	8815
8938-X	Cryogenic Services, Inc., Canton, GA [5].	8938
8971-X	Western Atlas International, Inc., Houston, TX.	8971
8995-X	Worum Chemical Co., St. Paul, MN.	8995
8995-X	Olin Corp., Stamford, CT.....	8995
9019-X	Completion Services, Inc., Lafayette, LA.	9019
9034-X	Airco—The BOC Group, Inc., Murray Hill, NJ.	9034
9116-X	Hoover Group, Inc., Beatrice, NE [6].	9116
9150-X	Hoover Group, Inc., Beatrice, NE [7].	9150
9275-X	Hercules, Inc., Wilmington, DE.	9275
9343-X	Aluminum Company of America, Pittsburgh, PA.	9343
9372-X	Halliburton Logging Services, Inc., Houston, TX.	9372
9374-X	Poly Processing Co., Inc., Monroe, LA.	9374
9408-X	Ethyl Corp., Baton Rouge, LA.	9408
9413-X	EM Science, Cincinnati, OH ...	9413
9443-X	Hercules, Inc., Wilmington, DE.	9443
9486-X	Bver, Inc., Chester, WV.....	9486
9710-X	Union Carbide Corp., Linde Division, Danbury, CT.	9710
9785-X	Independent Container Line Ltd., Richmond, VA.	9785
9785-X	Hapag-Lloyd (America) Inc., Staten Island, NY.	9785
9785-X	Atlantic Container Line, Elizabeth, NJ.	9785
9785-X	Sea-Land Service, Inc., Elizabeth, NJ.	9785
9811-X	Container Products Corp., Wilmington, NC [8].	9811
9833	Wacker Chems. (USA), Inc. and Wacker-Chemie GmbH, Munich 22, West Germany, CT-X.	9833
9963-X	Railcar Maintenance Co., San Francisco, CA.	9963

[1] To authorize the increase of shipping weight to 1,000 kg (2,205 pounds) in each box instead of up to 2,000 pounds.

[2] To modify packaging to allow a void area at the base and increase the weight by 1½ inches.

[3] To authorize use of new high density polyethylene resin Paxon 7004 in the manufacture of the 8225 tanks.

[4] To authorize oxidizers as additional commodities for shipment under DOT-E 8723.

[5] To authorize the addition of a welded cylinder (CSI PLC-450-HP) for use in liquefied carbon dioxide service.

[6] To authorize the use of new Paxon 7004 polyethylene resin and to reduce the minimum wall thickness from 0.375 to 0.230 for tanks built.

[7] To authorize use of a new highly density polyethylene resin in the tank manufacture.

[8] To authorize use of a "T-Bolt" closure.

Application No.	Applicant	Parties to exemption
2000-P	Linde Gases of New England, West Hartford, CT.	2000
2000-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	2000
2000-P	UNIGAS, Inc., Ponce, PR	2000
2000-P	Linde Gases of Florida, Inc., Tampa, FL.	2000
2000-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	2000
2000-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	2000
2582-P	Linde Gases of New England, West Hartford, CT.	2582
2582-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	2582
2582-P	Linde Gases of Florida, Inc., Tampa, FL.	2582
2582-P	Linde Gases of the Midwest, Inc., Hillside, IL.	2582
2582-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	2582
3004-P	Linde Gases of the Midwest, Inc., Hillside, IL.	3004
3004-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	3004
3004-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	3004
3004-P	UNIGAS, Inc., Ponce, PR	3004
3004-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	3004
3004-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	3004
3004-P	Linde Gases of New England, Inc., West Hartford, CT.	3004
3004-P	Union Carbide Industrial Gases, Inc., Danburg, CT.	3004
3004-P	Linde Puerto Rico, Inc., Gurabo, PR.	3004
3004-P	Linde Gases of the West, Oakland, CA.	3004
3004-P	GenEx, Ltd., Des Moines, IA ..	3004
4575-P	Linde Gases of New England, Inc., West Hartford, CT.	4575
4575-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	4575
4575-P	UNIGAS, Inc., Ponce, PR	4575
4575-P	Linde Gases of Florida, Inc., Tampa, FL.	4575
4575-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	4575
4575-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	4575
4575-P	Linde Gases of the Midwest, Inc., Hillside, IL.	4575
4575-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	4575
4575-P	Linde Gases of the West, Oakland, CA.	4575
4884-P	Linde Gases of New England, Inc., West Hartford, CT.	4884
4884-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	4884
4884-P	UNIGAS, Inc., Ponce, PR	4884
4884-P	Linde Gases of Florida, Inc., Tampa, FL.	4884
4884-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	4884
4884-P	Linde Gases of the Midwest, Inc., Hillside, IL.	4884
4884-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	4884

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4884-P	Linde Gases of the West, Oakland, CA.	4884
4884-P	GenEx, Ltd., Des Moines, IA ..	4884
5643-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	5643
5923-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	5923
5923-P	Linde Gases of Florida, Inc., Tampa, FL.	5923
5923-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	5923
5923-P	Linde Gases of the Midwest, Inc., Hillside, IL.	5923
5923-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	5923
5923-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	5923
5923-P	Linde Gases of New England, Inc., West Hartford, CT.	5923
5923-P	Union Carbide Industrial Gases, Inc., Danburg, CT.	5923
5923-P	Linde Gases of the West, Oakland, CA.	5923
6349-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	6349
6530-P	Linde Puerto Rico, Inc., Gurabo, PR.	6530
6530-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	6530
6530-P	Linde Gases of the West, Oakland, CA.	6530
6530-P	Linde Gases of New England, Inc., West Hartford, CT.	6530
6530-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	6530
6530-P	UNIGAS, Inc., Ponce, PR	6530
6530-P	Linde Gases of Florida, Inc., Tampa, FL.	6530
6530-P	Linde Gases of the Midwest, Inc., Hillside, IL.	6530
6530-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	6530
6530-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	6530
6530-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	6530
6530-P	GenEx, Ltd., Des Moines, IA ..	6530
6543-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	6543
6543-P	Linde Gases of the West, Oakland, CA.	6543
6543-P	Linde Gases of New England, Inc., West Hartford, CT.	6543
6543-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	6543
6543-P	Linde Gases of Florida, Inc., Tampa, FL.	6543
6543-P	Linde Gases of the Midwest, Inc., Hillside, IL.	6543
6543-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	6543
6691-P	Linde Puerto Rico, Inc., Gurabo, PR.	6691
6691-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	6691
6691-P	Linde Gases of the West, Oakland, CA.	6691
6691-P	Linde Gases of New England, Inc., West Hartford, CT.	6691
6691-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	6691

Application No.	Applicant	Parties to exemption
6691-P	UNIGAS, Inc., Ponce, PR	6691
6691-P	Linde Gases of Florida, Inc., Tampa, FL.	6691
6691-P	Linde Gases of the Midwest, Inc., Hillside, IL.	6691
6691-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	6691
6691-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	6691
6691-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	6691
6691-P	GenEx, Ltd., Des Moines, IA	6691
6695-P	Atochem Inc., Chemical Division, Glen Rock, NJ.	6695
6765-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	6765
6765-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	6765
6765-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	6765
6805-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	6805
6805-P	Linde Gases of the West, Oakland, CA.	6805
6805-P	Linde Gases of New England, Inc., West Hartford, CT.	6805
6805-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	6805
6805-P	UNIGAS, Inc., Ponce, PR	6805
6805-P	Linde Gases of Florida, Inc., Tampa, FL.	6805
6805-P	Linde Gases of the Midwest, Inc., Hillside, IL.	6805
6805-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	6805
6805-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	6805
6932-P	Atochem Inc., Chemical Division, Glen Rock, NJ.	6932
7052-P	Delta Environmental Consultants, Inc., Tampa, FL.	7052
7052-P	The Bob Fournet Co., Lafayette, LA.	7052
7268-P	Linde Puerto Rico, Inc., Gurabo, PR.	7268
7268-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	7268
7268-P	Linde Gases of the West, Oakland, CA.	7268
7268-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	7268
7268-P	UNIGAS, Inc., Ponce, PR	7268
7268-P	Linde Gases of the Midwest, Inc., Hillside, IL.	7268
7268-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	7268
7268-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	7268
7268-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	7268
7268-P	Linde Gases of New England, Inc., West Hartford, CT.	7268
7274-P	Linde Puerto Rico, Inc., Gurabo, PR.	7274
7274-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	7274
7274-P	UNIGAS, Inc., Ponce, PR	7274
7274-P	Linde Gases of the Midwest, Inc., Hillside, IL.	7274
7274-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	7274
7274-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	7274
7274-P	Linde Gases of New England, Inc., West Hartford, CT.	7274
7285-P	Atochem Inc., Chemical Division, Glen Rock, NJ.	7285
7451-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	7451
7451-P	Linde Gases of the Midwest, Inc., Hillside, IL.	7451
7451-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	7451
7451-P	Linde Gases of New England, Inc., West Hartford, CT.	7451
7607-P	On-Site Instruments, Columbus, OH.	7607
7835-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	7835
7835-P	Linde Gases of the West, Oakland, CA.	7835
7835-P	Linde Gases of Florida, Inc., Tampa, FL.	7835
7835-P	UNIGAS, Inc., Ponce, PR	7835
7835-P	Linde Gases of the Midwest, Inc., Hillside, IL.	7835
7835-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	7835
7835-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	7835
7835-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	7835
7835-P	Linde Gases of New England, Inc., West Hartford, CT.	7835
7835-P	GenEx, Ltd., Des Moines, IA	7835
7846-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	7846
7846-P	Linde Gases of the West, Oakland, CA.	7846
7846-P	UNIGAS, Inc., Ponce, PR	7846
7846-P	Linde Gases of the Midwest, Inc., Hillside, IL.	7846
7846-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	7846
7846-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	7846
7846-P	Linde Gases of New England, Inc., West Hartford, CT.	7846
8013-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8013
8013-P	Linde Gases of the West, Oakland, CA.	8013
8013-P	Linde Gases of the Midwest, Inc., Hillside, IL.	8013
8013-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	8013
8013-P	Linde Gases of New England, Inc., West Hartford, CT.	8013
8013-P	Linde Gases of Florida, Inc., Tampa, FL.	8013
8013-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	8013
8013-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	8013
8013-P	UNIGAS, Inc., Ponce, PR	8013
8013-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	8013
8156-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8156
8156-P	Linde Gases of the West, Oakland, CA.	8156
8156-P	Linde Gases of the Midwest, Inc., Hillside, IL.	8156
8156-P	Linde Gases of New England, Inc., West Hartford, CT.	8156
8156-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	8156
8156-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	8156
8156-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	8156
8156-P	GenEx, Ltd., Des Moines, IA	8156
8445-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8445
8518-P	Pacific Petroleum Corp., Orcutt, CA.	8518
8526-P	Overnite Transportation Co., Richmond, VA.	8526
8556-P	Linde Puerto Rico, Inc., Gurabo, PR.	8556
8556-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8556
8556-P	Linde Gases of the West, Oakland, CA.	8556
8556-P	Linde Gases of New England, Inc., West Hartford, CT.	8556
8556-P	Linde Gases of Florida, Inc., Tampa, FL.	8556
8556-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	8556
8556-P	UNIGAS, Inc., Ponce, PR	8556
8556-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	8556
8698-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8698
8862-P	Linde Puerto Rico, Inc., Gurabo, PR.	8862
8862-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8862
8862-P	Linde Gases of the West, Oakland, CA.	8862
8862-P	Linde Gases of the Midwest, Inc., Hillside, IL.	8862
8862-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	8862
8862-P	Linde Gases of New England, Inc., West Hartford, CT.	8862
8862-P	Linde Gases of Florida, Inc., Tampa, FL.	8862
8862-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	8862
8862-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	8862
8862-P	UNIGAS, Inc., Ponce, PR	8862
8862-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	8862
8862-P	GenEx, Ltd., Des Moines, IA	8862
8915-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8915
8915-P	Linde Gases of the West, Oakland, CA.	8915
8915-P	Linde Gases of the Midwest, Inc., Hillside, IL.	8915
8915-P	Linde Gases of New England, Inc., West Hartford, CT.	8915
8915-P	Linde Gases of Florida, Inc., Tampa, FL.	8915

Application No.	Applicant	Parties to exemption
8915-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	8915
8915-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	8915
8915-P	UNIGAS, Inc., Ponce, PR	8915
8923-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	8923
8944-P	Linde Gases of the West, Oakland, CA.	8944
8944-P	Linde Gases of New England, Inc., West Hartford, CT.	8944
8944-P	Linde Gases of Florida, Inc., Tampa, FL.	8944
8988-P	Owen Oil Tools, Inc., Fort Worth, TX.	8988
9034-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	9034
9034-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	9034
9034-P	UNIGAS, Inc., Ponce, PR	9034
9034-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	9034
9034-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	9034
9034-P	Linde Gases of the West, Oakland, CA.	9034
9034-P	Linde Gases of New England, Inc., West Hartford, CT.	9034
9034-P	Linde Gases of Florida, Inc., Tampa, FL.	9034
9034-P	Linde Gases of the Midwest, Inc., Hillside, IL.	9034
9034-P	GenEx, Ltd., Des Moines, IA	9034
9047-P	Linde Puerto Rico, Inc., Gurabo, PR.	9047
9047-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	9047
9047-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	9047
9047-P	UNIGAS, Inc., Ponce, PR	9047
9047-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	9047
9047-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	9047
9047-P	Linde Gases of the West, Oakland, CA.	9047
9047-P	Linde Gases of New England, Inc., West Hartford, CT.	9047
9047-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	9047
9047-P	Linde Gases of Florida, Inc., Tampa, FL.	9047
9047-P	Linde Gases of the Midwest, Inc., Hillside, IL.	9047
9047-P	GenEx, Ltd., Des Moines, IA	9047
9275-P	Fries & Fries, Cincinnati, OH	9275
9414-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	9414
9414-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	9414
9414-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	9414
9414-P	Linde Gases of the West, Oakland, CA.	9414
9414-P	Linde Gases of New England, Inc., West Hartford, CT.	9414
9414-P	Linde Gases of Florida, Inc., Tampa, FL.	9414
9414-P	Linde Gases of the Midwest, Inc., Hillside, IL.	9414
9414-P	GenEx, Ltd., Des Moines, IA	9414
9436-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	9436
9507-P	Linde Puerto Rico, Inc., Gurabo, PR.	9507
9507-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	9507
9507-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	9507
9507-P	UNIGAS, Inc., Ponce, PR	9507
9507-P	Linde Gases of the Southeast, Inc., Wilmington, NC.	9507
9507-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	9507
9507-P	Linde Gases of the West, Oakland, CA.	9507
9507-P	Linde Gases of New England, Inc., West Hartford, CT.	9507
9507-P	Linde Gases of the Great Lakes, Inc., Cleveland, OH.	9507
9507-P	Linde Gases of Florida, Inc., Tampa, FL.	9507
9507-P	MG Industries, Valley Forge, PA.	9507
9690-P	Tri-River Chemical Co., Inc., Pasco, WA.	9690
9769-P	Rollins Environmental Services (FS) Inc., Wilmington, DE [1].	9769
9785-P	Puerto Rico Marine Management, Inc., San Juan, PR.	9785
9916-P	Petrolite Corp., St. Louis, MO.	9916
9946-P	Union Carbide Industrial Gases, Inc., Danbury, CT.	9946
9946-P	Linde Gases of Southern California, Inc., Santa Ana, CA.	9946
9946-P	Linde Gases of the Mid-Atlantic, Moorestown, NJ.	9946
9946-P	Linde Gases of New England, Inc., West Hartford, CT.	9946
9946-P	Linde Gases of Florida, Inc., Tampa, FL.	9946
9946-P	Linde Gases of the Midwest, Inc., Hillside, IL.	9946
9946-P	Linde Gases of the West, Oakland, CA.	9946
9953-P	National Starch and Chemical Corp., Bridgewater, NJ.	9953
10089-P	Callergy Chemical Co., Pittsburgh, PA.	10089

[1] To authorize shipment by rail of "lab-packs."

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on January 9, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

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Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of grants and denials of applications for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in July-September 1988. The modes of transportation involved are identified by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

Renewal and Party to Exemptions

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
868-X	DOT-E 868	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.3(a), 173.7(a), 174.10, 174.104(f), 174.8, 177.801, 177.806(a).	To authorize exceptions to requirements for carrier inspection of manufacture, vehicle, loading, etc. for transportation of Class A and B explosives loaded by Department of Defense shippers in DOT Specification containers. (Modes 1 and 2.)
2582-P	DOT-E 2582	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 175.3, Part 173, Subparts D, E, F, G.	To become a party to exemption 2582. (Modes 1, 2, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
3121-X	DOT-E 3121	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.336(a), 177.841(b)	To authorize a packaging arrangement that is similar to currently authorized packaging except a rupture disk assembly has been added. (Mode 1.)
3121-X	DOT-E 3121	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.336(a), 177.841(b)	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1.)
3142-X	DOT-E 3142	U.S. Department of Energy, Washington, DC.	49 CFR 173.24(a)(1)	To authorize shipment of nonflammable compressed gases in DOT Specification 3A1800 or 3A2000 cylinders, from which a controlled flow of gas is released to a leak calibration apparatus. (Modes 1 and 2.)
3187-X	DOT-E 3187	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.119(m), 173.21(b), 173.218, 173.221(a)(3).	To authorize modification of the prescribed packaging that consists of cutting holes at the top and bottom of each face of the fiberboard overpack to improve air circulation. (Mode 1.)
3187-X	DOT-E 3187	PPG Industries, Inc., Pittsburgh, PA	49 CFR 173.119(m), 173.21(b), 173.218, 173.221(a)(3).	To authorize shipment of flammable liquids or organic peroxides in various non-DOT and DOT Specification containers. (Mode 1.)
3187-X	DOT-E 3187	Silor Optical of Florida, Inc., St. Petersburg, FL.	49 CFR 173.119(m), 173.21(b), 173.218, 173.221(a)(3).	To authorize shipment of flammable liquids or organic peroxides in various non-DOT and DOT Specification containers. (Mode 1.)
3768-X	DOT-E 3768	Vanchem, Inc., Lockport, NY	49 CFR 173.119, 173.245, 173.288	To authorize use of DOT Specification MC-304, MC-307 and MC-312 cargo tanks, for transportation of certain flammable and corrosive liquids. (Mode 1.)
4588-X	DOT-E 4588	U.S. Department of Energy, Washington, DC.	49 CFR 173.65(a)	To authorize use of packaging not presently prescribed for certain high explosives. (Mode 1.)
4734-X	DOT-E 4734	General Electric Company—Silicone Products Div., Waterford, NY.	49 CFR 173.119(m), 173.135(a)(9), 173.136(a)(8), 173.280(a)(8).	To authorize use of modified DOT Specification MC-331 cargo tanks, for transportation of certain flammable liquids and corrosive materials. (Mode 1.)
4850-P	DOT-E 4850	Austin Powder Co., Cleveland, OH	49 CFR 173.100(cc), 175.3	To become a party to exemption 4850. (Modes 1, 2, and 3.)
5248-P	DOT-E 5248	Magnavox Government and Industrial Electronics Co., Fort Wayne, IN.	49 CFR 173.431(a), 175.3	To become a party to exemption 5248. (Modes 1, 2, and 4.)
5248-X	DOT-E 5248	3M, New Brighton, MN	49 CFR 173.431(a), 175.3	To authorize shipment of a certain quantity of polonium-210 in any DOT Specification approved outer Type A packaging. (Modes 1, 2, and 4.)
5493-X	DOT-E 5493	Montana Sulphur & Chemical Co., Billings, MT.	49 CFR 172.504(a), 173.314(c)	To authorize shipment of hydrogen sulfide in DOT Specification 105A600W tank cars. (Mode 2.)
5600-P	DOT-E 5600	Bandgap Technology Corp., Broomfield, CO.	49 CFR 175.3, Part 173, Subparts D, F, G.	To become a party to exemption 5600. (Modes 1, 2, and 4.)
5649-X	DOT-E 5649	Great Lakes Chemical Corp., Adrian, MI.	49 CFR 173.154(a)	To authorize shipment of an oxidizer, in non-DOT specification polypropylene or polyethylene bags. (Modes 1 and 2.)
5704-X	DOT-E 5704	IRECO, Inc., Salt Lake City, UT	49 CFR 173.62, 173.93(e)	To authorize transport of certain Class A and B explosives in prescribed non-DOT specification steel drums. (Modes 1, 2, and 3.)
5704-P	DOT-E 5704	Olin Corp., East Alton, IL	49 CFR 173.62, 173.93(e)	To become a party to exemption 5704 (Modes 1, 2, and 3.)
5820-X	DOT-E 5820	ICI Americas, Inc., Wilmington, DE	49 CFR 173.315(a)	To authorize shipment of nonflammable gases in non-DOT specification IMO Type 5 portable tanks. (Modes 1, 2, and 3.)
5948-X	DOT-E 5948	U.S. Department of Energy, Washington, DC.	49 CFR 173.116, 173.417, 173.467	To authorize shipment of packaged radioactive waste materials in ATMX 500 or 600 rail cars. (Mode 2.)
6016-X	DOT-E 6016	Magnolia Welding Supply Co., Houston, TX.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6016-X	DOT-E 6016	Strate Welding Supply Co., Inc., Buffalo, NY.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1.)
6071-X	DOT-E 6071	Walter Kidde, Wilson, NC	49 CFR 173.304, 173.305, 175.3	To authorize use of non-DOT specification pressure vessels, for transportation of nonflammable compressed gases. (Modes 1, 2, 4, and 5.)
6117-X	DOT-E 6117	Montana Sulphur & Chemical Co., Billings, MT.	49 CFR 172.504, 173.314(c)	To authorize transport of hydrogen sulfide in DOT Specification 105A600W tank car tanks or proposed DOT Specification 120A600W tank car tanks. (Mode 2.)
6250-X	DOT-E 6250	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.101, 173.102, 173.69, 173.79, 173.87, 173.92, 173.94, 176.83, 177.848.	To authorize shipment of partially dis-assembled aircraft with explosive components (ejection seat and canopy related devices) remaining installed. (Modes 1 and 3.)
6267-X	DOT-E 6267	Hydrotech Chemical Corp. Marietta, GA.	49 CFR 173.154, 173.217(a)	To authorize use of DOT Specification 12B corrugated fiberboard boxes with inside polyethylene bottles and non-DOT specification double-faced fiberboard boxes, for transportation of certain oxidizing materials. (Modes 1, 2, and 3.)
6293-X	DOT-E 6293	Olin Corp., East Alton, IL	49 CFR 173.21(b), 173.248	To authorize transport of certain corrosive liquids, in DOT Specification MC-311 or MC-312 tank motor vehicles. (Mode 1.)
6293-X	DOT-E 6293	Hercules, Inc., Wilmington, DE	49 CFR 173.21(b), 173.248	To authorize transport of certain corrosive liquids, in DOT Specification MC-311 or MC-312 tank motor vehicles. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6296-X	DOT-E 6296	UNIROYAL Chemical Company, Inc., Bethany, CT.	49 CFR 173.377(g)	To authorize additional bag packagings, for transportation of certain Class B poisons in DOT Specification 44D multi-wall paper bags. (Modes 1 and 2.)
6296-X	DOT-E 6296	American Cyanamid Co., Wayne, NJ.	49 CFR 173.377(g)	To authorize additional bag packagings, for transportation of certain Class B poisons in DOT Specification 44D multi-wall paper bags. (Modes 1 and 2.)
6296-X	DOT-E 6296	Phone-Poulenc Ag Co., Research Triangle Park, NC.	49 CFR 173.377(g)	To authorize additional bag packagings, for transportation of certain Class B poisons in DOT Specification 44D multi-wall paper bags. (Modes 1 and 2.)
6296-X	DOT-E 6296	Rhone-Poulenc Inc., Monmouth Junction, NJ.	49 CFR 173.377(g)	To authorize additional bag packagings, for transportation of certain Class B poisons in DOT Specification 44D multi-wall paper bags. (Modes 1 and 2.)
6349-X	DOT-E 6349	Airco Industrial Gases, New Jersey, NJ.	49 CFR 172.101, 173.315(a)	To authorize use of non-DOT specification insulated, containerized portable tanks, for shipment of certain flammable and nonflammable gases. (Modes 1, 2, and 3.)
6369-X	DOT-E 6369	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.346(a)(10), 173.347(a)(2), 173.352(a)(4), 173.374(a).	To authorize use of AAR proposed DOT Specification 120A300W and 120A400W tank car tanks, for transportation of certain Class B poisonous liquids. (Mode 2.)
6418-X	DOT-E 6418	J.R. Simplot Co., Pocatello, ID	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
6442-X	DOT-E 6442	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.53(k), 173.87	To authorize transport of a 155mm high explosive projectile containing either a corrosive or flammable liquid in metal cannister with an inner polyethylene container. (Modes 1 and 2.)
6472-X	DOT-E 6472	Morton Thiokol, Inc., Ogden, UT	49 CFR 173.91	To authorize use of non-DOT specification polystyrene containers, for transportation of certain Class B explosives. (Modes 1, 2, and 3.)
6530-X	DOT-E 6530	AGL Welding Supply Company, Inc., Clifton, NJ.	49 CFR 173.302(c)	To authorize shipment of hydrogen and mixtures of hydrogen with helium, argon or nitrogen in DOT Specification 3A, 3AA, 3AX or 3AAX steel cylinders. (Modes 1 and 2.)
6538-X	DOT-E 6538	Hanco International, Inc., Miami, FL	49 CFR 173.304(d)(3)(ii), 178.33	To authorize use of a non-DOT specification inside nonrefillable metal container, for transportation of a certain flammable gas. (Modes 1 and 3.)
6543-X	DOT-E 6543	Solkatronic Chemicals, Inc., Fairfield, NJ.	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To authorize shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, Type 304 stainless steel cylinders and/or 14 gauge Type 316 stainless steel cylinders. (Modes 1, 2, 3, and 4.)
6543-X	DOT-E 6543	Corning Glass Works, Corning, NY	49 CFR 173.119, 173.135(a)(6), 173.136(a)(5), 173.245, 173.247, 173.271, 175.3.	To authorize shipment of certain corrosive and flammable liquids in non-DOT specification 16 gauge, Type 304 stainless steel cylinders and/or 14 gauge Type 316 stainless steel cylinders. (Modes 1, 2, 3, and 4.)
6610-X	DOT-E 6610	Catalyst Resources, Inc., Elyria, OH.	49 CFR 173.221	To authorize shipment of an organic peroxide in DOT Specification 111A100W6 tank cars and MC-307 cargo tanks (Modes 1 and 2.)
6610-X	DOT-E 6610	ARCO Chemical Co., Pasadena, TX.	49 CFR 173.221	To authorize shipment of an organic peroxide in DOT Specification 111A100W6 tank cars and MC-307 cargo tanks. (Modes 1 and 2.)
6626-P	DOT-E 6626	Strate Welding Supply Co., Inc. Buffalo, NY.	49 CFR 173.34(e)(15)(i), 173.34(e)(15)(v), 175.3.	To become a party to exemption 6626 (Modes 1, 2, 3, 4, and 5.)
6670-X	DOT-E 6670	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.301(d), 173.302	To authorize shipment of tetrafluoromethane, in DOT Specification 3A2400, 3AA2400, 3AX2400 and 3AAX2400 cylinders. (Mode 1.)
6670-X	DOT-E 6670	Airco, The BOC Group, Inc., Murray Hill, NJ.	49 CFR 173.301(d), 173.302	To authorize shipment of tetrafluoromethane, in DOT Specification 3A2400, 3AA2400, 3AX2400 and 3AAX2400 cylinders. (Mode 1.)
6691-X	DOT-E 6691	Union Carbide Corp., Linde Division, Danbury, CT.	49 CFR 173.34(e)(15)(i), Part 107, Appendix B.	To correct the address referenced for the holder. (Modes 1, 2, 3, 4, and 5.)
6695-X	DOT-E 6695	Arbel-Fauvet-Rail, Douai, Cedex, France.	49 CFR 173.315	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of certain nonflammable compressed gases. (Modes 1, 2, and 3.)
6724-X	DOT-E 6724	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.89, 175.3	To authorize transport of caseless ammunition in an inside fiberboard box with egg crate separations and overpacked in a non-DOT specification strong wooden box. (Modes 1 and 4.)
6762-X	DOT-E 6762	Taylor Technologies, Inc., Sparks, MD.	49 CFR 173.286(b)(2), 175.3	To authorize transport of chemical kits in plastic inside bottles, packed in plastic overpacked in fiberboard boxes. (Modes 1, 2, 3, and 4.)
6874-X	DOT-E 6874	Degussa Corp., Ridgefield Park, NJ	49 CFR 172.101, 173.370(a)(13)	To authorize transport of sodium and potassium cyanides in non-DOT specification wooden boxes. (Modes 1, 2, and 3.)
6908-X	DOT-E 6908	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.302(a)(1), 175.3, 178.65.	To authorize certain variances from the specifications for DOT Specification 39 cylinders, used to transport certain non-flammable gases. (Modes 1, 2, 3, and 4.)
6922-X	DOT-E 6922	Halocarbon Products Corp., North Augusta, SC.	49 CFR 173.314(c), 179.300-15	To authorize use of a DOT Specification 106A500-X multi-unit tank car tank, for shipment of certain compressed gases. (Modes 1, 2, and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
6927-X	DOT-E 6927	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.353	To authorize use of a non-DOT specification portable tank, for transportation of certain Class B poisonous liquids. (Modes 1, 2, and 3.)
6927-X	DOT-E 6927	Bromine Compounds, Ltd., Beer-Sheva, Israel 84101.	49 CFR 173.353	To authorize rail freight as an additional mode of transportation. (Modes 1, 2, and 3.)
6944-X	DOT-E 6944	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.62(a), 177.834(L)(1)	To authorize transport of a liquid high explosive in a specially designed stainless steel desiccator. (Mode 1.)
6971-X	DOT-E 6971	Accu-Standard, Inc., New Haven, CT.	49 CFR Parts 100-199	To authorize transport of small quantities of reagent chemicals in inside glass bottles packed in metal boxes, overpacked in a strong wooden or fiberboard box. (Modes 1, 2, 3, 4, and 5.)
6999-X	DOT-E 6999	U.S. Department of Defense, Falls Church, VA.	49 CFR 176.120(b)	To authorize cargo loading hatches of vessels being loaded with military explosives to remain open overnight under certain conditions. (Mode 3.)
7026-X	DOT-E 7026	Walter Kidde, Wilson, NC	49 CFR 173.304(a)(1), 175.3, 178.47.	To authorize manufacture, marking and sale of non-DOT specification welded steel pressure vessel for transportation of a compressed gas. (Modes 1, 2, 4, 5.)
7041-X	DOT-E 7041	Ethyl Corp., Baton Rouge, LA	49 CFR 173.134(a)(6)	To authorize shipment of pyrophoric waste materials in non-DOT specification cargo tank of the MC-331 type. (Mode 1.)
7052-X	DOT-E 7052	Engineered Assemblies Corp., Clifton, NJ.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-X	DOT-E 7052	Allen-Bradley Co., Milwaukee, WI	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	Lockheed Aeronautical Systems Co., Burbank, CA.	49 CFR 172.101, 172.420, 175.3	To become a party to exemptions 7052 (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	Tracor Applied Sciences, Inc., Rockville, MD.	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052 (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	Tauber Electronics, Inc., San Diego, CA.	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052 (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	DigiCourse, Inc., Harahan, LA	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052 (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	Beta Phase, Inc., Menlo Park, CA	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052 (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	3M, St. Paul, MN	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052 (Modes 1, 2, 3, and 4.)
7052-P	DOT-E 7052	Whittaker-Yardney Power Systems, Waltham, MA.	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052 (Modes 1, 2, 3, and 4.)
7096-X	DOT-E 7096	Fike Corp., Blue Springs, Mo.	49 CFR 173.304(a)(1), 178.55	To authorize shipment of bromotrifluoromethane (Freon 1301) in non-DOT specification cylinders, fabricated in accordance with DOT Specificaiton 4B240ET with certain exceptions. (Modes 1, 2, and 3.)
7097-X	DOT-E 7097	Plant Products Corp., Vero Beach, FL.	49 CFR 173.377(f)	To authorize shipment of dry mixtures of parathion and tetraethyl dithio pyrophosphate from specification packing requirements. (Mode 1.)
7247-X	DOT-E 7247	U.S. Department of Defense, Falls Church, VA.	49 CFR 146.29-11(c)(19), 146.29-75(b)(2).	To authorize a bulkhead in the lower hold of a vessel separating military explosives from general cargo to be secured on 4 inch by 6 inch uprights, in lieu of the required 6 by 6 inch uprights. (Mode 3.)
7268-X	DOT-E 7268	Union Carbide Corp., Danbury, CT	49 CFR 173.304(a)(1)	To authorize use of a DOT Specification 39 nonrefillable cylinder, for shipment of a nonflammable compressed gas. (Modes 1, 2, and 3.)
7455-P	DOT-E 7455	Austin Powder Co., Cleveland, OH	49 CFR 176.177(g), 176.177(h), 176.177(n), 176.177(q), 176.177(r), 176.410(e).	To become a party to exemption 7455 (Mode 3.)
7466-X	DOT-E 7466	Firmenich Inc., Princeton, NJ	49 CFR 173.119(a)(7), 175.3	To authorize shipment of certain flammable liquid mixtures, in a spun 99-percent pure aluminum can, overpacked in a corrugated fiberboard box. (Modes 1, 2, 3, and 4.)
7573-X	DOT-E 7573	U.S. Department of Defense, Falls Church, VA.	49 CFR Part 107, Subpart B, Part 172, Part 175.	To authorize transport of aircraft loaded with military explosives and ammunition and other hazardous materials forbidden or in quantities greater than allowed for cargo-only aircraft. (Mode 4.)
7607-P	DOT-E 7607	Hanson Engineers, Inc. Springfield, IL.	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7607-P	DOT-E 7607	I.T. Corp., Torrance, CA	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7607-P	DOT-E 7607	Wapora, Inc., Atlanta, GA	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7607-P	DOT-E 7607	Response Rentals, Rochester, NY	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7607-P	DOT-E 7607	Hydrometrics, Inc., Helena, MT	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7607-P	DOT-E 7607	Betz Murdock and Converse Inc. (BMC), Plymouth Meeting, PA.	49 CFR 172.101, 175.3	To become a party to exemption 7607. (Mode 5.)
7616-X	DOT-E 7616	Atchison, Topeka and Santa Fe Ry. Co., Chicago, IL.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To authorize carrier to accept telephonic and electronic data exchange information from shippers and to prepare and certify information on shipping papers on behalf of the shipper for the acceptance of hazardous materials. (Mode 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7616-X	DOT-E 7616	Southern Pacific Transportation Co., San Francisco, CA.	49 CFR 172.200(a), 172.204(a), 172.204(d), 174.12, 174.24(a), 174.25(b)(2), 174.3.	To authorize carrier to accept telephonic and electronic data exchange information from shippers and to prepare and certify information on shipping papers on behalf of the shipper for the acceptance of hazardous materials. (Mode 2.)
7648-X	DOT-E 7648	Sunwest Aviation, Ogden, UT	49 CFR 172.204(c), 172.300(a), 172.400(a), 173.91(a), 173.91(i), 175.3, 175.35(a).	To authorize carriage of aerial illuminating flares for testing purposes in cargo-only aircraft. (Mode 4.)
7650-X	DOT-E 7650	ICI Americas, Inc., Wilmington, DE	49 CFR 173.315	To authorize use of non-DOT specification vaccum insulated steel portable tanks, for shipment of certain nonflamable compressed gases. (Mode 1 and 3.)
7654-P	DOT-E 7654	Eastman Kodak Co., Rochester, NY.	49 CFR 173.119(f)	To become a party to exemption 7654. (Mode 1 and 2.)
7700-P	DOT-E 7700	U.S. Department of Agriculture, Forest Service, Washington, DC.	49 CFR 175.310(d)	To become a party to exemption 7700. (Mode 5.)
7719-X	DOT-E 7719	Turner Division of Cooper Group, Sycamore, IL.	49 CFR 173.304, 175.3, 178.65	To authorize use of brazed DOT Specification 39 cylinders, for transportation of methylacetylene propadiene, stabilized. (Mode 1, 2, and 4.)
7767-X	DOT-E 7767	Walter Kidde, Wilson, NC	49 CFR 173.304(a)(1), 175.3, 178.47.	To authorize manufacture, marking and sale of non-DOT specification welded steel cylinders, for transportation of nonflammable compressed gases. (Mode 1, 2, 3, 4, and 5.)
7823-X	DOT-E 7823	Allied Corp., Morristown, NJ	49 CFR 173.246	To authorize transport of iodine pentafluoride in non-DOT specification welded stainless steel cylinders complying with DOT Specification 4BW with certain exceptions. (Mode 1, 2, and 3.)
7835-P	DOT-E 7835	Sunox Inc., Charlotte, NC	49 CFR 177.848, Part 107 Appen. B(1).	To become a party to exemption 7835. (Mode 1.)
7835-P	DOT-E 7835	American Welding Supply San Jose, CA.	49 CFR 177.848, Part 107 Appen. B(1).	To become a party to exemption 7835. (Mode 1.)
7840-X	DOT-E 7840	Douglas Aircraft Co., Long Beach, CA.	49 CFR 173.87, 175.3, 176.83	To authorize transport of a Class C explosive and a nonflamable compressed gas, in the same non-DOT specification fiberboard shipping container. (Mode 1, 2, 3, 4, and 5.)
7840-X	DOT-E 7840	General Dynamics Corp., Fort Worth, TX.	49 CFR 173.87, 175.3, 176.83	To authorize transport of a Class C explosive and a nonflamable compressed gas, in the same non-DOT specification fiberboard shipping container. (Mode 1, 2, 3, 4, and 5.)
7840-X	DOT-E 7840	Weber Aircraft, Burbank, CA	49 CFR 173.87, 175.3, 176.83	To authorize transport of a Class C explosive and a nonflammable compressed gas, in the same non-DOT specification fiberboard shipping container. (Modes 1, 2, 3, 4, and 5.)
7840-X	DOT-E 7840	Weber Aircraft, Inc., Burbank, CA	49 CFR 173.87, 175.3, 176.83	To authorize transport of a Class C explosive and a nonflammable compressed gas, in the same non-DOT specification fiberboard shipping container. (Modes 1, 2, 3, 4, and 5.)
7873-X	DOT-E 7873	Bromine Compounds, Ltd., Beer Sheva, Israel.	49 CFR 173.353a	To authorize rail freight as an additional mode of transportation. (Modes 1, 2, and 3).
7876-P	DOT-E 7876	Mallinckrodt, Inc., Paris, KY	49 CFR 173.299(a), 175.3	To become a party to exemption 7876. (Modes 1, 2, 3, and 4.)
7946-P	DOT-E 7946	Imaging and Sensing Technology Corp., Horsehead, NY.	49 CFR 173.306(b)(4), 175.3	To become a party to exemption 7946. (Modes 1, 2, 3, 4, and 5.)
8003-X	DOT-E 8003	Pennwalt Corp., Buffalo, NY	49 CFR 173.154(a)(14)	To authorize use of one-gallon, open-head polyethylene containers inside a DOT Specification 12B box, for transportation of organic peroxides. (Modes 1 and 3.)
8016-X	DOT-E 8016	U.S. Department of Agriculture, Forest Service, Washington, DC.	49 CFR 175.3, 175.30, 175.35, 175.40, 175.75, 175.85.	To authorize transport of detonating cord and exploding bridge wire detonators in passenger-carrying aircraft and helicopters. (Mode 5.)
8023-X	DOT-E 8023	EFI Corp., d/b/a EFIC, San Jose, CA.	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped cylinders, for shipment of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
8023-X	DOT-E 8023	Acurex Corp., Mountain View, CA	49 CFR 173.302(a)(1), 173.304(a), 173.304(d), 175.3.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic hoop wrapped cylinders, for shipment of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
8035-X	DOT-E 8035	Western Atlas International, Houston, TX.	49 CFR 173.100(v), 173.112, 175.3	To authorize transport of limited quantities of certain propellant explosives in a plastic tube packed in a DOT Specification 12B fiberboard box. (Modes 1, 2, 3, and 4.)
8051-X	DOT-E 8051	Mauser Packaging, Ltd., Litchfield, CT.	49 CFR 178.19, Part 173, Subpart D, E, F, H, Subpart K.	To authorize manufacture, marking and sale of non-DOT specification polyethylene drums of not over 220 liter capacity, for shipment of corrosive liquids and oxidizers. (Modes 1, 2, and 3.)
8060-X	DOT-E 8060	Parlefer S.A.R.L., Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, and 3.)
8060-X	DOT-E 8060	SLEMI, Paris, France	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8060-X	DOT-E 8060	Arbel-Fauvet-Rail, Douai, Cedex, France.	49 CFR 173.315(a)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of certain nonflammable, liquefied gases. (Modes 1, 2, and 3.)
8080-X	DOT-E 8080	American Chrome & Chemicals, Inc., Corpus Christi, TX.	49 CFR 173.164	To authorize transport of dry chromic acid in DOT-105A300W tank car which has been converted to DOT-111A100W1; a DOT-103AW tank car converted to DOT-103W; a DOT-111A1,00W2 tank car converted to DOT-111A100W1; or a true DOT-111A100W1 tank car. (Mode 2.)
8131-X	DOT-E 8131	National Aeronautics and Space Administration, Washington, DC.	49 CFR 173.301(d), 173.302(d), 173.34(d), 175.3.	To authorize a greater service life, from 5 years to 15 years, or a greater number of pressurizations, for 200 to 300, for the exempted packaging. (Modes 1, 2, and 4.)
8141-X	DOT-E 8141	Boeing Aerospace Co., Seattle, WA.	49 CFR 172.101, 173.206, 173.247	To authorize transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride packed in non-DOT specification wooden boxes. (Modes 1 and 3.)
8141-X	DOT-E 8141	Altus Corp., San Jose, CA	49 CFR 172.101, 173.206, 173.247	To authorize transport of individual cells and modules consisting of three cells containing lithium metal and thionyl chloride packed in non-DOT specification wooden boxes. (Modes 1 and 3.)
8141-P	DOT-E 8141	Whittaker-Yardney Power Systems, Waltham, MA.	49 CFR 172.101, 173.206, 173.247	To become a party to exemption 8141. (Modes 1 and 3.)
8214-X	DOT-E 8214	Morton Thiokol, Inc.—Automotive Products, Ogden, UT.	49 CFR 173.153, 173.154, 175.3	To authorize an additional packaging for shipment of inflators and modules for passive restraint systems, described as Flammable solid n.o.s., class as Flammable solid. (Modes 1, 2, 3, and 4.)
8214-P	DOT-E 8214	Volkswagen of America, Inc., Troy, MI.	49 CFR 173.153, 173.154, 175.3	To become a party to exemption 8214. (Modes 1, 2, 3, and 4.)
8214-P	DOT-E 8214	Chrylser Motors Corp., Center Line, MI.	49 CFR 173.153, 173.154, 175.3	To become a party to exemption 8214. (Modes 1, 2, 3, and 4.)
8230-X	DOT-E 8230	G. Frederick Smith Chemical Co., Columbus, OH.	49 CFR 173.268(b)(6), 173.269(a)(4).	To authorize shipment of certain oxidizers, in non-DOT specification inside containers packed in DOT Specification 33A single bottle case. (Modes 1, 2, 3, and 4.)
8236-X	DOT-E 8236	Talley Automotive Products, Inc., Mesa, AZ.	49 CFR 173.153, 173.154, 175.3	To authorize transport of a passive restraint system, and of the inflator therefor, containing a class B explosive as a flammable solid. (Modes 1, 2, 3, and 4.)
8239-P	DOT-E 8239	Imaging and Sensing Technology Corp., Horseheads, NY.	49 CFR 172.101 Column 6(a), 172.101 Column 6(b), 173.302, 175.3.	To become a party to exemption 8239. (Modes 1, 2, 3, 4, and 5.)
8362-X	DOT-E 8362	Altus Corp., San Jose, CA	49 CFR 172.101, 173.206, 173.247	To authorize shipment of batteries containing lithium metal and thionyl chloride in a rigid metal structure of aluminum steel and components which secure the location of each of the 30 cell units, packed in a sturdy wooden box bolted to the base support plate of the internal metal structure. (Modes 1, and 2.)
8397-X	DOT-E 8397	Mauser Packaging, Ltd., Litchfield, CT.	49 CFR 173.154, 173.160, 173.191, 173.217, 173.245b, 173.945, 178.16.	To authorize manufacture, marking and sale of non-DOT specification, nonreusable, molded polyethylene drums with fully removable head, for transportation of various dry hazardous materials. (Modes 1, 2, and 3.)
8407-X	DOT-E 8407	Occidental Chemical Corp., Dallas, TX.	49 CFR 173.245, Part 172, Subpart C.	To authorize transport within plant over public highway, various waste residues, classed as corrosives liquids, n.o.s., without shipping papers, in non-DOT specification portable tanks. (Mode 1.)
8431-X	DOT-E 8431	The Dow Chemical Co., Midland, MI.	49 CFR 173.294(a)(2), 179.202-16	To authorize shipment of monochloroacetic acid solution in DOT Specification 111A100W6 insulated tank cars. (Mode 2.)
8439-X	DOT-E 8439	Walter Kidde, Wilson, NC	49 CFR 173.302, 173.304, 175.3, 178.53.	To authorize manufacture, marking and sale of non-DOT specification cylinders complying with DOT Specification 4DS, with certain exceptions, for shipment of various nonflammable compressed gases. (Modes 1, 2, 3, 4, and 5.)
8450-X	DOT-E 8450	Atlantic Research Corp., Camden, AR.	49 CFR 173.92	To authorize transport of rocket motors without igniters, in non-DOT Specification polyethylene containers. (Mode 1.)
8451-X	DOT-E 8451	LTV Missiles and Electronics Group, Dallas, TX.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Hercules Inc., Wilmington, DE	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	GOEX, Inc., Cleburne, TX	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8451-X	DOT-E 8451	Unidynamics/Phoenix, Inc., Phoenix, AZ.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Monongahela Power Co., Fairmont, WV.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Ethyl Corp., Baton Rouge, LA	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Morton Thiokol, Inc., Aerospace Group, Brigham City, UT.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Atlantic Research Corp., Gainesville, VA.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Atlas Powder Co., Dallas, TX	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Olin Chemicals Group, Research Center, Stamford, CT.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Quantic Industries, Inc., San Carlos, CA.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Lockheed Missiles & Space Company, Inc., Palo Alto, CA.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	U.S. Department of Energy, Washington, DC.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-P	DOT-E 8451	Hercules Aerospace Co., Magna, UT.	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451. (Modes 1, 2, and 4.)
8451-P	DOT-E 8451	Schlumberger Well Services, Rosharon, TX.	49 CFR 173.65, 173.86(e), 175.3	To become a party to exemption 8451. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Honeywell, Inc., Hopkins, MN	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 8451	Boeing Aerospace, Seattle, WA	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8451-X	DOT-E 84151	Stresau Laboratory, Inc., Spooner, WI.	49 CFR 173.65, 173.86(e), 175.3	To authorize transport of not more than 25 grams of high explosives and pryotechnic material in a special shipping container, classed as Class C explosive. (Modes 1, 2, and 4.)
8489-X	DOT-E 8489	Degussa Corp., Ridgefield, NJ	49 CFR 173.154, 173.182, 173.217, 173.245b.	To authorize shipment of certain oxidizers, a poison B, waste arsenical mixture, and a corrosive material in collapsible polyethylene-lined, woven polypropylene bags having a capacity not exceeding 2,200 pounds each. (Modes 1, 2, and 3.)
8489-X	DOT-E 8489	FMC Corp., Philadelphia, PA	49 CFR 173.154, 173.182, 173.217, 173.245b.	To authorize shipment of certain oxidizers, a poison B, waste arsenical mixture, and a corrosive material in collapsible polyethylene-lined, woven polypropylene bags having a capacity not exceeding 2,200 pounds each. (Modes 1, 2, and 3.)
8516-P	DOT-E 8516	Austin Powder Co., Cleveland, OH	49 CFR 176.83(b)	To become a party to exemption 8516. (Mode 3.)
8518-P	DOT-E 8518	Denver Truck Sales, Commerce City, CO.	49 CFR 173.119(a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To become a party to exemption 8518. (Mode 1.)
8526-P	DOT-E 8526	Stoops Express, Inc., Anderson, IN	49 CFR 177.834(L)(2)(i)	To become a party to exemption 8526. (Mode 1.)
8526-X	DOT-E 8526	Rohm and Haas Co., Philadelphia, PA.	49 CFR 177.834(L)(2)(i)	To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.)
8526-X	DOT-E 8526	Key Way Transport, Inc., Baltimore, MD.	49 CFR 177.834(L)(2)(i)	To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8526-X	DOT-E 8526	The ServiceMaster Co., L.P., Downers Grove, IL.	49 CFR 177.834(L)(2)(i)	To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.)
8526-X	DOT-E 8526	National Starch and Chemical Corp., Bridgewater, NJ.	49 CFR 177.834(L)(2)(i)	To authorize shipment of flammable liquids and/or flammable gases, in temperature controlled equipment. (Mode 1.)
8538-X	DOT-E 8538	Hercules, Inc., Wilmington, DE	49 CFR 173.62, 178.177	To authorize transport of liquid high explosives in DOT Specification 15M containers in which the inner copper containers and the rubber boots have been replaced with polyethylene containers. (Mode 1.)
8538-X	DOT-E 8538	Atlas Powder Co., Dallas, TX	49 CFR 173.62, 178.177	To authorize transport of liquid high explosives in DOT Specification 15M containers in which the inner copper containers and the rubber boots have been replaced with polyethylene containers. (Mode 1.)
8545-X	DOT-E 8545	Hercules, Inc., Wilmington, DE	49 CFR 173.62	To authorize transport to limited quantities of liquid high explosives in polyethylene bottles packed in a DOT Specification 37A drum, overpacked in a DOT Specification 15A wooden box. (Mode 1.)
8554-P	DOT-E 8554	Geenen Explosives, Inc., Kaukauna, WI.	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.)
8554-P	DOT-E 8554	Ramac Explosives of Pennsylvania, Inc., Allentown, PA.	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.)
8554-P	DOT-E 8554	Cherokee Products, Inc., Jefferson City, TN.	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.).
8554-P	DOT-E 8554	Maurer & Scott Sales Inc., Douglassville, PA.	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.)
8554-P	DOT-E 8554	Blasting Supplies Co., Inc., Douglassville, PA.	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.)
8554-P	DOT-E 8554	Maurer & Scott Inc., Douglassville, PA.	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.)
8554-P	DOT-E 8554	PEPIN-IRECO Inc., Ishpeming, MI	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To become a party to exemption 8554. (Modes 1 and 2.)
8554-X	DOT-E 8554	IRECO, Inc., Salt Lake City, UT	49 CFR 173.114a, 173.154, 173.93, 178.341-5, 178.342-5, 178.343-5.	To authorize transport of propellant explosives, blasting agents and oxidizers, in a DOT Specification MC-306, MC-307 and MC-312 cargo tanks. (Modes 1 and 2.)
8555-X	DOT-E 8555	Morton Thiokol, Inc., Brigham City, UT.	49 CFR 173.92	To renew and to authorize an additional rocket motor configuration. (Modes 1 and 2.)
8555-X	DOT-E 8555	Morton Thiokol, Inc., Brigham City, UT.	49 CFR 173.92	To authorize rail as an additional mode of transportation and to incorporate provision from Approval BA-3078 into the exemption. (Modes 1 and 2.)
8570-X	DOT-E 8570	Snyder Industries, Inc., Lincoln, NE	49 CFR 173.118a, 173.119, 173.266, 176.340, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification rotationally molede, crosslinked or non-crosslinked, polyethylene portable tank, for shipment of corrosive liquids, flammable liquids, combustible liquids or an oxidizer. (Modes 1, 2, and 3.)
8579-P	DOT-E 8579	Austin Powder Co., Cleveland, OH	49 CFR 176.410(d)	To become a party to exemption 8579. (Mode 3.)
8582-P	DOT-E 8582	Soo Line RR. Co., Minneapolis, MN	49 CFR Parts 100-177	To become a party to exemption 8582. (Mode 1.)
8716-P	DOT-E 8716	Whittaker-Yardney Power Systems, Waltham, MA.	49 CFR 173.28(m)	To become a party to exemption 8716. (Mode 1.)
8723-X	DOT-E 8723	Harrison Explosives, Inc., Allentown, PA.	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Modes 1 and 3.)
8723-X	DOT-E 8723	IRECO, Inc., Salt Lake City, UT	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Modes 1 and 3.)
8723-X	DOT-E 8723	Atlas Powder Co., Dallas, TX	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Modes 1 and 3.)
8723-X	DOT-E 8723	Austin Powder Co., Cleveland, OH	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Modes 1 and 3.)
8723-X	DOT-E 8723	PEPIN-IRECO Inc., Ishpeming, MI	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To become a party to exemption 8723 (Modes 1 and 3.)
8723-X	DOT-E 8723	Pacific Powder Co., Olympia, WA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Modes 1 and 3.)
8723-X	DOT-E 8723	Pacco, Inc., Tenino, WA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of non-DOT specification motor vehicles and portable tanks, for bulk shipment of certain blasting agents. (Modes 1 and 3.)
8733-X	DOT-E 8733	ICI Americas, Inc., Wilmington, DE	49 CFR 173.315	To authorize the reporting of shipments, incidents, and accidents in the renewal application instead of every six months. (Modes 1 and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8733-X	DOT-E 8733	ICI Americas, Inc., Wilmington, DE	49 CFR 173.315	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of liquefied compressed gases. (Modes 1, 2, and 3.)
8741-X	DOT-E 8741	Alpha Aviation, Inc., Dallas, TX	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B, and C explosives not permitted for air shipment or in quantities greater than those prescribed for air shipment. (Mode 4.)
8789-X	DOT-E 8789	Turner Co., Sycamore, IL	49 CFR 173.304, 175.3	To authorize manufacture, marking and sale of non-DOT specification small, low pressure cylinders with certain exceptions, for transportation of flammable gases. (Mode 1.)
8809-X	DOT-E 8809	Sonoco Fibre Drum Inc., Lombard, IL.	49 CFR 178.225, Part 173	To authorize manufacture, marking and sale of non-DOT specification fibre drum overpacks for 15-gal capacity inner polyethylene container, similar to DOT-21P/2U except top head is molded polyolefin polymer secured to drum by wire stitches for shipment of commodities authorized in DOT-21P/2U composite. (Mode 1, 2, and 3.)
8817-X	DOT-E 8817	General Chemical Corp., Parsippany, NJ.	49 CFR 173.274(a)(1), Note 1	To authorize shipment of fluorosulfonic acid in non-DOT specification acid-resistant screw cap glass bottles, overpacked in metal cans, packed in a DOT Specification 15A, 15B, 15C, 16A, or 19A wooden box. (Modes 1, 2, and 3.)
8826-X	DOT-E 8826	Phoenix Air, Marietta, GA	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize renewal and an alternative notification procedure to provide the FAA with advance notice of an operation. (Mode 4.)
8839-X	DOT-E 8639	Poly Processing Co., Inc., Monroe, LA.	49 CFR 172.101, 173.114a(h)(3), 173.266, 173.268, 176.415, 176.83, 178.19, Part 173, Subpart D, F.	To authorize manufacture, marking and sale of non-DOT specification rotationally molded, cross-linked polyethylene portable tanks for the shipment of flammable liquids, corrosive liquids, an oxidizer, and a blasting agent. (Modes 1, 2, and 3.)
8839-X	DOT-E 8839	Poly Cal Plastics, Inc., French Camp, CA.	49 CFR 172.101, 173.114a(h)(3), 173.266, 173.268, 176.415, 176.83, 178.19, Part 173, Subpart D, F.	To authorize manufacture, marking and sale of non-DOT specification rotationally molded, cross-linked polyethylene portable tanks for the shipment of flammable liquids, corrosive liquids, an oxidizer, and a blasting agent. (Modes 1, 2, and 3.)
8860-X	DOT-E 8860	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.31(c), Retest Table 1, Retest Table 1.	To authorize use of DOT Specification 103CW and 103EW tank cars with extended retest periods, for transportation of certain corrosive materials and oxidizers. (Mode 2.)
8861-X	DOT-E 8861	Hoover Group, Inc., Beatrice, NE	49 CFR 173.119(m), 173.346, 173.349, 173.352.	To authorize manufacture, marking and sale of DOT Specification 57 portable tanks, for shipment of various flammable liquids which are also corrosive or poison and certain Class B poison liquids. (Modes 1, and 2.)
8865-X	DOT-E 8865	Carleton Technologies, Inc., East Aurora, NY.	49 CFR 173.302(a)(4), 175.3	To authorize use of nonrefillable, non-DOT specification cylinders, for transportation of a nonflammable gas. (Modes 1, 2, and 4.)
8877-P	DOT-E 8877	Image Technology, Tempe, AR	49 CFR 173.119, 173.245	To become a party to exemption 8877. (Modes 1, 2, and 3.)
8877-P	DOT-E 8877	Hi Pure Chemicals, Inc., Nazareth, PA.	49 CFR 173.119, 173.245	To become a party to exemption 8877. (Modes 1, 2, and 3.)
8877-P	DOT-E 8877	Olin Hunt Specialty Products, Inc., West Patterson, NJ.	49 CFR 173.119, 173.245	To become a party to exemption 8877. (Modes 1, 2, and 3.)
8878-X	DOT-E 8878	Corning Glass Works, Corning, NY	49 CFR 173.245	To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooden box. (Mode 1.)
8878-X	DOT-E 8878	Amalgamet Canada—Division of Premetalco, Inc., Toronto, ON, CN.	49 CFR 173.245	To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooden box. (Mode 1.)
8878-X	DOT-E 8878	Preussag Pure Metals GmbH, Langelsheim, West Germany.	49 CFR 173.245	To authorize shipment of germanium tetrachloride, corrosive liquid, n.o.s., in glass containers of less than 3 gallon capacity, surrounded by vermiculite placed in a cylindrical steel overpack, packed six to a compartmented wooden box. (Mode 1.)
8891-X	DOT-E 8891	BIC Corp., Milford, CT	49 CFR 173.21, 173.308	To authorize not more than two cigarette lighters containing flammable gas to be packed in the same inner container, overpacked in corrugated fiberboard boxes. (Modes 1 and 2.)
8893-X	DOT-E 8893	Atlas Powder Co., Dallas, TX	49 CFR 172.101	To authorize transport of a mixture containing, by weight, 10% trimethylolethane trinitrate and 90% methanol, in DOT Specification drums. (Mode 1.)
8911-X	DOT-E 8911	Olin Corp., East Alton, IL	49 CFR 173.101	To authorize shipment of scrap, guillotined small arms ammunition loosely packed in non-DOT specification, nonreusable, closed-top wooden crates fiberboard boxes, or aluminum bins in truck load lots to an incinerator for disposal. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8913-X	DOT-E 8913	Eurotainer, S.A., Paris, France	49 CFR 173.119(a)(25)	To authorize use of non-DOT specification IMO Type 5 portable tanks, for shipment of flammable liquids. (Modes 1, 2, and 3.)
8920-X	DOT-E 8920	Applied Cos., San Fernando, CA	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of non-DOT specification welded high pressure nonrefillable cylinders in military weapons systems only, for transportation of nonflammable, liquefied gases. (Modes 1, 2, and 4.)
8921-X	DOT-E 8921	Hoover Group, Inc., Beatrice, NE	49 CFR 173.118a, 173.119, 173.125, 173.266, 176.340, Part 173, Subpart F.	To authorize manufacture, marking and sale of a nonreusable, non-DOT specification polyethylene portable tank enclosed in a steel jacket, wire cage or a fiberboard overpack, for shipment of corrosive liquids, flammable liquids, combustible liquids or an oxidizer. (Modes 1, 2, and 3.)
8931-X	DOT-E 8931	C-I-L, Inc., North York, Ontario, Canada.	49 CFR 173.272, 179.201-1	To authorize removal of restriction for origination and destination points for DOT Specification 111A100W2 tank cars containing sulfuric acid shipped in unit trains configuration. (Mode 2.)
8943-X	DOT-E 8943	BASF Corp., Chemicals Division, Parsippany, NJ.	49 CFR 173.154	To authorize shipment of a polyol filter cake classed as a flammable solid, in a non-DOT specification open top, metal cargo carrying box. (Mode 1.)
8963-X	DOT-E 8963	Atlantic Research Corp., Gainesville, VA.	49 CFR 173.898(e)(2)(ii)	To authorize transport of a rocket motor in a propulsive state, in a DOT Specification 15A wooden box. (Mode 1.)
8970-X	DOT-E 8970	WR Metals Industries, Inc., Wheat Ridge, CO.	49 CFR 173.368	To authorize shipment of arsenical dust, in a non-DOT specification cylindrical steel container. (Modes 1 and 2.)
9001-X	DOT-E 9001	T.I. Chesterfield, Ltd., Derbyshire, England.	49 CFR 173.301, 173.302, 173.304, 175.3, 178.45.	To authorize manufacture, marking and sale of non-DOT specification steel cylinders complying in part with DOT Specification 3T, for transportation of certain flammable and nonflammable gases. (Modes 1, 2, 3, and 4.)
9015-X	DOT-E 9015	Monsanto Co., Saint Louis, MO	49 CFR 173.217	To amend exemption to include any manufacturer's non-DOT specification packaging, to increase the weight limit to 3000 lbs., and to allow shipments in full container loads in stack trains. (Modes 1, 2, and 3.)
9052-X	DOT-E 9052	Chemical Handling Equipment Co., Inc., Toledo, OH.	49 CFR 173.118a, 173.119, 173.125, 176.340, 178.19, 178.253, Part 173, Subpart F.	To authorize an additional overpack, constructed on steel reinforced polyethylene, with or without bottom outlet. (Modes 1, 2, and 3.)
9061-X	DOT-E 9061	Leonard Joseph Co., & Safesport Manufacturing Co., Denver, CO.	49 CFR 172.504, 173.178	To authorize shipment of a small quantity of a flammable solid labeled Flammable Solid and Dangerous When Wet but without a Flammable Solid W placard on the vehicle. (Modes 1 and 2.)
9066-P	DOT-E 9066	Volkswagen of America, Inc., Troy, MI.	49 CFR 173.154, 175.3	To become a party to exemption 9066. (Modes 1, 2, 3, and 4.)
9101-P	DOT-E 9101	GE Astro Space Div., formerly RCA Astro, Electronic Princeton, NJ.	49 CFR 172.101 Column 6(b), 173.92, 175.30.	To become a party to exemption 9101. (Mode 4.)
9106-X	DOT-E 9106	Kitty Hawk Airways, Inc., DFW INT'L Airport, TX.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain Class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4.)
9181-P	DOT-E 9181	Whittaker-Yardney Power Systems, Waltham, MA.	49 CFR 173.206, 173.21, 173.247	To become a party to exemption 9181 (Mode 1.)
9182-X	DOT-E 9182	Stoneco, Inc., Dacono, CO	49 CFR 172.101, 173.53(g), 175.30	To authorize transport of explosive pest repellant devices, in plastic boxes packed in DOT Specification 12B fiberboard boxes. (Modes 1, 2, and 4.)
9213-X	DOT-E 9213	Bulk-Pack, Inc., West Monroe, LA	49 CFR 173.178, 173.182, 173.217, 173.245b, 173.375.	To authorize manufacture, marking and sale of large, collapsible polyethylene-lined woven polypropylene bulk bags having a capacity of approximately 2000 pounds each, and top and bottom outlets, for shipment of certain hazardous materials. (Modes 1, 2, and 3.)
9222-X	DOT-E 9222	Bryson Industrial Services, Inc., Lexington, SC.	49 CFR 173.154	To authorize use of non-DOT specification metal tanks, for transportation of a flammable solid. (Mode 1.)
9232-X	DOT-E 9232	U.S. Department of Defense, Falls Church, VA.	49 CFR Part 107, Subpart B, Parts 172 and 175.	To authorize renewal and to amend the exemption to provide for alternative air carriers and to reword certain provisions for accuracy. (Modes 4 and 5.)
9235-X	DOT-E 9235	Bennett Industries, Peotone, IL	49 CFR 178.116-.6	To authorize manufacture, marking and sale of non-DOT specification steel drums of 24-gauge thickness and six-gallon capacity, to be used in place of 24 gauge, five-gallon capacity, DOT Specification 17E steel drums, for transportation of various hazardous materials. (Modes 1, 2, and 3.)
9253-X	DOT-E 9253	Wiva Verpakkingen B.V., Oosterhout, Netherlands.	49 CFR 173.119, 173.125, 173.256, 173.262(b), 173.266(a), 173.266(b), Part 173, Subpart F.	To authorize manufacture, marking and sale of DOT Specification 34 drums of 55-gallon capacity, for transportation of certain corrosive liquid and an oxidizer. (Modes 1, 2, and 3.)
9256-X	DOT-E 9256	U.S. Department of Energy, Washington, DC.	49 CFR 173.86, 175.30, 46 CFR 146.20-13, Part 107, Appendix B, Subpart B(1).	To ship new explosives under a tentative hazard classification to test facilities without marking them as laboratory samples and without being accompanied by a qualified explosives handler. (Modes 1, 2, 3, and 4.)
9263-X	DOT-E 9263	Liquid Air Corp., Walnut Creek, CA	49 CFR 172.101, 173.316	To authorize transport of a flammable cryogenic liquid, in DOT Specification 4L 200 cylinders. (Mode 1.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9270-X	DOT-E 9270	E. I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.264(b)(2), 179.101-1(a).	To authorize shipment of hydrogen flouride, in DOT Specification 112A400W tank cars stenciled DOT Specification 112A200W. (Mode 2.)
9271-P	DOT-E 9271	Florida East Coast Railway Co., St. Augustine, FL.	49 CFR 174.90	To become a party to exemption 9271. (Mode 2.)
9277-X	DOT-E 9277	American Cyanamid Co., Wayne, NJ.	49 CFR 173.377(j)	To authorize shipment of organic phosphate compound mixture, dry, Class B poison, in non-DOT specification five-ply natural kraft multiwall bags of 50 pounds capacity having a minimum total basis weight of 250 pounds. (Modes 1 and 2.)
9277-X	DOT-E 9277	FMC Corp., Philadelphia, PA	49 CFR 173.377(j)	To authorize shipment of organic phosphate compound mixture, dry, Class B poison, in non-DOT specification five-ply natural kraft multiwall bags of 50 pounds capacity having a minimum total basis weight of 250 pounds. (Modes 1 and 2.)
9277-X	DOT-E 9277	Rhone-Poulenc, Inc., Monmouth Junction, NJ.	49 CFR 173.377(j)	To authorize shipment of organic phosphate compound mixture, dry, Class B poison, in non-DOT specification five-ply natural kraft multiwall bags of 50 pounds capacity having a minimum total basis weight of 250 pounds. (Modes 1 and 2.)
9277-X	DOT-E 9277	Rhone-Poulenc Ag Co., Research Triangle Park, NC.	49 CFR 173.377(j)	To authorize shipment of organic phosphate compound mixture, dry, Class B poison, in non-DOT specification five-ply natural kraft multiwall bags of 50 pounds capacity having a minimum total basis weight of 250 pounds. (Modes 1 and 2.)
9282-X	DOT-E 9282	Halocrabon Products Corp., North Augusta, SC.	49 CFR 173.314(c)	To authorize use of DOT Specification 110A800W multi-unit tank car tanks for shipment of trifluoroethylene. (Modes 1, 2, and 3.)
9286-X	DOT-E 9286	Sonoco Fibre Drum Inc., Lombard, IL.	49 CFR 178.224	To authorize manufacture, marking and sale of non-DOT specification fiber drums, similar to DOT Specification 21C except for capacity of not over 75 gallons instead of 55-gallons, for net weight of not over 250 pounds, for transportation of various hazardous materials. (Modes 1, 2, and 3.)
9287-X	DOT-E 9287	Shell Pipe Line Corp., Houston, TX	49 CFR 173.119, 173.304, 173.315	To authorize use of non-DOT specification containers, for transportation of flammable liquids and gases. (Mode 1.)
9290-X	DOT-E 9290	Mauser Packaging, Ltd., Litchfield, CT.	49 CFR 178.134	To authorize manufacture, marking and sale of 15 gallon steel overpacks similar to DOT 3M except for a slight reduction in wall thickness with polyethylene liner meeting DOT 2SL except for marking for shipment of those commodities authorized in DOT 37M/2SL. (Modes 1, 2, and 3.)
9296-X	DOT-E 9296	Honeywell, Inc., Minneapolis, MN	49 CFR 172.500, 173.202	To authorize transport of limited quantities of liquid sodium potassium alloy packaging bearing the DANGEROUS WHEN WET label in motor vehicles and rail cars which are not placarded FLAMMABLE SOLID W. (Modes 1 and 2.)
9307-X	DOT-E 9307	Better Methods, Inc., Paterson, NJ	49 CFR 173.119(b)(4)	To authorize shipment of methyl alcohol in inside metal containers of two-gallon capacity, overpacked three to a DOT Specification 12B fiberboard box. (Mode 1.)
9331-X	DOT-E 9331	Hoechst Celanese Corp., Somerville, NJ.	49 CFR 173.263(a)(10)	To authorize shipment of sodium chlorite solutions in water, in DOT Specification MC-306 and MC-307 cargo tanks. (Mode 1.)
9331-X	DOT-E 9331	Olin Chemicals, Stamford, CT	49 CFR 173.263(a)(10)	To authorize shipment of sodium chlorite solutions in water, in DOT Specification MC-306 and MC-307 cargo tanks. (Mode 1.)
9364-X	DOT-E 9364	Platte Chemical Co., Greeley, CO	49 CFR 173.359	To authorize methyl parathion, classed as poison B liquid, as an additional material for shipment in the prescribed packaging. (Mode 1.)
9380-X	DOT-E 9380	ARCO Pipe Line Co., Independence, KS.	49 CFR 173.119, 173.304, 173.315	To authorize use of a non-DOT specification container described as a mechanical displacement meter prover mounted on a truck chassis, for transportation of hydrocarbon products. (Mode 1.)
9386-X	DOT-E 9386	Pacific Scientific, HTL Division, Duarte, CA.	49 CFR 173.304(a)(1), 175.3, 178.44.	To authorize an additional material of construction for a non-DOT specification cylinder in which nitrogen, classed as nonflammable gas, is shipped. (Modes 1, 2, 4, and 5.)
9416-X	DOT-E 9416	CIBA-GEIGY Corp., Ardsley, NY	49 CFR 173.359	To authorize shipment via cargo vessel. (Modes 1 and 2.)
9416-P	DOT-E 9416	Platte Chemical Co., Greeley, CO	49 CFR 173.359	To become a party to exemption 9416. (Modes 1 and 2.)
9424-X	DOT-E 9424	VTG Vereinigte Tanklager und Transportmittel GmbH, Hamburg, West Germany.	49 CFR 173.315, 178.245	To authorize use of a non-DOT specification IMO Type 5 portable tank, for transportation of liquefied compressed gases. (Modes 1, 2, and 3.)
9481-X	DOT-E 9481	C-I-L, Inc., North York, ON	49 CFR 173.77	To authorize transport of PETN wet with 25% water in plastic bags packed in fiber board boxes instead of metal drums. (Mode 1.)
9501-X	DOT-E 9501	Hughes Aircraft Co., Los Angeles, CA.	49 CFR 173.302, 175.3	To authorize transport of a potassium hydroxide solution and hydrogen gas under pressure to be shipped in a non-DOT specification compressed gas cylinder constructed of Inconel. (Modes 1, 3, and 4.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9508-X	DOT-E 9508	Callery Chemical Co., Pittsburgh, PA.	49 CFR 173.202(a)(3), 173.34(e), 175.3.	To authorize use of a DOT Specification 4BW240 cylinder that is retested decennially instead of quinquenially, for transportation of a flammable solid, that is dangerous when wet. (Modes 1, 2, 3, and 4.)
9517-X	DOT-E 9517	Conroe Aviation Service, Inc., Conroe, TX.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of Class A, B and C explosives that are not permitted for air shipment or in quantities greater than those prescribed for shipment by air. (Mode 4.)
9551-X	DOT-E 9551	Connie Kalitta Services, Inc., Ypsilanti, MI.	49 CFR 172.101, 172.204(c)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of Class A, B and C explosives that are not permitted for air shipment or in quantities greater than those prescribed for shipment by air. (Mode 4.)
9566-X	DOT-E 9566	United Technologies Corp., San Jose, CA.	49 CFR 173.88, 173.92, 177.834(L)(1).	To authorize transport in temperature controlled equipment, of a rocket motor in packaging authorized by DOD, and in a propulsive state. (Mode 1.)
9569-X	DOT-E 9569	Copps Industries, Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 175.3	To authorize shipment of certain alkaline corrosive liquids in an unlined tin can overpacked in a 29-gauge non-DOT removable lug cover, unlined steel pail of three and one-half gallon capacity, also containing a non-hazardous resin mix. (Modes 1, 2, 3, and 4.)
9581-X	DOT-E 9581	RAMP Industries, Inc., Denver, CO	49 CFR 173.416(e)	To authorize transport of solid radioactive material in concrete filled DOT Specification 17C or DOT Specification 17H steel drum with the DOT Specification 2R or DOT Specification 55 on its geometric center must fit snuggly in the cavity of the DOT-20WC wooden protection jacket. (Mode 1.)
9595-X	DOT-E9595	IRECO, Inc., Salt Lake City, UT	49 CFR 173.64, 173.86	To authorize transport of certain unapproved Class A explosives for disposal in packagings not presently authorized for Class A explosives, in metal or fiber drums not exceeding 55-gallon capacity with liners consisting of two polyethylene leak-proof bags. (Mode 1.)
9606-P	DOT-E 9606	Austin Powder Co., Cleveland, OH	49 CFR 173.66(b)	To become a party to exemption 9606. (Modes 1 and 3.)
9609-X	DOT-E 9609	Applied Co., San Fernando, CA	49 CFR 173.302(a), 175.3, 178.65	To authorize manufacture, marking and sale of welded non-DOT specification non-reusable, non-refillable steel toroidal pressure vessel for a military system. (Modes 1, 2, and 4.)
9610-X	DOT-E 9610	Honeywell, Inc., New Brighton, MN	49 CFR 172.203(a), (e), 172.204, 173.29(a), (d), Part 107, Appendix B, Parts 171-189.	To authorize transport of DOT Specification 21C fiber drums which contain not more than 5 grams of smokeless powder essentially without regulation. (Modes 1 and 2.)
9611-X	DOT-E 9611	Buco Budenbender GmbH & Co., Niederndorf, West Germany.	49 CFR 171.12(c), 178.116(a)	To authorize manufacture, marking and sale of non-DOT specification steel drums of one millimeter thickness (19 gauge), to be used in place of 20/18 gauge, 55-gallon capacity DOT-17E drums. (Modes 1, 2, and 3.)
9616-X	DOT-E 9616	James Russell Engineering Works, Inc., Boston (Dorchester), MA.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(h), 178.338.	To authorize manufacture, marking and sale of non-DOT specification portable tanks, designed and constructed in accordance with Section VIII of the ASME Code, for transportation of nonflammable refrigerated (cryogenic) liquid. (Modes 1 and 3.)
9617-X	DOT-E 9617	Explosives Technologies International, Inc., Wilmington, DE.	49 CFR 177.848(f), Part 107, Appendix B(1).	To authorize transport of a specially defined detonating cord on the same motor vehicle with Class A and C detonators. (Mode 1.)
9623-X	DOT-E 9623	Austin Powder Co., Cleveland, OH	49 CFR 177.835(c)(3)	To authorize transport of blasting agent or an oxidizer in a DOT Specification MC-306 or MC-307 cargo tank with a storage box containing Class A explosives mounted directly behind the tractor cab. (Mode 1.)
9623-X	DOT-E 9623	Atlas Powder Co., Dallas, TX	49 CFR 177.835(c)(3)	To authorize transport of blasting agent or an oxidizer in a DOT Specification MC-306 or MC-307 cargo tank with a storage box containing Class A explosives mounted directly behind the tractor cab. (Mode 1.)
9623-X	DOT-E 9623	ETI Explosives Technologies International Inc., Wilmington, DE.	49 CFR 177.835(c)(3)	To authorize transport of blasting agent or an oxidizer in a DOT Specification MC-306 or MC-307 cargo tank with a storage box containing Class A explosives mounted directly behind the tractor cab. (Mode 1.)
9623-X	DOT-E 9623	Buckely Powder Co., Englewood, Co.	49 CFR 177.835(c)(3)	To authorize transport of blasting agent or an oxidizer in a DOT Specification MC-306 or MC-307 cargo tank with a storage box containing Class A explosives mounted directly behind the tractor cab. (Mode 1.)
9628-X	DOT-E 9628	Degussa Corp., Ridgefield Park, NJ	49 CFR 173.245(b)	To authorize use of large, collapsible polyethylene-lined woven polypropylene bulk bags having a capacity of 1,000 kilos (approximately 2200 pounds) each, and top and botton outlets, for shipment of a corrosive solid. (Mode 1, 2, and 3.)
9629-X	DOT-E 9629	Pennwalt Corp., King of Prussia, PA.	49 CFR 173.304(b)	To authorize transport of vinylidene fluoride in DOT Specification cylinders at filling densities which will result in the cylinders being liquid full below 130 degrees Fahrenheit. (Mode 1.)
9632-X	DOT-E 9632	Arbel-Fauvet-Rail, Douai, Cedix, France.	49 CFR 173.315, 178.245	To authorize use of non-DOT specification IMO Type 5 portable tanks, for transportation of flammable and nonflammable liquefied compressed gases. (Modes 1, 2, and 3.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9634-X	DOT-E 9634	Luxfer U.S.A. Ltd., Riverside, CA	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3.	To authorize manufacture, marking and sale of non-DOT specifications fiber reinforced plastic, full composite cylinders, for shipment of certain flammable and nonflammable compressed gases. (Modes 1, 2, 3, and 4.)
9642-X	DOT-E 9642	Allied-Signal Inc., Morristown, NJ	49 CFR 173.245(a)	To authorize use of DOT Specification 106A500X and 110A500W multi-unit tank car tanks for a liquid mixture that is corresive to skin only and poisonous. (Modes 1, and 2.)
9643-X	DOT-E 9643	Eastman Kodak Co., Rochester, NY.	49 CFR 172.300, 172.400, 177.848, Part 178.	To authorize transport of certain hazardous materials over 0.8 miles of public highway exempted from DOT requirements for package marking, labeling, specification packaging and segregation. (Mode 1.)
9646-X	DOT-E 9646	U.S. Department of Defense, Falls Church, VA.	49 CFR 174.81	To authorize transport by rail of freight shipping containers loaded with combinations of packages of Class A, B and C explosive and a corrosive liquid, not authorized in 49 CFR 174.81. (Mode 2.)
9649-X	DOT-E 9649	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.421(b), 173.421(d), 173.424(b), 173.424(c).	To authorize radiation levels slightly higher than normally allowed for limited quantity radioactive materials and relief from certain marking requirements for the depleted uranium component of the packages. (Modes 1, 2, and 3.)
9655-X	DOT-E 9655	Chevron U.S.A., Inc., El Segundo, CA.	49 CFR 173.245b	To authorize use of a 3,930 gallon capacity, non-DOT specification steel portable bin, for transportation of a corrosive solid. (Mode 1.)
9659-X	DOT-E 9659	Compositek Corp., Brea, CA	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3, 177.812.	To authorize mixtures of nonflammable gases, all of which are presently authorized, as additional materials. (Modes 1, 2, 3, 4, and 5.)
9659-X	DOT-E 9659	Compositek Corp., Brea, CA	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3, 177.812.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic (FRP) full composite (FC) cylinder, for transportation of certain flammable and monflamamable compressed gases. (Modes 1, 2, 3, 4, and 5.)
9659-X	DOT-E 9659	Compositek Corp., Brea, CA	49 CFR 173.302(a)(1), 173.304(a), (d), 175.3, 177.812.	To authorize manufacture, marking and sale of non-DOT specification fiber reinforced plastic (FRP) full composite (FC) cylinder, for transportation of certain flammable and monflamamable compressed gases. (Modes 1, 2, 3, 4, and 5.)
9686-X	DOT-E 9686	Fluoroware, Inc., Chaska, MN	49 CFR 173.119, 173.268, 173.299, 178.19, 178.35, 178.35a, Part 173, Subpart F.	To authorize shipment of nitric acid (71% concentration or less), classed as an oxidizer in the non-DOT specification composite polyethylene and plastic, portable tank. (Modes 1 and 2.)
9688-P	DOT-E 9688	Whittaker-Yardney Power Systems, Waltham, MA.	49 CFR 173.247	To become a party to exemption 9688 (Mode 1.)
9694-X	DOT-E 9694	All Pure Chemical Co., Inc., Tracy, CA.	49 CFR 173.315(i)(13), 173.33(f)(9), 173.33(h)(5)(i).	To authorize an alternative value assembly for the exempted cargo tank. (Mode 1.)
9696-X	DOT-E 9696	Fluoroware, Inc., Chaska, MN	49 CFR 173.119, 173.268, 173.299, 178.19, 178.35, 178.35a, Part 173, Subpart F.	To authorize shipment of nitric acid (71% concentration or less), classed as an oxidizer in the non-DOT specification composite polyethylene and plastic, portable tanks. (Modes 1 and 2.)
9750-P	DOT-E 9750	Austin Powder Co., Cleveland, OH	49 CFR 173.154(a)(18)	To become a party to exemption 9750. (Mode 1.)
9763-X	DOT-E 9763	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.247, 173.302(a), 173.328(a).	To authorize cargo vessel as an additional mode of transportation. (Mode 1.)
9768-X	DOT-E 9768	Defense Technology and Procurement Agency, Berne, Switzerland.	49 CFR 172.101, 173.57, 173.79, 173.93, 175.3.	To authorize two additional shipments of certain Class A and Class B explosives and an additional air carrier for these shipments. (Mode 4.)
9769-P	DOT-E 9769	Rollins Chempak, Inc., Wilmington, DE.	49 CFR 176.83, 177.848	To become a party to exemption 9769. (Modes 1 and 3.)
9780-X	DOT-E 9780	Majestic Lubricating Co., Tulsa, OK	49 CFR 173.119(a)(27)	To authorize shipment of four additional materials classed as flammable liquid in the approved packaging. (Mode 1.)
9785-P	DOT-E 9785	Nedlloyd Lines, Atlanta, GA	49 CFR 173.30, 176.11, 176.83	To become a party to exemption 9785. (Modes 1, 2, and 3.)
9785-P	DOT-E 9785	Zim-American Israeli Shipping Company, Inc., New York, NY.	49 CFR 173.30, 176.11, 176.83	To become a party to exemption 9785. (Modes 1, 2, and 3.)
9816-X	DOT-E 9816	Amrex Chemical Co., Inc., Binghamton, NY.	49 CFR 173.277(a)(9)	To authorize shipment of hypochlorite solutions, more than 7 percent available chlorine by weight, in non-DOT specification cargo tanks. (Mode 1.)
9816-X	DOT-E 9616	Amrex Chemical Co., Inc., Binghamton, NY.	49 CFR 173.277(a)(9)	To authorize shipment of hypochlorite solutions, more than 7 percent available chlorine by weight, in non-DOT specification cargo tanks. (Mode 1.)
9851-X	DOT-E 9851	Trans World Airlines, Inc., Kansas City, MO.	49 CFR Parts 100-199	To modify packaging configurations. (Mode 5.)
9878-X	DOT-E 9878	Tennessee Eastman Co., Kingsport, TN.	49 CFR 173.365(a)(2)	To authorize shipment of a solid waste, classed as a Class B poison, contained in 55-gallon capacity, DOT specification 17C drums. (Mode 1.)
9951-X	DOT-E 9951	General Defense Corp. York, PA	49 CFR 173.56(b), 173.56(c)(1), 173.86(b).	To authorize shipment of explosive projectiles, Class A explosives in specially designed military packaging. (Modes 1 and 2.)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9956-X	DOT-E 9956	Dixie Petro-Chem, Inc., Houston, TX.	49 CFR 173.277(a)(9), 178.340, 178.343.	To authorize shipment of hypochlorite solution in an unlined non-DOT specification cargo tank constructed of titanium. (Mode 1.)
9961-X	DOT-E 9961	Brown Measurement Co., Inc., Kilgore, TX.	49 CFR 173.119, 173.304, 173.315..	To reissue an exemption, originally issued on an emergency basis, that authorizes manufacture, mark and sell of non-DOT containers identified as meter provers to ship hydrocarbon products. (Mode 1.)
9977-X	DOT-E 9977	Hercules Aerospace Co., Magna, UT.	49 CFR 173.88(e)(2)(ii), 173.92(a)(i), 173.92(b).	To authorize transport of rocket motors in a propulsive state, with igniters installed. (Mode 1.)
9977-P	DOT-E 9977	McDonnell Douglas Astronautics Co., Huntington Beach, CA.	49 CFR 173.88(e)(2)(ii), 173.92(a)(i), 173.92(b).	To become a party to exemption 9977. (Mode 1.)

NEW EXEMPTIONS

Application no.	Exemption no.	Applicant	Regulation(s) affected	Nature of exemptions thereof
9793-N	DOT-E 9793	Pressure Vessels of Puerto Rico Inc., San Juan, PR.	49 CFR 173.34(1), Subparagraphs 1, 2, 3, Part 107, Appendix B.	To authorize rebuilding and selling of DOT Specification 4BW cylinders in accordance with the procedures prescribed within the exemption. (Modes 1, 2, 3, 4, and 5.)
9819-N	DOT-E 9819	Halliburton Co., Duncan, OK	49 CFR 173.119, 178.253, Part 173, Subpart F.	To authorize shipment of flammable liquids and corrosive liquids in non-DOT specification stainless steel portable tanks. (Mode 1.)
9830-N	DOT-E 9830	Worthington Cylinders, Columbus, OH.	49 CFR 173.302(a), 173.304(a), 173.304(d), 175.3, 178.51-10(a), 178.51-11, 178.51-19, 178.51-20, 178.51-5.	To authorize manufacture, mark and sale of non-DOT specification stainless steel cylinders to transport those materials authorized in DOT Specification 4BA cylinders. (Modes 1, 2, 3, and 4.)
9884-N	DOT-E 9884	Puritan-Bennett Corp., Indianapolis, IN.	49 CFR 173.316, 175.3, 178.57-2, 178.57-8.	To authorize manufacture, marking and sale of a non-DOT specification insulated cylinder conforming with DOT 4L specification, for transportation of cryogenic liquids. (Modes 1 and 5.)
9887-N	DOT-E 9887	Offshore Marine Engineering Ltd., West Midlands, England.	49 CFR 172.203, 173.318, 173.320, 176.30, 176.76(H), 177.840, 178.338 add.	To authorize manufacture, marking and sale of insulated, non-specification portable tanks, for shipment of refrigerated helium and refrigerated hydrogen. (Modes 1, 2, and 3.)
9920-N	DOT-E 9920	Tri-Wall Inc., Shrewsbury, NJ	49 CFR 173.245b, 173.365	To authorize manufacture, marking and sale of nonreusable, fiberboard bulk boxes made of triple-wall corrugated fiberboard having an inside lining of 0.006-inch minimum thickness polyethylene film, for shipment of waste corrosive solids or poison B solids. (Mode 1.)
9929-N	DOT-E 9929	Morton Thiokol, Inc.—Elkton Division, Elkton, MD.	49 CFR 172.101, 173.92	To authorize transport of rocket motors in packaging that exceeds the weight prescribed in the Department's Hazardous Materials Regulations. (Modes 1 and 4.)
9933-N	DOT-E 9933	Mobay Corp., Pittsburgh, PA	49 CFR 173.245	To authorize shipment of corrosive, poisonous liquid in non-DOT specification plastic-coated glass carboy enclosed in an expanded polystyrene overpack. (Mode 1.)
9934-N	DOT-E 9934	Aldrich Chemical Co., Inc., Milwaukee, WI.	49 CFR 173.274, 175.3	To authorize shipment of corrosive liquids in non-DOT specification teflon bottles packed in non-DOT specification fiberboard boxes. (Modes 1 and 4.)
9938-N	DOT-E 9938	Explosive Technology, Fairfield, CA..	49 CFR 173.65(a)(4)	To authorize transport of Class A explosives in a DOT Specification 15A wooden box exceeding the weight limitation of 140 pounds prescribed in 49 CFR 173.65(a)(4). (Mode 1.)
9939-N	DOT-E 9939	National Aeronautics and Space Administration, Washington, DC.	49 CFR 172.101, table column (6)(b), 173.92.	To authorize transport of a rocket motor in packaging not authorized in 49 CFR 173.92, and authorizes a gross weight in excess of 550 pounds by cargo-only aircraft. (Modes 1 and 4.)
9947-N	DOT-E 9947	Sonoco Products Co., Hartsville, SC.	49 CFR 173.132	To authorize use of a plastic packaging in place of a fiberboard packaging authorized in 49 CFR 173.132(b), for transportation of adhesives and cements. (Modes 1 and 2.)
9948-N	DOT-E 9948	PPG Industries, Inc., Pittsburgh, PA..	49 CFR 173.123, 173.31(d)	To authorize one-time shipment of ethyl chloride, in ICC-106450 Specification multi-unit tank car tanks, for removal of contents, testing and reconditioning or scrapping. (Mode 1.)
9949-N	DOT-E 9949	Olin Rocket Research Co., Redmond, WA.	49 CFR 173.87	To authorize transport of two types of Class C explosives in the same outside packaging with other nonhazardous materials. (Mode 1.)
9951-N	DOT-E 9951	General Defense Corp., York, PA	49 CFR 173.56(b), 173.56(c)(1), 173.86(b).	To authorize shipment of Explosive projectile, Class A explosive, in a specially designed package (pallet top, skidded bottom configuration). (Modes 1 and 2.)

NEW EXEMPTIONS—Continued

Application no.	Exemption no.	Applicant	Regulation(s) affected	Nature of exemptions thereof
9953-N	DOT-E 9953	North Star Transport, Inc., Eagan, MN.	49 CFR 177.834(L)(2)(i)	To authorize shipment of flammable liquids and/or flammable gases in temperature controlled equipment. (Mode 1.)
9968-N	DOT-E 9968	Moli Energy, Ltd., Burnaby, BC, Canada.	49 CFR 173.206, 175.3, 175.85, Part 107, Appendix B.	To authorize transport of a limited number of certain lithium batteries on passenger-carrying aircraft. (Modes 1, 2, 3, and 4.)
9973-N	DOT-E 9973	Morton Thiokol, Inc.—Ordnance Operations, Shreveport, LA.	49 CFR 173.56	To authorize transport of Explosive projectile with fuzes assembled in a non-DOT specification fiberboard tube. (Mode 1.)
9976-N	DOT-E 9976	National Aeronautics and Space Administration, Washington, DC.	49 CFR 173.304(a)(2), 175.3	To authorize shipment of anhydrous ammonia in nonrefillable non-DOT specification containers described as variable conductance heat pipes. (Modes 1 and 4.)
9983-N	DOT-E 9983	Explosive Technology, Fairfield, CA.	49 CFR 173.65(a)(4)	To authorize shipment of a High Explosive in a DOT Specification 15A wooden box with a maximum gross weight of 400 pounds. (Mode 1.)
9993-N	DOT-E 9993	Goex, Inc., Cleburne, TX	49 CFR 172.101, 175.30	To authorize transport of a fire extinguisher device containing 20 grams of a Class C explosive. (Modes 1, 2, 4, and 5.)
9997-N	DOT-E 9997	Hodgdon Powder Co., Inc., Shawnee Mission, KS.	49 CFR 173.107, 173.87	To authorize transport of a kit containing smokeless powder for small arms, percussion caps and nonhazardous articles such as lead balls and bore cleaner, packed in non-DOT specification corrugated fiberboard boxes. (Modes 1 and 3.)
8388-N	DOT-E 10016	Ecolab Inc., Eagan, MN	49 CFR 178.19, Part 173, Subparts D, F.	To authorize shipment of liquid hazardous materials in a removable head polyethylene drum of five gallon capacity, without overpack. (Modes 1, 2 and 3.)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 6418-X	DOT-E 6418	Farmer's Supply Co-operative, Inc., Ontario, OR.	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
EE 6418-X	DOT-E 6418	The McGregor Co., Colfax, WA	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
EE 6418-X	DOT-E 6418	Nexus Ag Chemicals, Inc., Quincy, WA.	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
EE 6418-X	DOT-E 6418	Quincy Farm Chemicals, Inc., Quincy, WA.	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
EE 6418-X	DOT-E 6418	Cenex Land O Lake, Vancouver, WA.	49 CFR 173.357(b)	To authorize use of DOT Specification MC-303, MC-304, MC-306, MC-307, MC-310 or MC-312 steel cargo tanks for transportation of Class B poisonous liquids. (Mode 1.)
EE 6874-X	DOT-E 6874	Mitsui & Co. (U.S.A.), Inc., New York, NY.	49 CFR 172.101, 173.370(a)(13)	To authorize transport of sodium and potassium cyanides in non-DOT specification wooden boxes. (Modes 1, 2, and 3.)
EE 7052-P	DOT-E 7052	Hitachi-Maxell, Ltd., Tokyo, Japan	49 CFR 172.101, 172.420, 175.3	To become a party to exemption 7052. (Modes 1, 2, 3, and 4.)
EE 7052-X	DOT-E 7052	Maxell Corp. of America, Fair Lawn, NJ.	49 CFR 172.101, 172.420, 175.3	To authorize shipment of batteries containing lithium and other materials, classed as flammable solid. (Modes 1, 2, 3, and 4.)
EE 7991-X	DOT-E 7991	Burlington Northern Railroad Co., Fort Worth, TX.	49 CFR Parts 100-177	To authorize transport of railway track torpedoes and fusees in flagging kits of specified construction. (Mode 1.)
EE 8009-X	DOT-E 8009	Pressure Transport, Inc., Austin, TX.	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To authorize use of DOT Specification 3AAX cylinders made of 4130X steel, for transportation of a compressed natural gas. (Mode 1.)
EE 8009-X	DOT-E 8009	....do	49 CFR 172.101, 173.301(d)(2), 173.302(a)(3).	To authorize use of DOT Specification 3AAX cylinders made of 4130X steel, for transportation of a compressed natural gas. (Mode 1.)
EE 8453-X	DOT-E 8453	Columbus Powder Co., Columbus, IN.	49 CFR 173.114a	To authorize use of non-DOT specification cargo tanks and DOT Specification MC-306, MC-307, or MC-312 stainless steel cargo tanks, to transport blasting agent. (Modes 1 and 3.)

EMERGENCY EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 8518-P	DOT-E 8518	Coast Vacuum Truck Service, Inc., Santa Maria, CA.	49 CFR 173.119 (a), (m), 173.245(a), 173.346(a), 178.340-7, 178.342-5, 178.343-5.	To become a party to exemption 8518. (Mode 1.)
EE 8582-X	DOT-E 8582	Atchison, Topeka & Santa Fe Railway Co., Chicago, IL.	49 CFR Parts 100-177	To authorize transportation of railway track torpedoes and fusees packed in metal kits, in motor vehicles by railroad maintenance crews as non-regulated rail carrier equipment. (Mode 1.)
EE 8885-X	DOT-E 8885	Copps Industries, Inc., Manomonee Falls, WI.	49 CFR 173.245, 173.249, 175.3	To authorize shipment of certain alkaline corrosive liquids, n.o.s., in an unlined tin can, overpacked in a non-DOT specification removable head molded polyethylene pail of five or six-fallon capacity, also containing a nonhazardous resin mix. (Modes 1, 2, 3, and 4.)
EE 8898-X	DOT-E 8898	Petrolane Gas Service, Anchorage, AL.	49 CFR 173.315	To authorize use of a non-DOT specification ASME Code stamped portable tank, for transportation of liquefied compressed gases. (Modes 1 and 3.)
EE 8898-X	DOT-E 8898	Petrolane Gas Service, Limited Partnership, Anchorage, AL.	49 CFR 173.315	To authorize use of a non-DOT specification ASME Code stamped portable tank, for transportation of liquefied compressed gases. (Modes 1 and 3.)
EE 8898-X	DOT-E 8898	....do....	49 CFR 173.315	To authorize use of a non-DOT specification ASME Code stamped portable tank, for transportation of liquefied compressed gases. (Modes 1 and 3.)
EE 9228-X	DOT-E 9228	Southern California Chemical Co., Inc., Santa Fe Springs, CA.	49 CFR 173.245, 173.263, 178.340, 178.343.	To authorize transport of solution of aqua ammonia, copper sulfate, cupric chloride, ferric chloride and hydrochloric acid, in non-DOT specification cargo tanks. (Mode 1.)
EE 9331-X	DOT-E 9331	Rio Linda Chemical Co., Sacramento, CA.	49 CFR 173.263(a)(10)	To authorize shipment of sodium chlorite solutions in water, in DOT Specification MC-306 and MC-307 cargo tanks. (Mode 1.)
EE 9899-N	DOT-E 9899	Williams International, Walled Lake, MI.	49 CFR 173.102, 173.82, 175.3	To authorize transport of an empty turbine engine with four Class C explosive devices attached to it in a non-DOT specification packaging. (Modes 1 and 4.)
EE 9987-N	DOT-E 9987	Korean Air Lines Co., Ltd., Los Angeles, CA.	49 CFR 172.101 table, column (6)(b), 173.30.	To authorize shipment of certain explosives which are forbidden for transportation by air or are in quantities greater than prescribed for air transportation. (Mode 4.)
EE 10011-N	DOT-E 10011	The U.S. Customs Service, Baltimore, MD.	49 CFR 173.51(b), 173.86(b)	To authorize a one-time shipment of unclassified explosives by motor vehicles. (Mode 1.)
EE 10012-N	DOT-E 10012	BP Chemicals International, Cleveland, OH.	49 CFR 173.314(f)	To authorize a one-time shipment of propylene, during the summer months, in DOT Specification 112J400W tank car tanks which were originally loaded using the winter filling density. (Mode 2.)
EE 10013-N	DOT-E 10013	Public Service Co. of Colorado, Denver, CO.	49 CFR 173.273	To authorize a one-time shipment of Waste sulfur trioxide in an 85-gallon metal salvage drum. (Model 1.)
EE 10014-N	DOT-E 10014	Dow Chemical Co., Plaquemine, LA.	49 CFR 173.29(c)(2), 179.100-15, 179.102-2.	To authorize a one-time shipment of a tank car which contains a residue of chlorine with a defective safety valve equipped with a chlorine "C" kit. (Mode 2.)
EE 10033-N	DOT-E 10033	Epichem, Inc., Bethlehem, PA	49 CFR 173.134	To authorize shipment of two non-DOT specification stainless steel cylinders containing a flammable liquid overpacked in DOT Specification 17C drums. (Mode 1.)
EE 10053-N	DOT-E 10053	LCP Chemical Corp., Edison, NJ	49 CFR 173.31(b), 173.31(c)	To authorize a one-time shipment of chlorine in a DOT Specification 105A500W tank car tanks over due for tank and safety valve retest. (Mode 2.)

WITHDRAWAL EXEMPTIONS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9153-X	The Dow Chemical Co., Freeport, TX.	49 CFR 172.101, 173.93(a)(10).	To reclassify and ship a certain Class A propellant explosive as Class B explosive when packaged in specific non-DOT specification fiber drums. (Mode 1.)
9726-N	Abbott Laboratories, North Chicago, IL.	49 CFR 173.388	To authorize an alternative label other than as prescribed in 49 CFR for products containing hepatitis antigen, an etiologic agent. (Modes 1,4.)

Denials

9128-N Request by Sky Cab, Inc. East Brunswick, NJ to authorize the carrier to perform the radiation measurements for transport index designation of overpack, rather than the person initially offering the packages contained therein denied July 13, 1988.

9787-N Request by Rheem Manufacturing Company Linden, NJ to authorize the manufacture of a polyethylene open head drum for the shipment of black powder and low explosives denied July 11, 1988.

9826-N Request by Composite Container Corporation—Kentucky Louisville, KY to authorize the manufacture of polyethylene drums for shipment of black powder and certain other Class A and B explosives denied July 11, 1988.

9887-N Request by Offshore Marine Engineering Limited West Midlands, England to authorize manufacture, mark and sell insulated, nonspecification portable tanks, for

shipment of refrigerated helium and refrigerated hydrogen denied September 8, 1988.

9966–N Request by Olin Corporation—Defense Systems Group East Alton, IL to authorize certain military cartridges as small ammunition, Class C explosives denied September 8, 1988.

Issued in Washington, DC on January 3, 1989.

J. Suzanne Hedgepeth,

Chief Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89–743 Filed 1–11–89; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular; Public Debt Series No. 1–89]

Treasury Notes of January 15, 1996, Series E–1996;

January 5, 1989.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $7,000,000,000 of United States securities, designated Treasury Notes of January 15, 1996, Series E–1996 (CUSIP No. 912827 XB 3), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated January 17, 1989, and will accrue interest from that date, payable on a semiannual basis on July 15, 1989, and each subsequent 6 months on January 15 and July 15 through the date that the principal becomes payable. They will mature January 15, 1996, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. The Notes will be issued only in book-entry form in denominations of $1,000, $5,000, $10,000, $100,000, and $1,000,000, and in multiples of those amounts. They will not be issued in registered definitive or in bearer form.

2.5. The Department of the Treasury's general regulations governing United States securities, i.e., Department of the Treasury Circular No. 300, current revision (31 CFR Part 306), as to the extent applicable to marketable securities issued in book-entry form, and the regulations governing book-entry Treasury Bonds, Notes, and Bills, as adopted and published as a final rule to govern securities held in the TREASURY DIRECT Book-Entry Securities System in 51 FR 18260, *et seq.* (May 16, 1986), apply to the Notes offered in this circular.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239–1500, prior to 1:00 p.m., Eastern Standard time, Wednesday, January 11, 1989. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, January 10, 1989, and received no later than Tuesday, January 17, 1989.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the

Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in § 3.5. must be made or completed on or before Tuesday, January 17, 1989. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Thursday, January 12, 1989. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Tuesday, January 17, 1989. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted and to be held in TREASURY DIRECT are not required to be assigned if the inscription on the registered definitive security is identical to the registration of the note being purchased. In any such case, the tender form used to place the Notes allotted in TREASURY DIRECT must be completed to show all the information required thereon, or the TREASURY DIRECT account number previously obtained.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, and to issue, maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may, at any time, supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3 The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 89-823 Filed 1-10-89; 10:55 am]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Workshop for Regional Interview Committee Chairpersons of the Fulbright Teacher Exchange Program

The United States Information Agency is interested in securing the services of a private non-profit educational organization to coordinate and implement a two and one-half day conference in September of 1989 for the chairpersons of the Fulbright Teacher Exchange Program's 69 Regional Interview Committees. Such organizations must be located in the Washington, DC metropolitan area. Interested organizations should contact USIA by January [1], 1989 for application information. Please contact Ava Smith at the following address: Teacher Exchange Branch (E/ASX), Office of Academic Programs, United States Information Agency, 301 4th Street, SW., Washington, DC 20547, Telephone: (202) 484-2556.

Guy Story Brown,

Director, Office of Adademic Programs.

Date: January 3, 1989.

[FR Doc. 89-726 Filed 1-11-89; 8:45 am]

BILLING CODE 8230-01-M

[1] Due date will be 10 working days from the date this notice is published.

Sunshine Act Meetings

Federal Register
Vol. 54, No. 8
Thursday, January 12, 1989

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).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 53 FR 52915, Thursday, December 29, 1988.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (Eastern Time) Monday, January 9, 1989.

CHANGE IN THE MEETING: The meeting has been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Frances M. Hart, Executive Officer, Executive Secretariat, (202) 634-6748.

Dated: January 9, 1989.

Frances M. Hart,

Executive Officer, Executive Secretariat.

This notice issued Janury 9, 1989.

[FR Doc. 89-816 Filed 1-10-89; 11:07 am]

BILLING CODE 6750-06-M

FEDERAL ELECTION COMMISSION

[Federal Register Number 89-245]

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, January 12, 1989, 10:00 a.m.

By direction of the Federal Election Commission, the Open Meeting scheduled for January 12, 1989 is cancelled

* * * * *

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 89-826 Filed 1-10-89; 11:08 am]

BILLING CODE 6715-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

January 5, 1989.

TIME AND DATE: 10:00 a.m., Thursday, January 12, 1989.

PLACE: Room 600, 1730 K Street NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Mid-Continent Resources, Inc.*, Docket No. WEST 85-19. (Issues include whether the judge properly vacated a section 104(b) withdrawal order.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653-5629/(202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-868 Filed 1-10-89; 3:43 pm]

BILLING CODE 6735-01-M

LEGAL SERVICES CORPORATION

Operations and Regulations Committee Meeting

TIME AND DATE: The meeting will commence at 9:00 a.m. on Friday, January 20, 1989, and continue until 1:00 p.m.

PLACE: The Embassy Suites Raleigh Hotel, 4700 Creedmoor Road, Renaissance Room, Raleigh, North Carolina 27617.

STATUS OF MEETING: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Agenda
2. Approval of Minutes
   December 17-18, 1987
   January 28-29, 1988
   November 18, 1988
3. Consideration of Proposed Revisions to Part 1609, Fee Generating Cases

Discussion and Public Comment follow each item.

CONTACT PERSON FOR MORE INFORMATION: Maureen R. Bozell, Executive Office, (202) 863-1839.

Date issued: January 10, 1989.

Maureen R. Bozell,

Secretary.

[FR Doc. 89-850 Filed 1-10-89; 3:24 pm]

BILLING CODE 7050-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 9:30 a.m., Thursday, January 12, 1989.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. section 522b (c)(2) (internal personnel rules and practices) and (c)(6) (personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy).

MATTERS TO BE CONSIDERED:

(1) Personnel matters
(2) Selection of Regional Directors for Region 1—Boston, Massachusetts and Region 13—Chicago, Illinois
(3) Internal Casehandling Procedures

CONTACT PERSON FOR MORE INFORMATION: John C. Truesdale, Executive Secretary, Washington, DC 20570, Telephone: (202) 254-9430.

Dated: Washington, DC, January 9, 1989.

By direction of the Board.

John C. Truesdale,

Executive Secretary, National Labor Relations Board.

[FR Doc. 89-867 Filed 1-10-89; 3:38 pm]

BILLING CODE 7545-01-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Personnel Committee Meeting

TIME AND DATE: 2:30 p.m.—Wednesday, January 18, 1989.

PLACE: National Credit Union Administration, 1776 G Street, NW., Sixth Floor Board Meeting Room, Washington, DC 20456.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, Assistant Secretary, 376-2400.

AGENDA:

1. Approval of Officers' Salaries; and
2. Recommendation to the Board of Directors on Officers' Merit Awards.

Carol J. McCabe,

Secretary.

[FR Doc. 89-827 Filed 1-10-89; 11:09 am]

BILLING CODE 7570-02-M

Corrections

Federal Register
Vol. 54, No. 8
Thursday, January 12, 1989

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.

DEPARTMENT OF ENERGY

48 CFR Part 970

Acquisition Regulations on Management and Operating Contractor Purchasing

Correction

In rule document 88-14219 beginning on page 24224 in the issue of Monday, June 27, 1988, make the following corrections:

970.5204-22 [Corrected]

1. On page 24232, in the first column, in section 970.5204-22(f), in the fourth line, "purchase" should read "purchases".

2. On the same page, in the second column, in the table of contents, in the entry for section 970.7104-31, in the second line, "subcontractor's" should read "subcontractors'".

3. On the same page, in the same column, in the table of contents, in the entry for section 970.7104-37, in the second line, "sources" should read "resources".

970.7101 [Corrected]

4. On the same page, in the third column, in section 970.7101(c), in the first line, "Completion" should read "Competition".

970.7103 [Corrected]

5. On page 24233, in the 1st column, in section 970.7103, in the 1st paragraph, in the 11th line, "system" should read "systems".

6. On the same page, in the third column, in section 970.7103(c)(3)(vii), in the seventh line, "costs" should read "cost".

970.7104-30 [Corrected]

7. On page 24238, in the first column, the section heading for section 970.7104-30 should read as it appears above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-060-09-4212-12: WYW1144131]

Realty Action; Exchange; Wyoming

Correction

In notice document 88-30064 appearing on page 53076 in the issue of Friday, December 30, 1988, make the following correction:

In the second column, under "T. 47., R. 60 W.," the first line should read "Sec. 9, NE¼, E½NW¼;".

BILLING CODE 1505-01-D

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1, 2, 9 and 73

Reorganization of Functions Within the Office of Administration and Resources Management and Minor Corrective Amendments

Correction

In rule document 88-29763 beginning on page 52993 in the issue of Friday, December 30, 1988, make the following correction:

On page 52993, in the first column, the **EFFECTIVE DATE** should read "December 30, 1988".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 63, 65, 121, and 135

[Docket No. 25148; Amdt. Nos. 61-81, 63-25, 65-32, 121-201 and 135-28]

RIN 2120-AC33

Anti-Drug Program for Personnel Engaged in Specified Aviation Activities

Correction

In rule document 88-26609 beginning on page 47024 in the issue of Monday, November 21, 1988, make the following corrections:

1. On page 47026, in the 1st column, in the 1st complete paragraph, in the 13th line, "DHHA" should read "DHHS".

2. On the same page, in the 3rd column, in the 19th line from the bottom, "casual" should read "causal".

3. On page 47027, in the 2nd column, in the 1st complete paragraph, in the 12th line, "Primary" should read "primary".

4. On page 47028, in the first column, in the seventh line from the bottom, insert an open bracket after "seizure".

5. On the same page, in the 3rd column, in the 16th line from the bottom, "45" should read "445".

6. On page 47029, in the first column, in the second paragraph of quoted material, in the ninth line, "risk" should read "risks".

7. On the same page, in the 2nd column, in the 1st complete paragraph, in the 15th line, "*Executive*" should read "*Executives*".

8. On page 47034, in the first column, in the first complete paragraph, in the second to the last line, the second "ineffective" should read "inefficient".

9. On page 47036, in the 1st column, in the last paragraph, in the 15th line, "has" should read "have".

10. On the same page, in the third column, in the third complete paragraph, in the sixth line, "NSTB" should read "NTSB".

11. On page 47038, in the 3rd column, in the 1st complete paragraph, in the 2nd line, "require" should read "required" and in the 17th line, "than" should read "that".

12. On page 47039, in the 2nd column, in the last paragraph, in the 12th line, before "should" insert "for rehabilitation and subsequent reemployment".

13. On page 47040, in the 1st column, in the last paragraph, in the 20th line, "sensitive" was misspelled.

14. On page 47041, in the second column, in the second complete paragraph, in the second line, "be" should read "the".

15. On page 47042, in the first column, in the last paragraph, in the sixth line, "freelance" was misspelled.

16. On the same page, in the 2nd column, in the first complete paragraph, in the 17th, 18th and 19th lines, remove "listed by this final rule and those entities or individuals,".

17. On page 47044, in the second column, in the first complete paragraph, in the ninth line, "issue" should read "issued".

18. On the same page, in the third column, in the first complete paragraph, in the first line, "this" should read "his".

19. On page 47046, in the second column, in the last paragraph, in the fourth line from the bottom, "continually" was misspelled.

20. On page 47047, in the second column, in the first complete paragraph, in the ninth line, "submit" was misspelled.

21. On page 47048, in the 3rd column, in the second complete paragraph, in the 11th line, "NPRW" should read "NPRM".

22. On page 47053, in the 2nd column, in the 1st complete paragraph, in the 17th line, "cost" should read "costs".

§ 65.23 [Corrected]

23. On page 47056, in the third column, in § 65.23(b)(1), in the fourth line, "date that" should read "date of".

Appendix to Part 121—[Corrected]

24. On page 47059, in the second column, in Appendix I, in designated paragraph 2, in the sixth line, "is" should read "if".

25. On page 47060, in the second column, in Appendix I, in designated paragraph 5, in the last two lines, "the effective date of the rule" should read "December 21, 1988".

BILLING CODE 1505-01-D

federal register

Thursday
January 12, 1989

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 21 and 25

Airplane Cabin Fire Protection; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. 25774; Notice No. 89-1]

RIN 2120-AB22

Airplane Cabin Fire Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes amendments of the Federal Aviation Regulations (FAR) which would provide for improved cabin fire protection for transport category airplanes by requiring: (1) Each lavatory to be equipped with a smoke detector system which provides warning to the cockpit or to the passenger cabin crew; (2) each lavatory trash receptacle to be equipped with a fire extinguisher which discharges automatically upon the occurrence of a fire within the receptacle; (3) the number of hand fire extinguishers in the cabins of airplanes with passenger seating capacities greater than 200 to be increased; and (4) a specified number of the hand fire extinguishers in the cabin to contain Halon 1211 or equivalent as the extinguishing agent. These safety protections are currently required for operation of airplanes used in air carrier service, but not for the full range of transport category airplanes such as those used for executive transportation. This notice also proposes to require each transport category airplane manufactured after a specified date to incorporate these improvements. These proposals are needed to respond to investigations of inflight fires and an inspection survey of the U.S. air carrier fleet, and are needed to increase protection against possible inflight fires.

DATES: Comments must be received on or before July 10, 1989.

ADDRESSES: Comments on this proposal may be mailed in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), 800 Independence Avenue SW., Washington, DC 20591, or delivered in triplicate to: Room 915G, 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked: Docket No. 25774. Comments may be inspected in Room 915G weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. In addition, the FAA is maintaining an information docket of comments in the Office of the Regional Counsel (ANM-7), FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments in the information docket may be inspected in the Office of the Regional Counsel weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Gary L. Killion, Manager, Regulations Branch (ANM-114), Transport Standards Staff, Aircraft Certification Division, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168; Telephone (206) 431-2112.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, or economic impact that might result from adoption of proposals contained in this notice are invited. Substantive comments should be accompanied by cost estimates. Commenters should identify the regulatory docket or notice number and submit comments, in triplicate, to the Rules Docket address specified above. All comments will be considered by the Administrator before taking action on the proposed rulemaking. The proposals contained in this notice may be changed in light of comments received.

All comments will be available in the Rules Docket, both before and after the closing date for comments, for examination by interested persons. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25774." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

This notice is the latest in a series of FAA actions to enhance cabin fire safety in transport category airplanes. Following an inflight fire which originated in a lavatory area, the FAA issued four Airworthiness Directives (AD) to require specific improvements in cabin fire protection. Airworthiness Directive 74-08-09 (39 FR 12998; April 10, 1974), applicable to all transport category airplanes, requires 1,000 hour periodic inspections and repairs, as necessary, of all lavatory trash receptacles to ensure fire containment capability. It also requires preflight briefings informing passengers not to smoke in lavatories, and the installation of ashtrays near lavatory entrances and no-smoking signs on each side of the lavatory doors. Subsequent to issuance of the AD, § 25.853 of the FAR was amended to incorporate these requirements for ashtrays and no-smoking signs. Section 121.571 of the FAR was adopted to require that passengers be given briefings regarding smoking. Three additional AD's, 74-21-03 (39 FR 36466; October 10, 1974), 75-02-04 and 75-02-05 (39 FR 13555; January 24, 1975), were issued for specific airplane models, requiring inspection and repair of lavatory electrical components and modification of lavatory trash receptacles to ensure fire containment. Together, the AD actions were intended to eliminate likely ignition sources, end smoking in lavatories, and provide fire-safe trash receptacles in the event that fire occurs in a receptacle despite these precautions.

In addition to these AD actions, an FAA-contracted study was conducted to consider the feasibility of a total cabin integrated fire management system. This study included analysis of fire-related accident and incident data taken over a 10-year period, a survey of available technology, and analysis of fire detection, monitoring and extinguishing options for all areas of a typical wide-body passenger cabin. The results of this study are contained in DOT Report No. FAA-RD-76-54, Feasibility and Tradeoffs of a Transport Fuselage Fire Management System, dated June 1976, available from the National Technical Information Service (NTIS), Springfield, Virginia 22151. While the study did provide useful data concerning fire protection, features of the integrated system, such as fire detectors, were not adopted at the time because the AD

actions were considered to have provided adequate fire protection.

Subsequent to the AD actions, there were two cabin fires which indicated that additional measures were needed to enhance protection against such fires. One of the fires occurred in flight near Cincinnati, Ohio, on June 2, 1983, and resulted in 23 fatalities. The other occurred on the ground at Tampa International Airport in Florida on June 25, 1983, and resulted in evacuation of the airplane with no injuries or loss of life. Following the fires, the FAA conducted an inspection survey of the fire containment capabilities of lavatory trash receptacles in the U.S. air carrier fleet. The survey was conducted to determine the effectiveness of previous FAA actions to correct deficiencies in fire protection and to determine whether or not those corrective actions provide adequate fire safety. The survey revealed that the fire containment capabilities of trash receptacles were compromised by the wear and tear typical of service. Considering the seriousness of inflight cabin fires, an expanded approach to fire protection was considered necessary.

In regard to extinguishment of inflight cabin fires, § 25.851 currently specifies that one conveniently located hand fire extinguisher must be provided for each airplane with a passenger capacity of 7 through 30; two must be provided for each airplane with a passenger capacity of 31 through 60; and three are required for each airplane with a passenger capacity of 61 or more. These standards were adopted in 1956 when the largest airplanes in service had passenger capacities of less than 100, and those under development were not expected to exceed 200 passengers. Since that time, the size of commercial transport airplanes has increased dramatically. For example, certain versions of the Boeing 747 have been certificated under Part 25 for a maximum of 660 passengers. Service experience has shown that three extinguishing are insufficient for large transport airplanes; and, as a matter of practicality, most operators of the large transport airplanes currently in service have elected to install more than three extinguishers in such airplanes.

The FAA has also conducted cabin fire extinguishers tests using various types of hand extinguishers. These tests demonstrated that for a fire in a large airplane cabin, extinguishers containing Halon 1211 (bromochloro-difluoromethane. $CBrClF_2$) are safe from the standpoint of toxicity, and far more effective in range and knockdown capability than other extinguishers currently in service. The results of these tests are contained in DOT Report No. DOT/FAA/CT–82–111, Inflight Aircraft Seat Fire Extinguishing Tests (Cabin Hazard Measurement), dated December 1982. A copy of this report has been placed in the Rules Docket and is available for inspection. A copy may be purchased from NTIS. Halon 1211 extinguishers have their greatest effectiveness of Class B and C fires; however, those with 9 pounds or greater capacity are also rated for Class A fires. (Fire classes are as defined in the National Fire Protection Association Standard 10.) Halon 1211 extinguishers are not to be used for Class D (burning metal) fires. Although not rated for Class A fires, such extinguishers with less than 9 pounds capacity have been shown to be effective in extinguishing surface Class A fires. Halon 1211 extinguishers are especially useful for combatting flammable fluid fires, such as those that might be caused by terrorist activities. Under the air carrier airworthiness surveillance program, the FAA issued a general notice (GENOT), dated November 29, 1980, to inspectors and air carrier operators encouraging the voluntary installation of at least two Halon 1211 extinguishers in each airplane.

Subsequent to the above action, the FAA adopted Admendment 121–185 (50 FR 12726; March 29, 1985) applicable to airplanes used in air carrier service under the provisions of Part 121 of this Chapter. This amendment requires (1) the installation of a smoke detection system, or equivalent, in each lavatory after October 29, 1986, (2) a built-in fire extinguisher for each lavatory disposal receptacle after April 29, 1987, (3) additional hand fire extinguishers for airplanes with passenger seating capacities of 30 or fewer and 60 or more after October 29, 1985, and (4) at least two of the required hand fire extinguishers to contain Halon 1211, or equivalent, as the fire extinguishing agent after April 29, 1986.

Discussion

Although Amendment 121–185 provides improved cabin fire protection for transport category airplanes used in air carrier service, it does not apply to other transport category airplanes, such as those used for executive transportation. Mandatory retrofit of such other airplanes to incorporate these improvements is not considered justifiable from an economic standpoint; however, it does appear that such improvements are warranted for future transport category airplanes. Accordingly, this notice proposes to amend Part 25 of the FAR to require these improvements for airplanes for which application for type certificate is made after the effective date of the amendment. In addition, Part 21 would also be amended to require these improvements for all transport category airplanes manufactured after a date one year after the effective date of the amendment, regardless of when the application for type certificate was made. The compliance time of one year is necessary for airplanes not already required to comply under the provisions of Part 121 to provide sufficient time in which to make the necessary design changes, procure the required materials and parts, and introduce the modifications into production.

Section 25.851 would be amended to require additional extinguishers for the passenger compartments of airplanes with passenger capacities greater than 200. (Part 25 currently requires the same number of extinguishers for passenger capacities of 61 through 200 as is now required by Part 121.) The maximum capacity presently envisioned is 700. Should larger airplanes be presented for certification in the future, additional standards in the form of special conditions may be warranted. Similarly, additional standards may be warranted for airplanes with nonstandard interior arrangements in which the minimum number of extinguishers does not provide ready access to an extinguisher in each area of the cabin.

As noted above, Halon 1211 has demonstrated superior performance in combatting cabin fires, particularly surface fires. Some of the required hand fire extinguishers would, therefore, have to contain this agent or equivalent. For an airplane with a passenger capacity that is more than 30, but less than 61, at least one of the two required passenger compartment extinguishers would have to contain Halon 1211, or equivalent. For an airplane with a larger passenger capacity, at least two of the required passenger compartment extinguishers must contain Halon 1211, or equivalent.

Section 25.851 presently requires one hand fire extinguisher conveniently located in the pilot compartment. This extinguisher is in addition to any extinguisher required for a passenger compartment.

Section 25.851 currently specifies that a readily accessible hand fire extinguisher must be available for use in each Class A or Class B cargo or baggage compartment. While Class E compartments are not required to be accessible to crewmembers in flight, the proposed amendment to § 25.851 would require a readily accessible hand fire extinguisher for any Class E

compartment that is accessible in flight. In addition, a hand fire extinguisher would be required for each galley located above or below the passenger compartment because the extinguishers located in the passenger compartment are not readily available at those locations.

Due to an apparent editorial error, § 25.851(b) currently implies that the requirements of that paragraph do not apply to fire extinguishment systems which are installed in addition to those required by the minimum standards of Part 25. Whether a fire extinguishment system installed in an airplane is required by the regulations or is installed on a voluntary basis is obviously irrelevant insofar as potential hazards to the occupants are concerned. Accordingly, § 25.851(b) would be changed to correct this error. In addition, minor changes are proposed in the format of § 25.851 which are clarifying in nature only.

This notice proposes a new § 25.854 which would require transport category airplanes to be equipped with smoke detectors and with increased fire extinguishment capabilities for lavatories, which have been shown by experience to be more critical for fire protection than other areas of the cabin.

Smoke detector systems would be required in lavatories. While lavatories have a lower smoke and fire incidence rate than galleys, they are more sensitive from a fire detection standpoint for several reasons. They are more often unattended, they are closed from view by a door, and they contain ventilation systems designed to keep odors, and thus sensory smoke detection, away from the passenger cabin. In addition, galleys are generally occupied only by trained flight attendants. Lavatories, on the other hand, are frequented by the general traveling public, some of whom may not be conscious of the hazards of smoking in the lavatory. As part of the smoke detector systems, a warning light would be required in the cockpit, or a warning light or audio warning would be required in the passenger cabin which provides a clear and unmistakable signal, readily detectable by a flight attendant, taking into consideration the positioning of flight attendants throughout the flight. Because the lavatory smoke detectors would serve to enhance the present capability of the crewmembers to visually detect fires in the cabin and would not serve as primary detection systems, such as those used in isolated cargo compartments, it would be unnecessary for the detectors to meet all of the performance and environmental requirements in Technical Standard Order (TSO) No. C1b, which are now applicable to the type of primary detectors used in isolated cargo compartments. Service experience has shown that nearly all lavatory fires are detected by cabin personnel early enough to allow prompt control and extinguishment. Thus, a commercially available smoke detector, such as the type commonly used in residential buildings, which is demonstrated to serve its intended function as installed, could be considered adequate under the proposals.

Lavatory trash receptacles would be equipped with automatic fire extinguishers. These could be small extinguishant-charged bulbs with thermal fuse plugs, as are currently used in trash receptacles in a number of transport airplanes.

As proposed, the lavatory smoke detectors and automatic fire extinguishers would be required in addition to the fire containment capability currently required for lavatory trash receptacles because, as indicated by the inspection survey referenced earlier, fire containment capability is subject to deterioration in service, and additional measures of fire protection may be necessary. The automatic fire extinguishers would counter a fire as quickly as possible at its inception and would be a practicable means of keeping response time to a minimum, which is a key principle of fire protection in general. The smoke detectors would be a necessary complement to the extinguishers to enable crewmembers to quickly detect a fire and determine if additional actions, such as use of hand extinguishers, are necessary to control the fire and prevent rekindling. The requirement for trash receptacle fire containment capability would be retained since containment capability, degraded or not, delays the propagation of fire and provides a needed incremental measure of fire protection.

As proposed, the cabin fire safety improvements contained in this notice would apply to transport category airplanes in general, including the smaller airplanes designed specifically for executive transportation. Due to their relatively small size, the executive airplanes would not be affected by the proposals to increase the number of hand fire extinguishers in airplanes with passenger capacities greater than 200 and to use Halon-filled extinguishers in airplanes with passenger capacities greater than 30. Such airplanes would, however, have to comply with the proposed lavatory fire protection requirements. Many of these airplanes have small lavatories with very limited occupant space and small trash receptacles. In addition, the lavatories in these airplanes are not frequented by the general public. Comments are especially requested concerning the need for and the appropriateness of the proposed lavatory fire protection requirements for these airplanes.

Regulatory Evaluation

I. Cost Benefit Analysis

The FAA proposes to amend Part 25 of the FAR to require improved inflight cabin fire protective measures for transport category airplanes for which application for type certification is made after the effective date of the amendment. The proposed amendment would require that (1) each lavatory be equipped with a smoke detector system, (2) each lavatory trash receptacle be equipped with an automatic discharge fire extinguisher system, (3) more hand fire extinguishers be provided in the passenger compartment of airplanes with more than 200 seats, on a ratio of one fire extinguisher per additional 100 seats, and (4) that one or two of the required passenger compartment hand fire extinguishers, as specified, contain Halon 1211 or equivalent as the extinguishing agent. In addition, the FAA proposes to amend Part 21 of the FAR to require each transport category airplane manufactured after [a date one year after the effective date of the amendment] to incorporate the improved inflight cabin fire protective measures, regardless of the date of application for type certificate.

These proposals respond to findings resulting from investigations of inflight cabin fires and an FAA survey designed to determine the effectiveness of fire safety requirements in the current U.S. air carrier fleet. These findings clearly indicate that inflight cabin fire protective measures need to be improved. Similar requirements have recently been adopted for airplanes operated in air carrier service under the provisions of Part 121.

The benefits of the smoke detector and fire extinguisher proposal are the prospective reduction in fatalities, injuries, and property damage resulting from fires originating in the lavatories and other areas in the passenger cabin. Estimating these benefits quantitatively is difficult because of the limited number of inflight cabin fire accidents and the necessity for using judgement in determining the effectiveness of the proposals in dealing with accidents that

involve cabin fires. There have been few major cabin fire accidents worldwide; however, when such accidents have occurred, the losses have been catastrophic.

Estimating the benefits, as well as the costs, of the proposals is further complicated by the difficulty of accurately predicting the types and numbers of new or significantly modified airplanes that will be certificated under Part 25 in the future. In this analysis, the FAA, therefore, compares benefits to costs on a per airplane basis. This method results in a relevant presentation of this relationship between benefits and costs while avoiding prediction of the types and numbers of new airplanes that would be certificated under Part 25.

Because each of the fire protection measures proposed in this notice is currently required under Part 121, air carriers operating under the provisions of Part 121 already have to comply regardless of whether or not these proposals are adopted. The majority of all airplanes type certificated under Part 25 will be operated under Part 121; therefore, few costs would be attributable to the proposals contained in this notice. Nevertheless, the FAA is evaluating the costs of these proposals to demonstrate that these measures are cost beneficial.

Benefits

Only those fires believed to have originated in the passenger cabin are relevant to this analysis. Post-crash fires, flight deck fires, belly cargo fires, fires aboard freighter airplanes, and all other fires that did not originate in the passenger cabin were excluded in establishing this base line. Only two major cabin fire accidents which meet this criterion have occurred in worldwide operations in the last 15 years. They were the Varig Boeing 707 fire at Paris, France, in July 1973, and the Air Canada McDonnell Douglas DC–9 fire at Cincinnati, Ohio in June 1983. Two other fires which could be considered significant were the 1979 Pakistani 707 and the 1980 Saudi Lockheed L–1011. Evidence regarding the origin of the Pakistani 707 fire is not clear; therefore, that accident was discounted for conservatism. The Saudi L–1011 fire is not considered in the analysis because it may have originated in the cargo hold rather than the cabin.

The two accidents considered in this analysis suggest an average historical rate of two catastrophic cabin fire accidents during a 15 year period. Although this historical rate reflects worldwide operations, forecast growth in the activity of U.S. carriers during the future 15-year period considered in this analysis is sufficient to make the exposure of future U.S. air carrier operations comparable to the exposure of historic worldwide operations. An estimate of two catastrophic cabin fire accidents per 15 years has, therefore, been adopted for developing the benefits in this analysis.

To determine the benefits which will result from preventing an accident, it is necessary to estimate the average costs expected to be associated with that accident.

In its FAA Aviation Forecast published in 1987, the FAA predicts that the average number of seats in an airplane used in air carrier domestic operations will be 171 in 1996 which is the midpoint in the 15 year study horizon. The load factor is estimated to be 61 percent and, therefore, the average number of passengers per flight is expected to be 103. Allowing for flight deck and cabin crew, the FAA estimates that an average of 108 persons will be carried on a typical transport category airplane. Note that this is a conservative estimate since it does not take into account the greater number of passengers per airplane in international operations.

The FAA estimates fatalities from future inflight cabin fire related accidents by applying the average proportional fatalities from the two historic accidents as follows: the Varig Boeing 707 and the Air Canada DC–9 accidents had fatality rates of 100 percent and 50 percent respectively. Thus, the average fatality rate for these accidents was 75 percent. Applying this rate to the average number of persons aboard a transport category airplane yields an estimated 81 fatalities per accident. For the purpose of analysis, the FAA uses a minimum economic value for a human life of $1,000,000. This is the accepted minimum value used by economists in government policy analysis. Therefore, the estimated fatality loss is $81,000,000. An airplane with 171 seats is estimated to cost about $34,000,000, i.e., $200,000 per seat. If the airplane is destroyed halfway through its life, the loss is estimated to be $17,000,000. The total loss to society due to an accident is, therefore, $98,000,000. Discounting this value as a uniform series over the 15-year period of the airplane to allow for the random nature of such accidents at the 10 percent interest rate prescribed by OMB yields an average accident cost of $49.7 million. This will be the average benefit realized for every accident prevented by the proposed rulemaking. To calculate the benefits per airplane, the present value of an accident times the number of accidents divided by the number of airplanes in 1996 is calculated. The FAA forecasts that there will be 3990 airplanes in the air carrier fleet in 1996. The average benefits per airplane are, therefore, $24,900 (two accidents times $49.7 million per accident divided by 3,990 airplanes).

Given the probability of an accident and the cost associated with that accident, it is necessary to consider the probability that an accident will occur in an area of the cabin where each of the protective measures proposed in this notice would be operative, and should such a fire scenario occur, what would be the effectiveness of a particular protective measure in preventing that accident.

Benefits for Lavatory Safety Devices

Developing estimates to the benefits attributable to the lavatory smoke detectors and to the automatic fire extinguishers in the lavatory trash receptacles requires that some allocation be made of those potential future accidents which would be expected to originate in a lavatory. These potential accidents need to be allocated further into those where the smoke detector would be the piece of protective equipment relied upon to prevent the accident, and those that would rely upon the automatic fire extinguisher in the trash receptacle.

In both of the catastrophic accidents cited above, the fire appears to have originated in a lavatory. It would, however, be unrealistic to assume that all catastrophic cabin fire accidents would necessarily originate in lavatories in the future. Service Difficulty Reports (SDR), maintained by the FAA's National Safety Data Branch in Oklahoma City, indicate that only 12.1 percent of in-cabin smoke and fire incidents occur in lavatories. The SDR data indicate that the vast majority of these incidents, 64.3 percent, occur in airplane galleys, and the remaining 23.6 percent occur in other areas of the cabin. Although none of the catastrophic cabin fires experienced to date are believed to have originated outside of a lavatory, some allowance must be made for the possibility that a major cabin fire could originate in one of the locations where 87.9 percent of the smoke and fire incidents historically have occurred. A strong indication of the particularly insidious nature of lavatory fires is, however, that both of the catastrophic accidents experienced to date have originated where a relatively small minority of the incidents occur. This reflects the fact that fires in closed lavatory compartments are more likely

to go undetected than in other areas of the cabin.

In the judgement of the FAA, which is based on accident and incident data over a prolonged period of time, the vast majority of fatal cabin fire accidents would originate in lavatories, but some future fatal accidents could be expected to originate in galleys or other areas of the cabin. For purposes of this analysis, FAA assumes that over time an average of 80 percent of all random catastrophic cabin fire accidents would originate in lavatories and the remaining 20 percent would originate elsewhere in the cabin.

Of the two previous accidents involving lavatory fires, the Varig Boeing 707 accident was attributed to a fire originating in the trash receptacle. In its accident report the National Transportation Safety Board does not make a precise determination of the fire's origin. The evidence indicates, however, that (1) the fire propagated through the lavatory vanity, (2) initially the direction of airflow vented smoke overboard and permitted the fire to burn undetected, and (3) smoke became noticeable in the open area of the lavatory when the fire penetrated the lavatory liner. These findings suggest that approximately half of potential accidents involving lavatory fires would occur where the automatically activating trash receptacle fire extinguishers would be the primary means of defense, and the other half of these potential accidents would occur in other areas of the lavatory where the smoke detector would be the significant defensive measure. The automatically activating fire extinguishers can only be effective, however, if the door of the trash receptacle seals properly; otherwise the extinguishant dissipates, and its fire-suppressant capabilities are lost. The inspection survey, discussed previously, reveals that the fire-containment capabilities of a trash receptacle can become compromised by the wear and tear of typical service. In these instances, the lavatory smoke detector would be the principal piece of equipment in preventing a trash receptacle fire incident from becoming a major accident. Further, a review of the SDR data concerning the fire incidents that have occurred in the lavatory indicates that for every incident originating in the trash receptacle, there are slightly more than two incidents that have originated in other areas of the lavatory. Typically, they are electrical in origin; and frequently involving the flush pump motor. For these reasons, FAA considers that the lavatory smoke detector will be the operative piece of equipment in preventing potential lavatory fires more often than will the trash receptacle extinguisher. The FAA has, therefore, assumed that of the 80 percent of all potential fire accidents expected to originate in the lavatory, an average of 45 percent of all potential accidents will involve the smoke detector as the protective equipment relied upon to prevent a major accident from developing, and only 35 percent of all potential accidents will involve the trash receptacle fire extinguisher.

Estimates must also be made concerning the effectiveness of the particular piece of equipment in preventing an accident in those random combinations of circumstances where all existing safeguards have failed and, in the absence of the proposed preventive measures, a major cabin fire accident would occur. The FAA assumes that, given such circumstances where the lavatory smoke detector would be the relevant device, a catastrophic accident could be averted an average of 50 percent of the time. The FAA assumes that the average effectiveness of the trash receptacle will be 75 percent. The FAA expects the automatic fire extinguisher to be relatively more effective than the smoke detector in those circumstances where it is the primary means of protection because of the simplicity of its operation.

The benefits of a smoke detector would, therefore, be $5,600 per airplane ($24,900 in accident avoidance benefits per airplane times 45 percent of the total occurrences times 50 percent effectiveness), and the benefits of the trash receptacle fire extinguisher would be $6,500 ($24,900 in accident avoidance benefits per airplane times 35 percent of the total occurrences times 75 percent of effectiveness).

Benefits of the Halon 1211 Fire Extinguisher in the Cabin

The potential benefits of the Halon 1211 fire extinguisher proposals have been estimated in a manner similar to the lavatory fire prevention proposals. As stated previously, FAA has assumed that over a prolonged period of time, an average of 80 percent of passenger cabin fires would involve the lavatory, and the remaining 20 percent of potential catastrophic cabin fire accidents would involve either the galley or other general areas of the passenger cabin not previously specified. The FAA estimates that the proportion of potential cabin fire accidents where the Halon 1211 fire extinguishers will be the critical preventive measures will be about 8 percent. The relatively higher proportion allocated to the galley area reflects the fact that the majority of all passenger cabin fire incidents, 64.3 percent, occur in airplane galleys. Further, many airplane galleys are less visible because they are not located on the main deck of the cabin. The remaining portion of potential catastrophic accidents represents fire scenarios where the Halon 1211 extinguisher would be the critical protective piece of equipment. Although the Halon extinguisher is a state-of-the-art hand fire extinguisher which is effective against all classes of fires, its primary advantage over existing extinguishers is that it is especially effective against fires that involve volatile liquids. Because the Halon extinguishers are typically lighter than the extinguishers they would replace, there would also be a fuel savings that would be sufficient to offset the procurement costs. This offset will be discussed in greater detail in the costs section.

Finally, estimates must be made concerning the effectiveness of the Halon 1211 fire extinguishers when given a situation in which all existing safeguards have failed and the proposed protective measure would be the last line of defense. The FAA has estimated an average effectiveness of 50 percent for this proposal.

The benefits of the Halon 1211 fire extinguishers would be $990 ($24,900 in accident avoidance benefits per airplane times 8 percent it being the relevant device times 50 percent its effectiveness).

Costs

As noted above, estimating the costs of the proposal to amend Part 25 is complicated by the uncertainty inherent in predicting the number of new airplane designs that will be type certified in the future, when these airplanes will be type certificated, and how many will be produced. As a result, the costs are estimated on a unit basis. They also have been discounted on the basis of a 15 year life and a 10 percent discount rate. In addition, the expected number of lavatories in newly designed airplanes is assumed to be the same as those in a Boeing Model 767. The Model 767 is used as the prototype of future transport category airplanes because it is considered to be the approximate median size of such airplanes.

Cost of Lavatory Smoke Detectors

The FAA estimates that the cost of installing smoke detectors would be $50 each, including the cost of the unit itself. The FAA assume that each lavatory would be equipped with its own smoke detector. Such detectors would not have to meet all of the requirements of a

technical standard order applicable to primary detection systems because they would serve essentially as backup to flight attendants and not as primary detection systems, such as those used in isolated cargo compartments. Commercially available smoke detectors of the type commonly used in residential buildings, have been demonstrated to function properly when installed in an airplane lavatory and would be considered suitable for compliance with the proposed standards.

The Model 767 has five lavatories. Thus five lavatory smoke detectors would have to be installed in each airplane, on the average, resulting in a cost of $250 per airplane. Each additional pound of weight in a transport category airplane is assumed to result in an average additional fuel consumption of 15 gallons per year. Based on a fuel price of 70 cents per gallon, each detectors would result in an average additional cost of about $3 per year since it would weigh about one quarter of a pound. Maintenance costs for the smoke detectors would be $85 per unit per year, based on an average wage rate of $40 per hour and a ten percent replacement cost factor for the units. Thus, the average total present value cost per airplane for lavatory smoke detector would be $3,600 (five units times $50 per unit, plus five units times $88 per year variable cost times 7.606 the discount factor for a uniform annual series).

Cost of Automatically Activating Fire Extinguishers

The costs of the proposed lavatory trash receptacle fire extinguishers, which would be capable of discharging automatically upon the occurrence of a fire, have been estimated in a manner similar to that used to estimate smoke detector costs. Each automatic extinguisher would cost $300 including installation. Thus, an airplane with five lavatories would require five automatic extinguishers at a total cost of $1500.

The proposed automatic extinguishers weigh about one pound. At the previously stated fuel consumption rate of 15 gallons per pound per year, the automatic extinguishers would require 75 additional gallons per airplane per year. At 70 cents per gallon, the present value fuel cost for these extinguishers would come to $400, using the 7.606 discount factor.

Maintenance of automatic fire extinguishers is relatively simple, involving only periodic weighing of units to determine if they remain charged. Assuming that each extingusher would be inspected twice a year, that each inspection would take 20 minutes of labor at $40 per hour, the present value of labor is $1000. Units would be expected to be replaced at a yearly rate of 5 percent or an expense of $75 per year having a present value of $570. The total of all present value costs associated with the automatic lavatory fire extinguisher system is, therefore, estimated to be $3,470 per airplane.

Cost of Requiring Two Halon 1211 Fire Hand Extinguishers in the Passenger Cabin

The FAA considers that this proposal would not result in any additional costs. The Halon 1211 extinguishers would merely replace a like number of other types of extinguishers. The Halon 1211 extinguisher costs about $40, about the same as the average cost of other types of extinguishers. The Halon 1211 extinguishers are slightly more expensive to maintain than other types of extinguishers since they require an additional $10 per extinguisher to recharge; however, they are about 3 pounds lighter than other types of extinguishers. As a result, the installation of these extinguishers would generate fuel cost savings which would more than offset the additional maintenance costs.

Comparison of Costs and Benefits

As noted previously, lavatory smoke detectors are estimated to have $5,600 in benefits per airplane. Since the costs of these detectors would be $3,600 the benefit to cost ratio would be about 1.6 to 1.

The FAA projects the installation of automatic fire extinguishers in lavatory trash receptacles to generate $6,500 in benefits per airplane, at a cost of $3,470. The benefit to cost ratio would, therefore, be 1.9 to 1.

The Halon 1211 proposal is not expected to generate any net costs since the savings in fuel costs from the lighter weight of this extinguisher would more than offset any other costs. The benefits are expected to be $990 per airplane. This proposal would, therefore have a postive benefit to cost ratio.

The proposal to increase the number of available hand fire extinguishers in relation to increased passenger seats on new airplanes would not generate any additional costs because it is consistent with current industry practices. For the same reason, no additional benefits would result.

International Trade Impact Analysis

The proposals would have little or no impact on trade for both U.S. firms doing business in foreign countries and foreign firms doing business in the U.S. Airplanes imported from foreign manufacturers would have to meet U.S. requirements, and thus would gain no competitive advantage. The proposed safety feature would not have to be installed in airplanes exported to foreign countries by U.S. manufacturers if the foreign country does not require them. Foreign manufacturers would, therefore, gain no competitive advantages in this regard.

II. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

All of the rules proposed in this notice would affect the manufacturers of commercial transport category airplanes who would produce new airplanes under Part 25. None of these manufacturers are considered as small entities in accordance with FAA criteria which state that a small manufacturer is one with 75 employees or less. Because these proposals do not have "a significant economic impact on a substantial number of small entities," no review is required in this regard by the RFA.

These proposals are not likely to result in an annual effect on the economy of $100 million or more, or a major increase in costs for consumers, industry, or Federal, State, or local government agencies. Accordingly, it has been determined that this is not a major regulatory action under Executive Order 12291.

A regulatory evaluation of this action, including a Regulatory Flexibility Determination and a Trade Impact Assessment, has been placed in the regulatory docket, and a copy may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

Federalism Implications

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

Conclusion

For the reasons given earlier in the preamble, the FAA has determined that this is not a major regulation as defined in Executive Order 12291. The FAA has determined that this action is significant as defined in Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, it is certified under the criteria of the Regulatory Flexibility Act that this regulation, at promulgation, will not have a significant economic impact, positive or negative, on a substantial number of small entities.

List of Subjects

14 CFR Part 21

Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 25

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, the FAA proposes to amend Parts 21 and 25 of the Federal Aviation Regulations (FAR), 14 CFR Parts 21 and 25, as follows:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

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

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f–10, 4321 et. seq.; E.O. 11514; 49 U.S.C. 106(g) [Revised Pub. L. 97–449, January 12, 1983.]

2. By amending § 21.183 by adding a new paragraph (f) to read as follows:

§ 21.183 Issue of standard airworthiness certificate for normal, utility, acrobatic, commputer, and transport category aircraft; manned free balloons; and special classes of aircraft.

* * * * *

(f) *Cabin safety requirements.* Notwithstanding all other provisions of this section, the provisions of §§ 25.851 and 25.854 of this Chapter in effect on [the effective date of the amendment] must be complied with for the issuance of a standard airworthiness certificate for each transport category airplane manufactured after [a date one year after the effective date of the amendment].

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

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

Authority: 49 U.S.C. 1344, 1354(a), 1355, 1421, 1423, 1424, 1425, 1428, 1429, 1430; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 49 CFR 1.47(a).

4. By revising § 25.851(a), the introductory text of paragraph (b), and paragraph (b)(1), to read as follows:

§ 25.851 Fire extinguishers.

(a) *Hand fire extinguishers.* (1) The following minimum number of hand fire extinguishers must be conveniently located and evenly distributed in passenger compartments.

Passenger capacity	Number of extinguishers
7 through 30	1
31 through 60	2
61 through 200	3
201 through 300	4
301 through 400	5
401 through 500	6
501 through 600	7
601 or more	8

(2) At least one hand fire extinguisher must be conveniently located in the pilot compartment.

(3) At least one readily accessible hand fire extinguisher must be available for use in each Class A or Class B cargo or baggage compartment and in each Class E cargo or baggage compartment that is accessible to crewmembers in flight.

(4) At least one hand fire estinguisher must be located in, or readily accessible for use in, each galley located above or below the passenger compartment.

(5) Each hand fire extinguisher must be approved.

(6) At least one of the required fire extinguishers located in the passenger compartment of an airplane with a passenger capacity of at least 31 and not more than 60, and at least two of the fire extinguishers located in the passenger compartment of an airplane with a passenger capacity of 61 or more must contain Halon 1211 (bromochlorodifluoromethane $CBrClF_2$), or equivalent, as the extinguishing agent. The type of extinguishing agent used in any other extinguisher required by this section must be appropriate for the kinds of fires likely to occur where used.

(7) The quantity of extinguishing agent used in each extinguisher required by this section must be appropriate for the kinds of fires likely to occur where used.

(8) Each extinguisher intended for use in a personnel compartment must be designed to minimize the hazard of toxic gas concentration.

(b) *Built-in fire extinguishers.* If a built-in fire extinguisher system is provided:

(1) The capacity must be adequate for any fire likely to occur in the compartment where used, considering the volume of the compartment and the ventilation rate; and

* * * * *

5. By adding a new § 25.854 to read as follows:

§ 25.854 Lavatory fire protection.

(a) Each lavatory must be equipped with a smoke detector system or equivalent that provides a warning light in the cockpit, or provides a warning light or audio warning in the passenger cabin which would be readily detected by a flight attendant.

(b) Each lavatory must be equipped with a built-in fire extinguisher for each disposal receptacle for towels, paper, or waste, located within the lavatory. The extinguisher must be designed to discharge automatically into each disposal receptacle upon occurrence of a fire in that receptacle.

Issued in Washington, DC on January 5, 1989.

Melvin C. Beard,

Director, Aircraft Certification Service.

[FR Doc. 89–568 Filed 1–11–89; 8:45 am]

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federal register

Thursday
January 12, 1989

Part III

Environmental Protection Agency

40 CFR Parts 122, 123 and 130
National Pollutant Discharge Elimination System; Surface Water Toxics Control Program; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122, 123 and 130

[FRL-3431-1]

National Pollutant Discharge Elimination System; Surface Water Toxics Control Program

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: Today's action proposes to amend Parts 122, 123, and 130 of EPA's regulations. The proposed regulations clarify EPA's surface water toxics control program, and incorporate section 308(a) of the Water Quality Act of 1987 into EPA's toxics control program. Section 308(a) of the Water Quality Act added section 304(l) to the Clean Water Act (hereafter referred to as section 304(l)). Section 304(l) requires the States to identify those waters that are adversely affected by toxic, conventional, and nonconventional pollutants, and requires the States to prepare individual control strategies that will control point source discharges of toxic pollutants. The States must submit lists of waters and individual control strategies to EPA for review, and if EPA disapproves a State's decision with respect to a list or an individual control strategy, then EPA must implement the requirements of section 304(l) in cooperation with the State. EPA and the States must accomplish the tasks in section 304(l) according to an ambitious series of deadlines. Today's proposed rules will strengthen State and Federal controls over discharges of toxic pollutants, and will assist EPA and the States in satisfying the requirements of section 304(l) of the CWA.

DATE: EPA will accept comments from the public until February 13, 1989.

ADDRESSES: Submit comments to Paul Connor, Program Development Branch, Office of Water Enforcement and Permits, (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The public record for this proposed regulation is available at the EPA library, M2904, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Paul Connor, Program Development Branch, Office of Water Enforcement and Permits, (EN-336), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 475-9537, or Judith Leckrone, Monitoring and Data Support Division, Office of Water Regulations and Standards, (WH-553), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-7056.

SUPPLEMENTARY INFORMATION:

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I. Authority

These regulations are issued under the authority of the Clean Water Act, 33 U.S.C. 1251 *et seq.*

II. Background

EPA's surface water toxics control program uses several key terms. For the convenience of the reader and for the purposes of this preamble, these terms are described as follows:

"Narrative standard" refers to a narrative water quality standard adopted by a State under section 303(c) of the Clean Water Act. All States have adopted a narrative standard that prohibits the discharge of toxic pollutants in toxic amounts.

"Priority pollutant" refers to the 126 pollutants described at 44 FR 34393 (1979), as amended by 46 FR 2266 (1981), and 46 FR 10723 (1981). The 126 priority pollutants are derived from the 65 classes of compounds listed at 40 CFR 401.15.

"Toxic pollutant" means any pollutant listed as toxic under section 307(a)(1) of the CWA. EPA has listed 65 classes of compounds under section 307(a)(1) of the CWA, and these 65 classes are listed at 40 CFR 401.15.

"Toxics" refers to any pollutant or combination of pollutants which causes toxicity to aquatic life or terrestrial life, or causes adverse human health impacts.

"Whole effluent toxicity" means the aggregate toxic effect of an effluent measured directly with a toxicity test. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. Like biochemical oxygen demand (BOD), which is also a biological measurement, toxicity can be limited in an NPDES permit.

A. EPA's Surface Water Toxics Control Program

EPA has described its surface water toxics control program in several documents. These descriptions are not repeated here, but the reader is referred to these documents for more information on EPA's approach for controlling discharges of toxic pollutants. On March 9, 1984, EPA published a document called "Development of Water Quality-Based Permit Limitations for Toxic Pollutants: National Policy" 49 FR 9016 (1984). The policy emphasizes EPA's integrated approach in the NPDES permit program for assessing and controlling the discharge of toxic pollutants to the nation's surface waters.

Two preambles to EPA's rulemakings also describe EPA's surface water toxics control strategy. The preamble to EPA's NPDES regulations (45 FR 33520 (1980)) emphasizes that NPDES permits must contain limitations reflecting the most stringent of technology-based or water quality-based controls for toxic pollutants. The second preamble discussion (49 FR 37998 (1984)) emphasizes the need to establish

effluent limitations in NPDES permits to control toxic pollutants. This preamble also describes several regulations in Part 122 that require dischargers to identify and report the presence of toxic pollutants in discharges.

EPA's regulations also reflect the Agency's surface water toxics control strategy. Part 131 of EPA's regulations describes the process for developing, reviewing, revising, and approving State water quality standards. Part 122 describes the general NPDES permit regulations, and these regulations require NPDES permits to include conditions necessary to achieve water quality standards. Part 125 describes the technology-based methods for controlling toxic pollutants. Part 129 contains effluent standards for certain toxic pollutants, and Part 130 describes EPA's program for identifying waters affected by toxic pollutants.

EPA has also developed standard procedures, policies, and guidance documents necessary to support the toxics control program. The "Water Quality Standards Handbook" (October 1983), describes how to develop water quality standards and describes the procedures that a State should follow in adopting water quality standards. (The Handbook is available from the Criteria and Standards Division (WH–585), U.S. EPA, 401 M Street SW., Washington, DC 20460.) Two important guidance documents that support EPA's toxics control program are the "Technical Support Document for Water Quality-Based Toxics Control," (TSD), EPA 440/4–85–032, September, 1985, and the "Permit Writer's Guide to Water Quality-Based Permitting," (EPA 440/4–87–005, July 1987. (Both documents are available from the Permits Division (EN–336), U.S. EPA, 401 M Street SW., Washington, DC, 20460.) The Technical Support Document (TSD) provides a detailed technical explanation of biological and chemical techniques to assess and control toxic pollutants and toxicity. The TSD explains how to assess aquatic toxicity and how to calculate the risk to human health of an effluent, explains wasteload allocation modeling, and explains the equations for deriving water quality-based effluent limits. The Permit Writers Guide gives State and Federal NPDES permit writers a step-by-step methodology for deriving water quality-based effluent limits for toxic pollutants and toxicity.

B. Section 304(l) and its Relationship to EPA's Surface Water Toxics Control Program

Section 304(l) of the CWA reinforces EPA's on-going program to identify and control discharges of toxics. Section 304(l) requires the States to submit four lists to EPA for review and approval on or before February 4, 1989. The statutory language of section 304(l) requires the listing of waters for which water quality standards will not be achieved due "* * * to discharges from point sources of any toxic pollutants listed pursuant to section 307(a); * * *." The toxic pollutants identified under section 307(a) of the CWA refer to categories and classes of pollutants that can include thousands of compounds. EPA's water quality criteria and effluent guidelines focus on a list of 126 "priority pollutants" which are common, widely used chemicals for which toxicological data are available. Therefore, EPA will address the 126 priority pollutants for the purposes of implementing section 304(l), and will use this term when describing the regulatory requirements governing the control of toxic pollutants under section 304(l) of the CWA.

The four lists required by section 304(l) are described as follows, and are identified by their corresponding paragraphs in section 304(l)(1):

1. (A)(i)—A list of those waters in the State which, after application of technology-based effluent limits, cannot reasonably be anticipated to attain or maintain water quality standards for priority pollutants adopted under section 303(c)(2)(B) of the CWA;

2. (A)(ii)—A list of all waters which, after application of technology-based effluent limits, cannot reasonably be anticipated to attain or maintain that water quality which shall assure protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and allow recreational activities in and on the water;

3. (B)—A list of those waters which, after application of technology-based effluent limits, the State does not expect will achieve applicable water quality standards, due entirely or substantially to point source discharges of priority pollutants;

4. (C)—A list of the point sources of priority pollutants which are believed to be preventing or impairing water quality for waters on the (B) list, and the amount of each priority pollutant discharged by each point source.

The listing requirements of section 304(l)(1) are similar to the requirements of section 303(d) of the CWA and to EPA's regulations at 40 CFR 130.7 and 130.10 which require the States to submit to EPA a ranked list of "water quality limited segments." As part of the existing reporting requirements in Part 130, the States must submit to EPA a list of waterbodies for which technology-based effluent limits are not stringent enough to attain or maintain water quality standards. Because the requirements of section 304(l)(1) are similar to the requirements of section 303(d), EPA is incorporating the listing requirements of section 304(l)(1) into Part 130. These regulations are discussed in more detail in section III.B of this preamble.

In addition to the listing requirements under section 304(l)(1), the States must prepare an individual control strategy (ICS) for all water segments on the (B) list. (The definition of an ICS is discussed in more detail in section III.C of this preamble.) An ICS must require reductions in the discharge of priority pollutants from point sources on the (C) list, which reductions are sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve applicable water quality standards as soon as possible but not later than three years after establishment of the ICS. Where EPA approves a State submittal, the deadline for compliance is as soon as possible but not later than June 4, 1992. Where EPA disapproves a State submittal and promulgates an ICS in lieu of a State, the deadline for compliance is as soon as possible but not later than June 4, 1993.

All ICSs are due to EPA, from States approved by EPA to administer the NPDES program, by February 4, 1989. EPA must approve or disapprove the lists and ICSs by June 4, 1989. When EPA disapproves an ICS, EPA must implement section 304(l)(1) "in cooperation with such State and after notice and opportunity for public comment," by June 4, 1990.

A State's obligation to prepare and submit an ICS to EPA is similar to an approved NPDES State's obligation to prepare NPDES permits and submit the permits to EPA for review. However, section 304(l) establishes new deadlines and procedures for issuing and reviewing some NPDES permits. (Many NPDES permits are not subject to section 304(l). Permits that are not subject to section 304(l) should receive the same priority for reissuance or oversight that the permits would receive regardless of section 304(l).)

Today's proposed rulemaking is one of several EPA actions to implement section 304(l). In March 1988, EPA issued guidance entitled "Implementation of Requirements Under § 304(l) of the Clear Water Act, as Amended" (March, 1988). (EPA published a notice of availability for the guidance on March 18, 1988, and the

document is available by writing to the Permits Division, Office of Water (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.) Until EPA promulgates final regulations under section 304(l), this proposed rulemaking will serve as guidance that supplements EPA's guidance of March 1988 on section 304(l).

EPA has promulgated a final codification rule that incorporated into EPA's regulations the provisions of the WQA relating to the NPDES program and section 304(l). The codification rule is available from the Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 475-9545. The codification rule placed the statutory language of paragraphs (A), (B), and (C) of section 304(l) into 40 CFR 130.10(d). The codification rule also placed section 304(l)(1)(D) and sections 304(l) (2) and (3) into 40 CFR 123.46. These new paragraphs require States to submit lists of waters and individual control strategies to EPA for review. Today's proposed rules supplement the codification rule by defining key terms in section 304(l) and describing Federal and State responsibilities under section 304(l).

C. Purpose and Summary of Today's Proposed Regulations

The purpose of today's proposed rules is to reinforce EPA's surface water toxics control program, and to specify in more detail the requirements of section 304(l). Section 304(l) does not change the direction of EPA's surface water toxics control program, but rather, establishes ambitious deadlines by which EPA and the States must identify and control priority pollutants. While EPA's toxics control policies require control of all toxic pollutants, including but not limited to toxicity and the priority pollutants, the WQA reflects Congress' intent that priority pollutants be addressed on a rapid schedule. After the deadlines of section 304(l) pass, EPA and the States must continue the toxics control program by determining the presence of toxic pollutants in effluents and receiving waters, developing the necessary policies and regulations to control toxic pollutants and toxicity, and establishing effluent limits in permits.

Today's proposed regulations amend three parts of the CFR. Changes to EPA's surface water toxics control program are located in Parts 122 and 123 of the CFR. Part 130 incorporates the proposed regulations for listing waters under section 304(l)(1) (A)-(C), and the proposed regulations for individual control strategies prepared under section 304(l) are located in Part 123.

1. Changes to EPA's Surface Water Toxics Control Program

EPA is proposing several amendments to § 122.44(d). The proposed changes to § 122.44(d) describe the procedures the permitting authority shall use to determine whether an NPDES permit must include a water quality-based effluent limit. The proposed regulations also address the procedures for deriving effluent limits from State narrative or numeric water quality standards. EPA is also proposing to amend paragraph (e) of § 122.44 to clarify that limits to control toxics can include water quality-based limits on conventional and nonconventional pollutants, as well as limits on toxic pollutants. Finally, EPA is proposing to amend the criteria for State program withdrawal in 40 CFR Part 123. These proposed regulations are described in section III.A of this preamble.

2. Changes to 40 CFR Part 130

Today's regulations amend Part 130 to incorporate the listing requirements of section 304(l)(1). Today's amendments to Part 130 incorporate the listing format introduced by section 304(l) into the listing requirements of section 303(d), and make the lists of water and pollutants part of the section 305(b) reports submitted biennially by the State to EPA. (The proposed regulations also establish procedures for EPA's review and approval or disapproval of the lists prepared under section 304(l)). These regulations are described in sections III.B and III.D of this preamble.

3. Changes to 40 CFR Part 123

The proposed changes to Part 123 establish procedures for EPA's approval and disapproval of the ICSs prepared under section 304(l). Today's proposed rules provide for public participation in reviewing the ICSs, and also establish the criteria EPA will use to evaluate the adequacy of ICSs. These proposed regulations are discussed more fully in sections III.C and III.D of this preamble.

EPA believes that today's proposed rules and preamble will assist the States and the public at large in developing a better understanding of EPA's surface water toxics control program. Today's rulemaking will also ensure that the activities carried out under section 304(l) will be consistent with EPA's statutory obligations and national policy for controlling toxic pollutants and whole effluent toxicity.

III. Section-by-Section Analysis

This section discusses today's proposed rules in four parts. Part A describes proposed regulations that amend and clarify EPA's existing surface water toxics control program. Part B describes the requirements for identifying and listing waterbodies under paragraph l of section 304(l). Part C discusses the requirements for preparing and reviewing ICSs, and Part D discusses the procedures for reviewing and approving or disapproving the lists and ICSs.

A. Changes to EPA's Surface Water Toxics Control Program

1. Amendments to 40 CFR 122.44

Two of the most important components of EPA's surface water toxics control program are the development and implementation of water quality-based permit limits. The permitting authority (either EPA or a State approved by EPA to administer the NPDES program) uses water quality-based limits when effluent limits more stringent than technology-based limits are necessary to attain or maintain water quality standards. Although section 301(b)(1)(C) of the CWA requires NPDES permits to achieve the effluent limits necessary to attain and maintain water quality standards, the existing NPDES regulations do not describe the procedures for developing water quality-based effluent limits. This section explains today's proposed regulations for developing water quality-based effluent limits.

EPA uses an integrated approach to water quality-based permitting. The integrated approach includes both biological and chemical testing procedures for characterizing effluents and developing effluent limits. EPA's integrated approach to water quality-based permitting is explained more fully in the Technical Support Document and in EPA's National Policy of March 9, 1984 which are described in section II.A of this preamble.

Although EPA has issued detailed guidance on the integrated approach to water quality-based permitting, EPA's NPDES regulations discuss water quality-based effluent limits only in general terms related to achieving water quality standards. Today's proposed regulations will establish minimum consistent procedures for the States, EPA, and the regulated community, to identify those permits that must have water quality-based effluent limits, and to develop water quality-based limits.

a. *A Definition for Whole Effluent Toxicity.* Today's proposed regulations

add a definition for "whole effluent toxicity" to the definitions in 40 CFR 122.2. Whole effluent toxicity is defined as the aggregate toxic effect of an effluent measured directly with a toxicity test. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. The proposed definition is the same definition used in the TSD.

EPA is proposing a definition for whole effluent toxicity because controls for whole effluent toxicity are an essential component of EPA's integrated approach to toxics control. Where controls on individual pollutants do not adequately protect water quality, assessing and controlling whole effluent toxicity is necessary to reduce or eliminate the toxic impact of the effluent. The regulations proposed for § 122.44(d) and (e) in today's rulemaking use the term whole effluent toxicity, and a definition for the term will assist the public in better understanding how controls on whole effluent toxicity are used in EPA's surface water toxics control program.

b. *Narrative Water Quality Standards.* Today's proposed amendments to § 122.44(d) add language to paragraph (d)(1). Paragraph (d) requires NPDES permits to contain effluent limits more stringent than technology-based limits, where more stringent limits are necessary to "achieve water quality standards established under section 303 of the CWA." Today's proposed language amends paragraph (d)(1) to clarify that effluent limits established under paragraph (d) must achieve any State narrative water quality standard as well as numeric water qualtity standards.

c. *Developing Water Quality-Based Effluent Limits.* Today's rulemaking proposes five new subparagraphs for § 122.44(d)(1). The subparagraphs describe the procedures for determining whether a discharge is causing or contributing to a violation of a water quality standard, identify those permits that must have water quality-based effluent limits, and describe several principles for developing water quality-based effluent limits. The Agency has determined that additional clarification of § 122.44(d) is necessary to implement the national water quality-based toxics control program and to implement the recommendations of EPA's national policy, 49 FR 9016 (1984).

The proposed subparagraphs that amend § 122.44(d)(1) are intended to describe procedures for implementing existing State water quality standards and are not intended to suggest that States change existing standards. Section 303(c)(2)(B) of the CWA, as amended, addresses State review and adoption of water quality standards for toxic pollutants listed pursuant to section 307(a)(1) of the CWA. EPA has prepared guidance on section 303(c)(2) which is available from: Criteria and Standards Division (WH-585), Office of Water, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Proposed subparagraph (i) of § 122.44(d)(1) concerns the procedures for determining excursions, or the reasonable potential for excursions, above applicable water quality standards. To determine whether a discharge has a reasonable potential for causing an excursion above a water quality standard, and thus requires a water quality-based effluent limit, the permitting authority must use reliable and consistent procedures. Although the procedures can vary considerably from one State to another, most such procedures account for any dilution of the effluent in the receiving water, after considering mixing zones if applicable, any contributions of the pollutant from upstream point and nonpoint sources, the variability of the pollutant in the effluent, and, when evaluating whole effluent toxicity, the sensitivity of the test species to toxicity testing. Generally, if there is a great deal of dilution of the effluent in the receiving water, then it is less likely that the discharge will cause a violation of a water quality standard.

Similarly, the uncertainty caused by limited data on the concentration of a pollutant in an effluent results in a larger margin of error when determining whether a discharge causes or has the reasonable potential to cause an excursion above a water quality standard. Unless effluent variability is adequately considered, the permitting authority may make erroneous decisions concerning whether to develop permit limitations for a pollutant. Toxicity testing must account for species sensitivity because different test species exhibit different sensitivities to the same effluent.

Subparagraph (i) addresses discharges that cause or have the reasonable potential to cause violations of water quality standards. Because the concentration of a pollutant in an effluent and in the receiving water can vary considerably, it is necessary to address discharges that have the reasonable potential to violate water quality standards. EPA requires water quality-based effluent limits for these discharges in order to ensure compliance with section 301(b)(1)(C) which requires NPDES permits to achieve applicable water quality standards.

Subparagraph (i) should assist the permitting authority in determining whether it is necessary, under Federal regulations, to establish limits for a pollutant. Note, however, that this determination is different from calculating water quality-based effluent limits. Effluent data are not necessary to calculate water quality-based effluent limits: Water quality-based effluent limits may be derived from the water quality standard and available dilution. Effluent data are required only for determining whether a pollutant exists in an effluent at a concentration which is high enough that EPA would require a limit in the NPDES permit.

Proposed subparagraph (ii) of § 122.44(d)(1) provides that a permit must contain water quality-based effluent limits when the permitting authority determines that a discharge causes or has the reasonable potential to cause an excursion above a water quality standard. The proposed rule requires effluent limits for the individual pollutant (where the pollutant is regulated by a State numeric water quality standard) and for whole effluent toxicity (where toxicity is regulated by a numeric State water quality standard). (See proposed subparagraph (iii) for the circumstances under which a permitting authority may forego limits on whole effluent toxicity.) Although the existing NPDES regulations require the effluent limits in a permit to achieve applicable water quality standards, today's proposed regulations specify for the first time that the permitting authority must establish effluent limits for a pollutant if the discharge of the pollutant exceeds a water quality standard.

Proposed subparagraph (iii) requires the permitting authority to establish permit limits on whole effluent toxicity when the discharger causes or has the reasonable potential to cause an excursion above a State's narrative water quality standard. The combination of subparagraphs (ii) and (iii) allow the permitting authority to control toxic discharges by using the appropriate combination of chemical-specific effluent limits and whole effluent toxicity limits.

Proposed subparagraph (iii) allows the permitting authority to choose not to develop whole effluent toxicity limits where the permitting authority can demonstrate that chemical-specific limits will attain and maintain applicable water quality standards, including narrative water quality standards. One method for making this demonstration would be to use toxicity

testing to show that the effluent has no acute or chronic toxic effects on aquatic life.

Proposed subparagraph (iv) addresses the situation in which a State has not adopted a numeric water quality criterion for a toxic, conventional, or nonconventional pollutant that is known to adversely affect or threaten human health or aquatic life. In this situation the permitting authority does not have a numeric criterion to use for deriving a water quality-based effluent limit. The proposed regulation requires the permitting authority to address the discharge of the pollutant using two options. The first option allows the permitting authority to establish permit limits using EPA's Water Quality Criteria guidance documents, if EPA has published a criteria document for the pollutant pursuant to section 304(a) of the CWA. (EPA criteria documents provide a comprehensive summary of available data on the effects of a pollutant, and include maximum ambient concentrations that protect aquatic life and human health.) In the absence of a State numeric criterion for a pollutant, the permitting authority would use the appropriate EPA Water Quality Criteria document to calculate effluent limits for the pollutant in order to comply with applicable State narrative water quality standards (*e.g.*, "no toxics in toxic amounts").

The second option in today's proposed regulations, for controlling a pollutant when a State has not adopted a water quality criterion for the pollutant, allows the permitting authority to establish permit limits using a numeric criterion which the permitting authority demonstrates is protective of aquatic life and human health. When using this approach, States may derive values different from the values in the EPA's water quality criteria documents to reflect site-specific factors, including predicted local human consumption of aquatic foods, as well as the State's determination of an appropriate risk level, and any more recent scientific data that may not be included in EPA's criteria documents. Under this option the permitting authority should use all available scientific information on the effect of a pollutant on human health and aquatic life. Available information includes but is not limited to, risk assessments, exposure data, and site-specific water quality parameters.

Although today's proposed regulations include only two options, EPA is soliciting comment on another option which would allow the establishment of effluent limits on pollutants other than the toxicant of concern such as an indicator parameter. An indicator parameter could be a conventional pollutant like total suspended solids (TSS), the control of which may be tied to a concomitant decrease in metals concentration. In such a case, the permitting authority would have to demonstrate that compliance with a limitation on the indicator parameter or other effluent limit would ensure the control of the toxicant of concern to a level that would attain and maintain applicable State narrative water quality standards, and will protect aquatic life and human health. This demonstration would be made by the State by calculating a criterion pursuant to option 1 or 2 above for the toxicant of concern and a subsequent showing that the effluent limit on the indicator parameter will control the toxicant of concern to the level of the criterion calculated.

EPA is proposing the two options in subparagraph (iv) in order to set permit limits to control discharges (in the absence of State numerical water quality standards for all pollutants of concern) that adversely affect water quality, while at the same time, giving the permitting authority sufficient flexibility to account for site-specific impacts on aquatic life or human health. EPA requests comment on the two options in proposed subparagraph (iv) of § 122.44(d)(1), and the third approach described in this preamble.

The final changes to § 122.44(d)(1) are in proposed subparagraph (v). This proposed subparagraph describes two requirements that the permitting authority must use to derive water quality-based effluent limits.

The first requirement provides that water quality-based effluent limits shall be derived from water quality standards. Under section 303(c) of the CWA, and Part 131 of EPA's regulations, a State must adopt water quality standards (including an antidegradation policy), and submit the standards to EPA for review. Although Part 131 describes the process for adopting and reviewing water quality standards, EPA's permitting regulations in Part 122 do not specify that water quality-based effluent limits must be derived from water quality standards. The proposed language in paragraph (v) clarifies this requirement of the NPDES permitting regulations.

The second requirement in proposed subparagraph (v) for deriving water quality-based effluent limits, is that the water quality-based effluent limits must be consistent with wasteload allocations (WLAs) developed and approved in accordance with 40 CFR 130.7 if a WLA is available for the discharge. A wasteload allocation is defined at 40 CFR 130.2 and reflects the portion of a receiving water's loading capacity that is allocated to a point source. The requirement to use approved wasteload allocations for water quality-based permit limits is implied in current § 122.44(d) because paragraph (d) requires effluent limits to meet water quality standards. Today's proposed language clarifies EPA's existing regulations by stating that when WLAs are available, they must be used to translate water quality standards into NPDES permit limits. Although proposed subparagraph (v) requires the permitting authority to use a wasteload allocation if one has been approved, today's proposed rule does not allow the permitting authority to delay developing and issuing a permit if a wasteload allocation has not already been developed and approved.

Deriving water quality-based effluent limits from water quality standards is the only reliable method for developing water quality-based effluent limits that protect aquatic life and human health. Pursuant to section 303(c) of the CWA, the States adopt water quality standards, and then, under section 303(d), develop total maximum daily loads (TMDLs) to attain and maintain the water quality standards. The TMDLs are used to derive a wasteload allocation for individual pollutants discharged from a point source. This process results in effluent limits that protect aquatic life and human health because the limits are derived from water quality standards.

Proposed subparagraph (v) does not prescribe detailed procedures for developing water quality-based effluent limits. Rather, the proposed regulations prescribe minimum requirements for developing water quality-based effluent limits, and at the same time, give the permitting authority the flexibility to determine the appropriate procedures for developing water quality-based effluent limits. Today's proposed rule clarifies that all water quality-based effluent limits must be derived using procedures that are consistent with today's proposed requirements in § 122.44(d)(1)(v).

d. *Limitations on Toxic Pollutants and Sources of Toxicity.* The final change to § 122.44 proposes to amend paragraph (e). EPA is adding the term "sources of toxicity" to the title of paragraph (e). This change reflects EPA's current approach for controlling toxic pollutants and other pollutants (whether conventional or nonconventional) that cause toxicity.

EPA is redesignating existing paragraph (e)(2) as paragraph (e)(3) and is adding a new paragraph (e)(2) which provides that an NPDES permit must limit any pollutant (whether conventional, nonconventional, or toxic), including whole effluent toxicity, that is or may be discharged at a level that causes or has the reasonable potential to cause an excursion above any water quality standard, including State narrative water quality standards. Today's proposal clarifies that paragraph (e) applies to any pollutant, not just toxic pollutants, and applies to excursions above narrative water quality standards, not just numeric limits in State water quality standards.

Proposed paragraph (e)(2) is necessary because any pollutant regulated under the CWA can adversely affect water quality. The proposed paragraph specifies that NPDES permits must establish limits on any pollutant, where necessary to attain and maintain applicable water quality standards. The proposed paragraph also emphasizes the importance of narrative water quality standards. Narrative standards have the same force and effect as other State water quality standards. Today's proposed regulations emphasize that narrative standards must be implemented, where necessary to satisfy the requirements of section 301(b)(1)(C), and to achieve the goals of the CWA.

EPA is amending redesignated paragraph (e)(3) to clarify that limitations established under § 122.44 (b), or (d), may be satisfied by a combination of limits on whole effluent toxicity and limits on one or more other pollutants.

Today's proposed regulations provide for limits on whole effluent toxicity because such limits are often necessary to attain and maintain water quality standards. Effluent limits on toxic, conventional, and nonconventional pollutants may be insufficient to attain and maintain all applicable water quality standards. In these cases limits on whole effluent toxicity should be used to ensure that all applicable water quality standards are achieved.

The proposed paragraph is consistent with EPA's integrated approach to water quality-based permitting, and reflects the language in proposed paragraph (e)(2) which requires effluent limits on any pollutant, and which may require limits on whole effluent toxicity, necessary to achieve water quality standards.

2. State NPDES Program Requirements

The States play a major role in controlling discharges of pollutants to surface waters. The States' role is especially important in those States authorized under section 402(b) of the CWA to carry out the NPDES program. An authorized State carries the primary responsibility for implementing a surface water toxics control program. This section describes proposed amendments to 40 CFR 123.63. The amendments clarify EPA's authority to withdraw a State's NPDES program if the State fails to develop an adequate program for developing water quality-based effluent limits in NPDES permits.

The proposed changes focus on how well a State's NPDES permits protect water quality. If other elements of a State's surface water toxics control program adversely affect the quality of NPDES permit limits, then EPA may include other program elements in its evaluation of a State's NPDES program. For example, if a State fails to use consistent and defensible procedures for developing water quality-based effluent limits, EPA would consider this deficiency when evaluating a State's NPDES program.

EPA is adding this criteria to § 123.63(a) because it is essential for all authorized States to operate effective toxics control programs. An adequate State regulatory program for developing water quality-based effluent limits in NPDES permits should be an integral part of each approved State's NPDES program. EPA requests comments on the proposed criterion in § 123.63 relating to a States program for controlling toxic pollutants.

B. Identification of Waters

Section III.A of this preamble discussed the proposed rules for strengthening EPA's ongoing surface water toxics control program. The remainder of this preamble discusses the requirements of section 304(l) of the CWA and how EPA is incorporating these requirements into EPA's toxics control program. This section (III.B) discusses how EPA and the States will administer the listing requirements of section 304(l), and incorporate them into the ongoing water quality assessment program.

The rules proposed today address two distinct but related actions with regard to the four lists. The first action is the submittal of the lists by the States to EPA on or before February 4, 1989, as required by section 304(l)(1) of the CWA; and the second is the biennial submission of lists to EPA under the authority of sections 303(d) and 305(b) of the CWA. After a description of the lists, the requirements for the initial submittal will be discussed in the next section of this preamble, followed by a discussion of the biennial submission of lists.

1. Description of the Four Lists

The four lists required by section 304(l)(1), paragraphs (A)(i), (A)(ii), (B), and (C) are described below; first, by their statutory language and then followed with a brief clarification of what EPA expects States to include on the lists.

Note, as explained in Section II.B of this preamble, that EPA is implementing section 304(l) listing and control requirements by relying on the priority pollutants rather than the thousands of pollutants potentially encompassed by the term toxic pollutants.

For more information about the lists, see EPA's guidance entitled Implementation of Requirements Under section 304(l) of the Clean Water Act, as Amended (March, 1988).

Paragraph (A)(i) of section 304(l)(1) requires a list of those waters in each State which, after application of technology-based effluent limits, "cannot reasonably be anticipated to attain or maintain water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(c)(2)(B) of the CWA," due to priority pollutants. Section 303(c)(2)(B) refers to the adoption by the States of numeric criteria into their water quality standards for section 307(a) toxic pollutants. Therefore, the (A)(i) list includes only those waters where numeric water quality standards for priority pollutants are not achieved, or are not expected to be achieved due to either point or nonpoint sources of pollution. These are water quality standards which have been reviewed, revised and adopted by the State. Waters impaired by chlorine and ammonia are not included on this list because they are not priority pollutants governed by the section 304(l) requirements which regulate section 307(a) toxic pollutants.

Paragraph (A)(ii) of section 304(l)(1) requires a list of those waters within each State which, after the application of technology-based effluent limitations, "cannot reasonably be anticipated to attain or maintain that water quality which shall assure the protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of shellfish, fish and wildlife, and allow recreational activities in and on the water." EPA interprets this to mean that the State must create a comprehensive list of waters that are impaired or are expected to be impaired by point or nonpoint source discharges of toxic,

conventional, or nonconventional pollutants. This list should include all waters not meeting the goals of the CWA after the application of technology-based effluent limitations, regardless of whether or not a State has adopted numeric water quality standards. This includes waters which are classified for uses that do not meet the "fishable and swimmable" goals of the Act.

Paragraph (B) of section 304(l)(1) requires a list of those waters within each State for "which the State does not expect the applicable standard under section 303 of the CWA will be achieved after the requirements of sections 301(b), 306, and 307(b) are met, due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a)" of the CWA. This list must include all waters which can not achieve either the numeric or narrative water quality standard for a priority pollutant due entirely or substantially to discharges from point sources after application of BAT, pretreatment and new source performance standards. Waters impaired by discharges of chlorine and ammonia are not included on this list since they are not one of the priority pollutants. (Such waters would qualify for the (A)(ii) list.) Waters where impairment is due to discharges of whole effluent toxicity are included on the paragraph (B) list only when the toxicity is due in whole or in part to one or more of the priority pollutants. (Waters where whole effluent toxicity is observed, but is not attributable to a priority pollutant, are to be included on the paragraph (A)(ii) list.)

For all the waters listed on the paragraph (B) list, the State must identify the point sources discharging the priority pollutant(s) as described below and provide individual control strategies for each point source. (See section III.C. of this preamble for more information on Individual Control Strategies.)

Proposed interpretations of the terms "applicable standard," and "due entirely or substantially to discharges from point source," which appear in the statutory language of section 304(l)(1)(B), are discussed in the next section (section III.B.2) of this preamble.

Paragraph (C) of section 304(l) describes the fourth list required to be submitted by the States to EPA. It requires, for each of the segments included on the paragraph (B) list, "a determination of the specific point sources discharging any such toxic pollutant which is believed to be preventing or impairing such water quality and the amount of each such toxic pollutant discharged by each such source." EPA interprets this paragraph to mean that for each water on the paragraph (B) list, the State must list each point source within its jurisdiction that is discharging the priority pollutant(s) to the water which is listed, and the amount of each priority pollutant discharged by each such source. Individual control strategies are to be prepared for each point source discharger on the paragraph (C) list.

Note that every State, as defined by EPA at 40 CFR 122.2, is required to submit lists of waters, sources and amounts whether or not the State is authorized by EPA to administer the NPDES program. However, States that are not approved by EPA to administer the NPDES program are not required to submit ICSs to EPA because an ICS will be, in nearly all cases, a draft of final NPDES permit.

2. Explanation of Terms Used in Section 304(l)(1)(B)

Paragraph (B) of section 304(l)(1) introduces two terms that EPA believes need further interpretation and explanation to ensure consistency among States when preparing the list required by this paragraph. These terms are "applicable standard," and "due entirely or substantially to disharges from point sources." Proposed § 130.10(d) (4) and (5) of today's amendments contain these proposed interpretations.

(a) *Applicable Standard.* For the purposes of listing waters under paragraph (B) of section 304(l)(1), proposed § 130.10(d)(4) interprets the "applicable standard" to mean numeric criteria within State water quality standards for priority pollutants. Further, where State numeric criteria for priority pollutants are not established, EPA proposes to interpret the applicable standard to mean the narrative standard for toxicity (e.g., "no toxics in toxic amounts") where the narrative standard may be violated due to a priority pollutant. Therefore, in the absence of adopted numeric criteria for a priority pollutant, the narrative standard would be used as the basis for listing under section 304(l)(1)(B) by applying EPA national water quality criteria on a chemical-by-chemical basis.

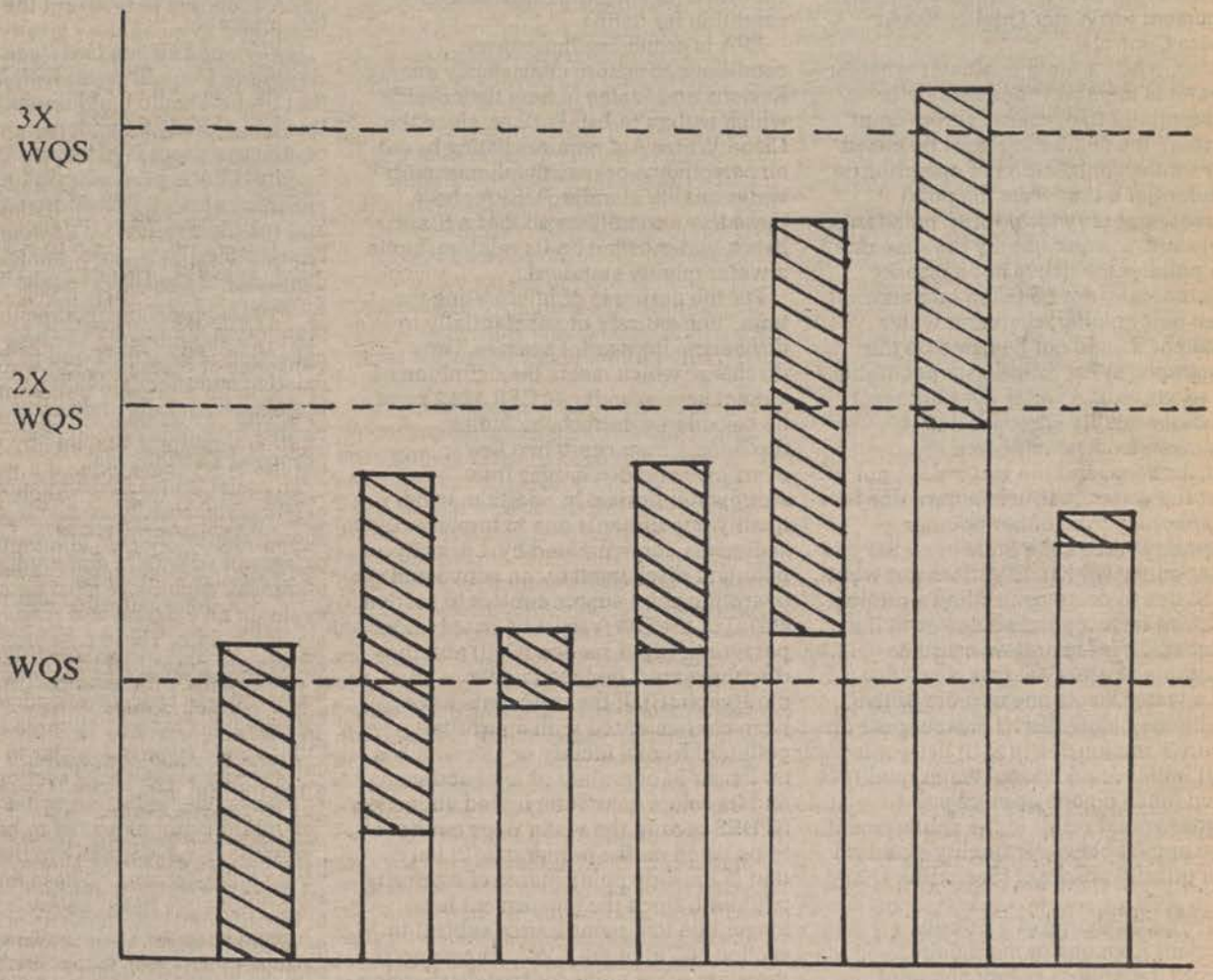
EPA is proposing this requirement in today's amendments because of the absence of State numeric water quality criteria for a priority pollutant, EPA national water quality criteria provide a national uniform baseline by which each of the States may judge if a water is impaired and therefore should be listed. Without this requirement, many waters impaired by priority pollutants could not be listed because some States would lack any benchmark against which to evaluate its waters.

(b) *Due Entirely or Substantially to Discharges from Point Sources.* EPA is proposing in today's amendments, at paragraph 130.10(d)(5), three conditions that would require a water to be listed under paragraph (B) of section 304(l)(1) because the applicable water quality standard is not expected to be met "due entirely or substantially to discharges from point sources." These three conditions are listed below.

(Note: Each condition is followed by numbers which refer to the "discharge scenarios" illustrated in Exhibit A. Scenarios numbered one through six meet one or more of the three conditions below and therefore should be included on the paragraph (B) list. Scenario number seven would not be included on the paragraph (B) list. These scenarios illustrate only a few examples of possible discharge situations. They are included here as guidelines for the States for developing their paragraph (B) list.)

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EXHIBIT A: Illustration for determining if the concentration of a §307(a) toxic pollutant is entirely or substantially due to discharges from point sources



SCENARIOS	#1	#2	#3	#4	#5	#6	#7
ON PARAGRAPH (B) LIST?	YES	YES	YES	YES	YES	YES	NO

POINT SOURCE CONTRIBUTION

NONPOINT SOURCE CONTRIBUTION

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In making the determination of whether a water meets one or more of these conditions, a State should use the critical design flow as established by approved EPA guidance or regulation (for example, EPA's Technical Support Document for Water Quality-based Toxics Control).

Also, when a State evaluates whether a water is impaired "due intirely or substantially to discharges from point sources" the evaluation must be based only on the contribution of one priority pollutant at a time from the point sources, and only for priority pollutants. Therefore, a water quality problem due to a pollutant which is not a priority pollutant may not be taken into account when determining whether a water should or should not be listed on the paragraph (B) list for priority pollutants. For example, if a water does not meet the water quality standard due to chromium from point source contributions, and the water does not meet the water quality standard due to phosphorous from either point or nonpoint sources, the State must list this water on the (B) list. EPA does not want the States to delay controlling a priority pollutant from a point source even if a water still needs controls on other pollutants or other sources.

If a water meets one or more of the conditions below then it must appear on a State's section 304(l)(1)(B) list:

(a) Initial or additional water quality-based limits on one or more point sources would result in the achievement of an applicable water quality standard for a priority pollutant (Scenarios 1, 2, 3) *or*;

(b) The discharge of a priority pollutant from one or more point sources, regardless of any nonpoint source contribution of the same pollutant, would be sufficient to cause a violation of the applicable water quality standard for the priority pollutant (Scenarios 1, 2, 5, 6) *or*;

(c) The contribution of a priority pollutant from one or more point sources is large enough that the applicable water quality standard for that priority pollutant is threatened and additional point source controls are needed to limit the discharge of the pollutant (Scenario 4).

The third condition (c) is included to allow States and EPA to list a water where the point source contribution of a priority pollutant is very large but not large enough to violate the water quality standard alone. As a matter of equity, EPA believes that these waters should be listed and ICSs written for the point source(s) contributing the priority pollutant(s). For example, without this condition, scenario #4 would not be required to be listed even though there is a much larger contribution than scenario #3 which is required to be listed under condition (a). EPA is soliciting comments on whether condition (c) should be included as a condition for listing.

EPA is proposing these three conditions to ensure consistency among Regions and States in how they decide which waters to list. Further, since the Clean Water Act requires listing based on compliance or noncompliance with water quality standards, EPA chose these three conditions so that a State lists a water based on its relationship to a water quality standard.

For the purposes of interpreting the term "due entirely or substantially to discharges from point sources," any discharge which meets the definition of a point source under 40 CFR 122.2 must be considered as such, including discharges from combined sewer overflows and discharges from stormwater drains. In addition, water quality impairments due to in-place sediments contaminated by a priority pollutant discharged by an active and operating point source subject to section 402(a) of the CWA must be listed under paragraph (B) of section 304(l) and the discharge must be listed under paragraph (C). If the sediments have been contaminated with a priority pollutant from a facility or site which is no longer in operation or is abandoned, and therefore cannot be issued an NPDES permit, the water does not have to be listed on the paragraph (B) list if that is the only point source of a priority pollutant, since the impairment is no longer due to a point source subject to section 402(a) of the CWA. However, if there are other point sources discharging the priority pollutant, the water must be listed.

3. Preparation and Review of the Lists

The CWA requires the States to submit the four section 304(l)(1) lists to EPA for review and approval on or before February 4, 1989. Section 130.10(d), promulgated as part of EPA's codification rule for the Water Quality Act, already requires this submission, along with the requirement that these lists be reviewed and approved or disapproved by EPA.

In addition to proposed paragraphs (4) and (5) discussed above, today's proposed rules also add paragraphs (6) through (11) to § 130.10(d). Paragraphs (6) and (7) describe the data that each State must use in developing the lists, and the documentation that each must provide to EPA when submitting lists to EPA. Proposed paragraph (8) describes the basis upon which EPA will approve or disapprove a State's lists. Paragraphs (6) through (8) are discussed in this section of the preamble. New paragraphs (9), (10) and (11) discuss public notice and comment procedures and are discussed in section III.D.2 of this preamble.

(a) *Use of Existing and Readily Available Data.* Because EPA believes that States should build on the work that has already been done in the continuous process of assessing water quality, EPA is proposing in today's amendments that States use existing and readily available data when they develop their lists. Also, the ambitious deadlines of the CWA require EPA to forgo a requirement for lengthy monitoring designs and extensive collection of new data and to rely on existing and readily available data. The proposal that States rely on existing and readily available data appears in proposed § 130.10(d)(6).

To assist States in deciding what existing and readily available data they should rely on, EPA is proposing sixteen categories of waters about which, as a minimum, each State must assemble and evaluate all existing and readily available data. These categories of waters are described in proposed § 130.10(d)(6). EPA considers the existing and readily available information and data about the categories of waters described in § 130.10(d)(6) to be the minimum data and information that a State should assemble and evaluate when preparing lists. States should obtain any other additional data and information needed to identify and determine as accurately as possible which waters and point sources to list. (Existing and readily available data about these categories of waters would also be required by today's proposed amendments to be used, as a minimum, for the development of lists for the biennial submissions under sections 303(d) and 305(b) of the CWA. Biennial submissions of lists are discussed later in this preamble.)

These categories were developed after consultation with EPA Regional Office staff and reflect what EPA considers the minimum existing and readily available water quality data and information that a State and EPA can reasonably obtain. This existing data includes data that States should have developed in the course of reviewing and revising water quality standards, evaluating needs for technology-based or water quality-based controls, developing total maximum daily loads (TMDLs), wasteload allocations and load allocations (WLAs/LAs), issuing

permits, and monitoring to determine the effectiveness of pollution controls. Furthermore, EPA is requiring that the States assemble and evaluate this minimum existing and readily available data because it encourages cooperation and communication among the many Federal, State and local government agencies and private organizations that collect, analyze or report water quality data and information.

EPA is proposing that these specific waters be evaluated for the purposes of section 304(l) because either they are waters which have been reported by the State or other government or private sector agencies as failing to meet water quality standards or as having a high potential for not meeting water quality standards, or they are waters which receive point source discharges. EPA believes that if a State evaluates all waters in these categories it will identify virtually all waters that should be listed.

Information and data about the categories of waters described in § 130.10(d) are of two general types. The first is existing and readily available data and reports from Federal, State, local and private sectors. The second is dilution calculation results generated by EPA and the States for use as a screening tool. These two types of information are discussed below.

There are many existing lists, reports and assessments that provide valuable information to States when identifying and preparing lists of waters. New subparagraph § 130.10(d)(6) designates the minimum specific information and reports which each State must assemble and evaluate in order to identify waters that meet the section 304(l) statutory requirements for listing. These include State section 305(b) reports, Clean Lakes Assessments, the section 319 Nonpoint Source Assessments and the National Priority List prepared under CERCLA, among others. Beyond waters identified by these specific reports, the proposed amendments would require the State to obtain any existing and readily available data about other specific waters which should be considered for listing on one or more of the lists required by section 304(l); for example, waters where fishing bans and recreational restrictions are in effect and waters which have had repeated fishkills. Appendix B of the Final Guidance for Implementation of Requirements under section 304(l) of the Clean Water Act as Amended (March 1988) lists other available data sources that should be consulted.

The second general type of information that EPA is proposing that the States consider, as a minimum, is screening information developed using dilution calculations. Dilution calculations should be conducted to indicate possible exceedances of numeric criteria within State water quality standards (or EPA criteria where State numeric criteria are not available). Dilution calculations should be performed for, but not limited to, all point source discharges of priority pollutants, ammonia and chlorine to help identify waters and dischargers for listing on any of the lists. At a minimum, waters with primary industrial major and minor point source dischargers, major municipal point source dischargers, and waters with federal major point source dischargers must be screened for expected criteria exceedances by performing dilution calculations using site-specific data or, if necessary, data based on national estimates.

EPA emphasizes that to list a water on the paragraph (B) list, that the State does not necessarily have to have enough data to indicate exactly which point source or sources may be causing any observed criteria exceedances or use impairments. It is enough that the data indicate that the applicable water quality standards are not being achieved due entirely or substantially to discharges from point sources. After identifying the water for listing on the paragraph (B) list, the State should then obtain as much discharger-specific data as necessary to identify the dischargers which may be causing the criteria exceedances.

Where ambient data on criteria exceedances are being used to identify waters, the State should use the criteria for designated use support outlined in Figure 1 of EPA's Guidelines for the Preparation of the 1988 State Water Quality Assessment (305(b)) Report. Figure 1 provides guidelines to States in determining the degree to which waters are supporting their designated uses on the basis of frequency of criteria exceedances and comparison of mean value to criteria.

EPA is soliciting comments on the above proposed data requirements being added to § 130.10(d).

(b) *Documentation of Data and Methodologies.* Proposed paragraph § 130.10(d)(7) requires that each State submit to EPA, together with its lists of waters and sources, documentation of all data and methodologies used by the State to develop the lists.

Proposed subparagraph (i) of (d)(7) requires each State to submit a description of the methodology used by the State to develop each of the lists of waters and point sources required by section 304(l). This description of methodology should include assumptions and criteria used by the State when reviewing and analyzing data and information.

Proposed subparagraph (ii) requires the State to provide a description of the data and information used by the State, specifically including which of the categories of waters described in paragraph (d)(6) were used. If a State does not assemble and evaluate data about one of these categories, subparagraph (iii) requires the State to provide as part of its documentation the rationale for deciding not to do so.

Proposed subparagraph (iv) requires the State to provide any other information that the Regional Administrator requests in order to review the State's submission of lists. Specifically, proposed subparagraph (iv) requires a State, if EPA requests, to demonstrate good cause for not including a water or discharger on one or more of the required section 304(l)(1) lists.

"Good cause" may include, but is not limited to, the following:

- More recent or more accurate data,
- More sophisticated water quality modeling,
- Flaws in the original analysis that led to the water being identified in one of the categories, or
- Changes in conditions, e.g., new control equipment, or elimination of discharges.

EPA is proposing these documentation requirements because a Regional Administrator's office may not maintain all the available water quality and discharger data for all of its States. Therefore, part of the review by EPA of a State's submission must necessarily include a review of the data, assumptions and criteria used by the State for listing waters and point sources to ensure that they are consistent with the regulatory requirements for listing. For example, a State's documentation should reflect that the State considered stormwater drains as a point source when determining whether a water is impaired due entirely or substantially to discharges from point sources.

EPA requests comments on the proposed requirements for documentation by a State.

(c) *Review of Lists by EPA.* Section 304(l) requires that all States submit all four lists described above to EPA no later than February 4, 1989. Upon receiving the lists from each State, the Regional Administrator is required to review and then approve or disapprove each State's lists.

In order for EPA to complete its review of a State's lists, the State must

have met the data and documentation requirements in proposed paragraphs (6) and (7). The Regional Administrator will approve each list if the State has met the regulatory requirements for listing under 40 CFR 130.10, and disapprove each list that does not.

If, after reviewing the State lists, available data and any required documentation, the Regional Administrator is satisfied that the State has identified and appropriately listed all waters, then EPA will approve the lists. (See Section III.D of the preamble for a discussion of approval and disapproval procedures.)

4. Biennial Submission of Lists under Section 303(d) and Section 305(b) of the CWA

(a) *Authority to Require Biennial Submission of Lists.* Even before the Water Quality Act of 1987, sections 303(d) and 305(b) of the CWA and implementing regulations required States to identify and list certain waters and pollutants and to report these lists to EPA for review and approval. Therefore, under these two sections of the Act, EPA is proposing today to require States to continue the work begun under the section 304(l) initiative for identifying, listing and reporting waters. The lists required under section 304(l)(1) are similar to the lists required under section 303(d).

Section 303(d) gives EPA the authority to require each State to identify and list the waters within its jurisdiction that do not achieve or are not expected to achieve water quality standards, and to require the State to develop Total Maximum Daily Loads (TMDLs) for these waters under section 303(d). The States must also identify the pollutants preventing the attainment of water quality standards. Section 303(d) also gives EPA the authority to review and approve or disapprove the lists of waters and TMDLs prepared by a State.

Section 305(b) of the CWA requires each State to submit to EPA, biennially, "a description of the water quality of all navigable waters in such State," and a determination of whether a State's waters meet EPA water quality criteria prepared under section 304(a) of the CWA. EPA believes that the lists of water quality limited segments and pollutants required under section 303(d) are important descriptive elements of the water quality of a State. Therefore, EPA is proposing today that, beginning with the 1990 section 305(b) reports, States should report these lists of waters and pollutants required to be identified under section 303(d) and reported to EPA in the format similar to section 304(l) in these biennial reports. EPA requests comments on its proposal to require biennial submission of lists similar to those introduced by section 304(l)(1) of the CWA.

In addition, EPA is proposing today that the State assessments of the quality of all publicly-owned lakes required under section 314(a)(2) of the CWA also be submitted biennially in the section 305(b) reports.

Not only does EPA have the legal authority to require a biennial submission of lists, but there are practical reasons for incorporating the lists introduced by section 304(l) and section 314(a) into the biennial section 305(b) reports. After the States, in cooperation with EPA, have prepared the initial list of waters and facilities it is important for States to continue the newly focused monitoring and assessment efforts begun under section 304(l) and section 314(a).

As EPA and the States develop new data and information after February 4, 1989, waterbodies that have toxicity problems may be identified for the first time. Therefore, EPA is committed to working with the States to identify all waters affected by toxic and other pollutants. In order to identify all such waters and to protect threatened waters, it is necessary to continue the process begun by sections 304(l) and 314(a).

(b) *Proposed Amendments to 40 CFR Part 130.* In order to ensure that waters, pollutants and sources continue to be properly and uniformly identified and reported, EPA is proposing today to amend CFR Part 130 to incorporate some of the identification, listing and reporting requirements introduced by section 304(l) of the CWA. Part 130 currently includes the regulations for section 303(d) and section 305(b) of the CWA.

The following discussion will briefly describe the major requirements of sections 303(d), 305(b) and 304(l), and how the proposed amendments to Part 130 would incorporate and continue some of the elements of section 304(l).

Identification of waters not meeting water quality standards. Both sections 304(l) and 303(d) require the identification of waters not meeting applicable water quality standards.

40 CFR 130.7 now requires the States to identify those water quality limited segments still requiring wasteload allocations and load allocations (WLAs/LAs) and total maximum daily loads (TMDLs). Water quality limited segments are waters which do not or are not expected to meet water quality based standards after the application of Best Available Technology (BAT), pretreatment and new source performance standards, or after any other local, State or Federal pollution control requirement including best management practices.

This requirement to identify water quality limited segments is very similar to the requirements at section 304(l)(1)(A)(i) and (B). These paragraphs require the identification of waters which meet the above definition of water quality limited segments. But section 304(l) specifically requires each State to identify waters that do not meet applicable numeric or narrative water quality standards for priority pollutants, after the application of BAT, pretreatment and new source performance standards. (See section B.1 of this preamble for a detailed description of which waters are required to be identified by section 304(l)(1).)

The proposed amendments to 40 CFR Part 130 would require that each State continue to identify those waters not achieving or not expected to achieve numeric or narrative water quality standards for priority pollutants required by section 304(l)—along with those waters not achieving or not expected to achieve applicable water quality standards for any other pollutant as currently required by section 303(d).

Under today's proposed amendments to section 130.7(b)(2), all of these waters would be reported in a three-list format for listing waters similar to the one introduced by section 304(l). These lists would fulfill the section 303(d) requirements for identifying and reporting certain waters.

Today's proposed amendments to Part 130 include the same interpretation of "applicable standard" and the phrase "due entirely or substantially to discharges from point sources" that is proposed today for the identification and listing of waters under section 304(l)(1)(B). These terms and definitions apply only to the list required under proposed § 130.7(b)(2)(ii). (See earlier discussion in Section III.B.1.)

Identification of waters not meeting the fishable and swimmable goals of the Act. In addition to identifying and listing waters which do not achieve applicable water quality standards, section 304(l) also requires that each State identify and list waters that do not meet the "fishable and swimmable" goals of the Clean Water Act after the application of BAT, pretreatment, and new source performance standards. (These goals are "protection of public health, public water supplies, agricultural and industrial uses, and the protection and propagation of a balanced population of shellfish, fish and wildlife, and * * * recreational activities in and on the water.")

Section 303(d) does not include this requirement for each State to identify, list and report waters not meeting the fishable and swimmable goals of the Act, and therefore this element of section 304(l) is not being incorporated into Part 130 by today's proposed amendments. However, under its section 305(b) authority, EPA can and does require that these waters be identified and reported by each State to EPA in its biennial report. Therefore, these waters must continue to be identified and reported every two years in section 305(b) reports even though they are not required under section 303(d) authority or by today's proposed amendments to § 130.7.

Data requirements for identifying waters. Currently section 303(d) and Part 130 include no specific requirements on what data a State must assemble and evaluate for identifying waters. However, today's proposed amendments would establish such requirements. They incorporate into Part 130 the same data requirements for biennial submission of lists as those proposed today for the 1989 submission of 304(l) lists.

These proposed amendments to Part 130 would require that at a minimum the States assemble and evaluate all the existing and readily available water quality data about the categories of waters described in the proposed § 130.10(d)(6) when identifying waters required to be listed pursuant to section 303(d). (See earlier discussion in section III.2 of this preamble on using these same categories to prepare lists of waters under section 304(l).)

In addition, today's proposed amendments would require that each State submit with its lists of water documentation of the decision methodologies the State employed and the data it reviewed when developing its lists. The proposed amendments also include that if a State creates lists which are not based upon the assembly and evaluation of data and information about waters in all of the categories in § 130.10(d)(6), the State must provide to the Regional Administrator a rationale for the decision not to do so. A specific rationale must be provided for each category not used.

In addition, proposed subparagraph (iv) requires the State to provide any other information that the Regional Administrator requests in order to review the State's submission of lists. Specifically, proposed subparagraph (iv) requires a State, if EPA requests, to demonstrate good cause for not including on one or more of the required section 303(d) lists a specific waterbody or segment.

These requirements for using minimum existing and readily available data about the categories of waters, providing documentation and specific rationales, and demonstrating good cause are the same requirements being proposed today for developing and reporting of the lists required by section 304(l) in February 1989. (See section III.2 of this preamble for a detailed discussion of these requirements.) These proposed amendments to Part 130 appear in § 130.7(b)(2).

EPA is proposing that these requirements be the same for two reasons. First, since the section 303(d) lists under today's proposed regulations would be very similar to the section 304(1) lists submitted in February 1989, EPA believes it is important that they be developed and reviewed on the same basis. Second, EPA believes that these requirements will encourage each State to continually improve its monitoring and assessment programs so that every biennial submission of lists reflects continually updated data.

Identification of sources and pollutants. Section 304(l)(l) requires for every water listed pursuant to paragraph (B), that each State identify the point sources discharging the priority pollutant into the water, and the amount of such pollutant being discharged. Existing Part 130 does not require any such identification of sources and amounts, only the identification of pollutants.

However, in order for EPA and the States to set priorities and to establish control requirements in the NPDES program, EPA believes that States should continue the work started by section 304(l) of identifying point sources of priority pollutants which cause or contribute to water quality standards violations or impairments. Therefore, EPA proposes today to amend § 130.7(b)(3) to require the identification by States of point sources of priority pollutants for waters listed pursuant to § 130.7(b)(2)(ii). This paragraph requires the same list of waters required by section 304(l)(1)(B). The State would not be required to submit this list of sources to EPA as part of its section 305(b) reports, but must still submit it to EPA under separate cover no less frequently than every two years.

EPA will maintain the existing requirement in § 130.7 that for all the waters identified that the State must identify the pollutants which are preventing or are expected to prevent the achievement of applicable water quality standards. This list should be submitted biennially as part of the State's section 305(b) report.

Reporting lists of waters and lake assessments. Section 303(d) and existing § 130.7 currently require each State to submit its lists of water quality limited segments "from time to time." EPA is proposing today to change this schedule for submission to a schedule that would require each State to report to EPA its lists of waters, pollutants and sources no less frequently than every two years. The lists of waters and pollutants would be submitted biennially as part of the State's section 305(b) reports, and the list of sources would be submitted to EPA biennially in the section 305(b) report or under separate cover.

Since the section 305(b) reports must include a description of the State's water quality, EPA believes it would be appropriate and beneficial for each State report to include the section 303(d) lists of waters and pollutants. Regular submission of these lists would allow for more orderly and accurate assessment of each State's progress in meeting water quality program goals. These proposed amendments appear at §§ 130.7(d)(l) and 130.8(b)(5).

In addition, today's proposed amendments add paragraph (6) to § 130.8 to require that lake water quality assessments be submitted biennially as part of each State's section 305(b) report. Section 314(a)(2) of the CWA requires that each State submit biennially to EPA an assessment of the water quality of all publicly-owned lakes. The specific elements of the required assessment are outlined in section 314(a)(1) and include a list and description of those publicly-owned lakes for which uses are known to be impaired, a description of the status and trends of the water quality of each publicly-owned lake, the nature and extent of pollution loadings from point and nonpoint sources and the extent to which the use of each lake is impaired as a result of such pollution. The assessment must also include a description of the methods and procedures needed to control sources of pollution, restore the lake water quality, mitigate the harmful effects of high acidity, and remove toxic metals and other toxic substances mobilized by high acidity.

Priority ranking of waters. Existing § 130.7 requires each State to rank waters identified in order of priority for control actions. When setting priorities, a State must consider the uses of the waters identified and the severity of the pollution. The State should also take into account such factors as the need to improve National Pollutant Discharge Elimination System (NPDES) permit limits, the need for nonpoint source

controls, priority Clean Lake projects and pending State Revolving Loan Fund decisions.

Today's proposed amendments would not change this requirement that each State establish a priority ranking for the waters identified and listed pursuant to section 303(d) and reported biennially in section 305(b) reports.

Developing WLAs/LAs and TMDLs. EPA is not changing the requirement in § 130.7(c) that the States prepare wasteload allocations (WLAs), load allocations (LAs) and total maximum daily loads (TMDLs) for each waterbody identified and listed pursuant to section 303(d).

Review and approval of lists submitted biennially. Section 130.7 and section 303(d) currently require that the Regional Administrator either approve or disapprove lists of waters, WLAs/LAs and TMDLs no later than 30 days after submission by the State. EPA will continue to review and approve or disapprove lists submitted pursuant to section 303(d) and reported in section 305(b) reports. However, the existing regulations do not include specific conditions or requirements that a State must meet in order for each list to be approved.

Therefore, today's proposed amendments to § 130.7(d) would add specific conditions for approval of lists by EPA. These conditions are identical to the ones proposed today as review conditions for the section 304(l) lists. Since today's proposed amendments to § 130.7 would continue the work initiated by section 304(l), it is important that the proposed biennial submissions of lists of waters be reviewed on a basis consistent with review of the section 304(l) lists. These proposed amendments appear at § 130.7(d)(2).

Under today's proposed amendments, in order for EPA to complete its review of a State's lists, the State must have met the data and documentation requirements in proposed paragraphs (6) and (7). The Regional Administrator will approve each list if it meets the regulatory requirements for listing under 40 CFR 130.7, and disapprove each list that does not.

If, after reviewing the State lists, available data and any required documentation, the Regional Administrator is satisfied that the State has identified and appropriately listed all waters, then EPA will approve the lists.

Today's proposed amendments maintain the 30 day review and approval period of section 303(d).

EPA emphasizes that to gain approval for the list required under § 130.7(b)(2)(1), the State must have revised it to reflect the State's most recent triennial review of water quality standards. The list required under § 130.7(b)(2)(1) is a list of waters which do not or are not expected to achieve numeric water quality standards for priority pollutants. Therefore, it is important that as a State revises its water quality standards every three years, as required by section 303(c)(2)(B), that it subsequently identifies waters which do not achieve or are not expected to achieve the new or revised water quality standards.

(c). *A Proposal for a "Two-List" Format for Biennial Submissions.* Instead of continuing to use the section 304(l) format of three lists for the biennial submissions, EPA is considering simplifying the reporting of water quality-limited segments under section 303(d) to only two lists of waters. One list would include all waters not achieving or expected to achieve applicable water quality standards (including standards for whole effluent toxicity) due to any discharges of a priority pollutant, ammonia or chlorine from either point or nonpoint sources. The other list would be of waters not achieving or not expected to achieve water quality standards due to all pollutants from either point or nonpoint sources. (The first list described, the "toxics list," would be a subset of the second list.) The applicable water quality standard would continue to be defined, as it is now for section 304(l), as any State numeric or narrative standard of EPA criteria in the absence of State standards.

The rationale for using two lists instead of three is that the distinctions among the three lists required by section 304(l)(1) are subtle and can be confusing. Furthermore, the section 304(l) format focuses on identifying priority pollutants discharged from point sources. Though these specific pollutants cause many of the nation's water quality problems, whole effluent toxicity, point source discharges of ammonia and chlorine, and discharges from nonpoint sources continue to cause major water quality problems. By using this two-list format, EPA would hope to encourage States to identify and prioritize for control all of their water quality problems, along with continuing the section 304(l) initiative to identify and control priority pollutants.

EPA is soliciting comments on requiring only two lists of waters under section 303(d) authority. Informally, this proposal has received favorable responses. If normal comments are also as favorable, it is likely that EPA will require a two-list, rather than a three-list format in the final rule without further opportunity to comment.

C. Individual Control Strategies

In addition to the four lists required by section 304(l)(1), the States must prepare and submit to EPA an individual control strategy (ICS) for each point source on the (C) list. This section describes the minimum requirements of an ICS.

EPA has codified sections 304(l)(1)(D), 304(1)(2), and 304(l)(3) of the CWA into a new section in Part 123–§ 123.46. Section 123.46(a) requires the States to submit ICSs to EPA on or before February 4, 1989, and § 123.46(b) requires EPA to approve or disapprove the ICSs by June 4, 1989. (The codification rule uses the term "Administrator" because the rule adheres closely to the language of section 304(l). However, EPA has now delegated the Administrator's obligations under section 304(l) to the Regional Administrators. Therefore, today's proposed regulations use the term "Regional Administrator.")

Where EPA disapproves an ICS, EPA must prepare the ICS in cooperation with the State. Today's proposed rules add four new paragraphs to § 123.46. Proposed paragraph (c) defines an ICS. Proposed paragraph (d) describes the petitions submitted under section 304(l)(3). Proposed paragraph (e) describes the procedures EPA will use to approve or disapprove ICSs, and proposed paragraph (f) establishes the criteria that EPA will use to evaluate an ICS.

1. Description of an Individual Control Strategy

Section 304(l)(1)(D) provides that an individual control strategy must "* * * produce a reduction in the discharge of toxic pollutants from point sources * * *" identified under section 304(l)(1)(C), which is "* * * sufficient, in combination with existing controls on point and nonpoint sources of pollution, to achieve the applicable water quality standard as soon as possible, but not later than three years after the date of the establishment of such strategy." These elements of an individual control strategy are codifed at 40 CFR 123.46(a).

Today's proposed definition of an ICS includes a final NPDES permit, a draft NPDES permit with a schedule for issuing a final permit, or, for an on-site response action under CERCLA, the decision document for the response action. The following preamble discussion describes each of these elements of the proposed definition in more detail.

EPA has determined that, for most point source discharges to meet the requirements of section 304(l), an ICS should consist of a final NPDES permit for each point source on the (C) list, plus supporting documentation that such permits have adequately considered the impact from the other discharges on the identified segment. A sufficient ICS, therefore, consists of the controls which are developed (NPDES permit limitations and a schedule for achieving such limitations if they cannot be achieved upon permit issuance) and documentation which shows that the controls selected are appropriate and adequate (*i.e.*, fact sheets with information on total maximum daily loads and waterload allocations).

EPA believes this is the correct interpretation of the term "individual control strategy" because paragraph (D) of section 304(l) states that an ICS must reduce discharges of toxic pollutants through "effluent limitations under section 402" of the CWA. Section 402 of the CWA establishes the NPDES program, and the effluent limitations in NPDES permits are the primary control mechanism that EPA and the States use to reduce point source discharges of pollutants. By inserting a reference to the NPDES program in paragraph (D) EPA believes that Congress intended for an NPDES permit to be the primary element of an ICS.

Where a State demonstrates that a final permit cannot be issued by February 4, 1989, a draft permit and supporting documentation may be accepted as an ICS. However, such a draft permit must be accompanied by a schedule indicating that the final permit will be issued on or before February 4, 1990.

EPA's definition of an ICS includes draft permits because the description of an ICS in section 304(l)(1)(D) allows for such an interpretation, and because it is unrealistic to expect final NPDES permits to be prepared for every point source on the (C) lists within the ambitious deadlines of section 304(l). Water quality-based effluent limits can be technically difficult to prepare and are often subject to extensive public comment during the permit development process. Today's proposal to include draft permits in the definition of an ICS requires the permitting authority to prepare the effluent limitations required by section 304(l)(1)(D), but at the same time, gives the States the necessary flexibility to meet the ambitious deadlines of section 304(l).

A draft permit prepared as an ICS under section 304(l) must be issued as a final permit within one year of establishment of the ICS. (This one-year period is consistent with the language in section 304(l)(3) which establishes a one year period for implementing the provisions of section 304(l) with respect to disapproved ICSs.) Therefore, if a State submits a draft permit to EPA on or before February 4, 1989, the ICS must be issued as a final NPDES permit on or before February 4, 1990. Although the one-year time period reduces the time available to the permittee to meet the deadlines in section 304(l), the one-year time period for issuing final NPDES permits will, nonetheless, allow the permittee sufficient time to achieve applicable water quality standards before the June 4, 1992 deadline in section 304(l). In the case of State-issued ICSs, the one year time period allows EPA to exercise its authority under section 304(l)(2) if a State fails to issue a final NPDES permit within the one year time period. In the case of EPA-issued ICSs, the ICS may be a draft permit, and like the States, EPA would also have up to one year in which to issue a final NPDES permit.

Where EPA approves a draft permit as an ICS, EPA's approval is conditioned on the State's meeting the schedule for issuing the final permit. If a State fails to meet the schedule for issuing the final permit, then EPA may exercise its authority to disapprove the ICS and implement section 304(l).

It is possible that some CERCLA sites will be subject to section 304(l) because these sites can be point source discharges of a priority pollutant. If a CERCLA site qualifies for the (C) list under section 304(l), then the site must also satisfy section 304(l)(1)(D) relating to ICSs. For "off-site" response actions, the CERCLA site discharger must obtain an NPDES permit, and will therefore satisfy section 304(l) in the same way as other point sources subject to section 304(l)(1)(C). For "on-site" actions however, the discharger must meet all "applicable or relevant and appropriate requirements" of the CWA, but is exempt under section 121 of CERCLA from the procedural requirements of the NPDES permitting process. Therefore, on-site actions that are subject to section 304(l) will satisfy paragraph (D) of section 304(l) through compliance with applicable or relevant and appropriate requirements under the CWA, as described in the decision document for that on-site response action. Although EPA expects that there will be few CERCLA sites subject to section 304(l), EPA emphasizes that the ICS for any such CERCLA site is subject to the deadlines in section 304(l). The proposed definition of an ICS at § 123.46(c) includes CERCLA decision documents for on-site response actions. EPA solicits comment on this approach for CERCLA sites that are subject to section 304(l)(1)(D).

EPA considered, but rejected, other interpretations of the term "individual control strategy." A water quality management plan prepared under 40 CFR 130.6 cannot be an ICS because these plans are not directly enforceable (although they are binding on the States) and cannot ensure, by themselves, that limitations will be achieved within the deadlines under section 304(l). Enforcement orders and consent decrees, by themselves, are not adequate substitutes for ICSs. However, an enforcement order or judicial decree based on a final and sufficient NPDES permit may accompany an ICS, provided the ICS satisfies all applicable provisions of section 304(l) of the CWA.

The requirement in section 304(l)(1)(D) that an ICS establish effluent limits under section 402 of the CWA, and therefore consist of an NPDES permit, raises several issues when implementing section 304(l). The remainder of section III.C.1 of this preamble discusses the issues that arise from EPA's definition of an ICS.

An NPDES permit usually becomes effective 30 days after a final decision to issue or modify the permit unless an evidentiary hearing is requested under 40 CFR 124.74. Evidentiary hearings can delay the effective date of the permit. Because these potential delays could jeopardize the ability of EPA and the States to meet the deadlines in section 304(l), and because a final permit reflects the final decision of the permitting authority with respect to the permit, EPA will accept a final (but not necessarily effective) NPDES permit as an ICS.

Another issue arising from the definition of an ICS is the role of States that are not approved by EPA to administer the NPDES program. This issue arises directly from an inconsistency in the language of section 304(l). The statute requires States to prepare "effluent limitations under section 402" of the CWA, but some States are not approved by EPA to prepare such limitations. EPA believes the preferred approach for resolving this internal inconsistency in section 304(l) is to require non-approved States to fulfill the same obligations under section 304(l) that they fulfill under the NPDES program. A State that is not approved by EPA to administer the NPDES program will fulfill its obligations under section 304(l)(1)(D) by preparing and submitting wasteload allocations to the Regional Offices for EPA review and approval. Under the NPDES program, non-

approved States assist EPA in issuing permits by providing EPA with background information, wasteload allocations, and certifications under section 401 of the CWA. EPA uses the wasteload allocations to prepare the NPDES permits for the State. The role of non-approved States with respect to ICSs will be the same as their role with respect to NPDES permits. Non-approved States are responsible for preparing wasteload allocations for each point source on the (C) list. It should be emphasized that non-approved States must prepare and submit the required information to EPA within the deadlines of section 304(l). The Regional Offices will prepare and issue, in cooperation with non-approved States, final NPDES permits in the State. EPA's notice of approval and disapproval will use the same format in approved and non-approved States. Although EPA is responsible for issuing the ICSs in non-approved States, EPA is not responsible for preparing the four lists required by section 304(l)(1) in non-approved States. All States, whether approved or non-approved, must submit the four lists to EPA.

Section 304(l) establishes a three year deadline for achieving water quality standards, whereas section 301(b)(1)(C) requires water quality standards to be met by July 1, 1977. The different deadlines in the two sections raise the question of how the two sections interact. EPA believes that Congress did not intend for section 304(l) to repeal the July 1977 deadline in section 301(b)(1)(C). Rather, Congress recognized that permittees will need a reasonable amount of time, not to exceed three years, to comply with new effluent limits that are necessary to achieve new water quality standards, or reinterpretations of existing water quality standards. On the other hand, there is no indication that Congress intended for section 304(1) to be an extension for permittees who have already failed to comply with effluent limitations. Therefore, where effluent limits are based on water quality standards adopted after July 1977, or based on new interpretations of existing standards, the permit may include a compliance schedule. Also, where new effluent limits will require construction or other activities (*e.g.*, wastewater treatment system optimization, pretreatment program implementation, etc.) an ICS may include a compliance schedule for such activities. However, an ICS may not extend a compliance schedule for achieving effluent limits if the permittee has already failed to abide by the compliance schedule. The reason for this distinction is that section 304(l) requires that water quality standards be met "as soon as possible." If a permit already includes a compliance schedule, then the permitting authority has already given the permittee a reasonable time to comply with effluent limits and therefore achieve water quality standards. Where a permit includes a compliance schedule for attaining effluent limits necessary to achieve water quality standards, the compliance schedule usually represents the most expeditious time frame for achieving water quality standards. Therefore, where a compliance schedule has not been met, the ICS cannot extend the schedule. Rather, an enforcement order may be required as part of the ICS.

In addition, it may be necessary to revise technology-based controls to reflect new effluent guidelines or other new information on available controls. If these requirements cannot be met immediately, they may also be addressed by a compliance schedule in an ICS provided the compliance schedule is consistent with current regulations regarding the inclusion of compliance schedules in permits.

It is possible that some permittees may not meet the effluent limits in their NPDES permits on or before the deadline in section 304(l) for achieving applicable water quality standards. For example, the treatment technology may not be immediately available to reduce the discharge of a priority pollutant to the levels necessary to protect aquatic life and human health. In such cases, the NPDES permit may contain a schedule of compliance that leads to compliance with section 304(l) and other requirements of the CWA. (Note, however, that a schedule of compliance must require compliance no later than applicable statutory deadlines.)

If the permittee does not achieve effluent limits within the time specified in the permit (but no later than the applicable deadline in section 304(l)), the CWA provides for a range of enforcement actions. These actions are provided for in section 309 of the CWA and include, administrative orders, administrative penalty orders, and civil or criminal judicial actions. The appropriate enforcement response is determined on a case-by-case basis. In limited cases in the past, EPA has issued administrative orders concurrently with an NPDES permit where the effluent limits are effective immediately upon permit issuance. Factors which are considered when determining the appropriate enforcement response include but are not limited to: The potential impact of the discharge on human health or the environment; the compliance history of the permittee; and any good faith efforts by the permittee to achieve compliance. EPA solicits comment on the best approach for issuing and enforcing permits that cannot meet the deadlines in section 304(l) for achieving applicable water quality standards.

EPA recognizes that there may be situations where compliance with applicable water quality standards will require ICSs for a number of point sources on a stream segment, or may require nonpoint source controls. More than one point source may contribute the same priority pollutant to a waterbody identified on the "B" list, and therefore, controls on only one point source may not achieve water quality standards. In other cases where there are significant loadings of a toxic pollutant from nonpoint sources, effluent limits for the point sources, by themselves, may not attain and maintain applicable water quality standards. (See the discussion of the phrase "entirely or substantially" in section III.B.1 of this preamble.) In these cases, it is EPA's position that an ICS may satisfy the language in paragraph (D) of section 304(l), and in proposed § 123.46(c) (which require the ICS to achieve water quality standards), if the effluent limits for the point source are consistent with a wasteload allocation for the point source. This approach allows the permitting authority to develop an ICS for each point source that, together with other point or nonpoint source controls, is designed to attain and maintain applicable water quality standards. This approach is also consistent with EPA's existing surface water toxics control program, in which each point source is obligated to reduce its contribution of a pollutant according to its wasteload allocation. The result of this approach should be substantial reductions in point source contributions of priority pollutants, which is consistent with Congress' intent in enacting section 304(l).

Where a waterbody on the (B) list has a significant nonpoint source of a priority pollutant that could impede progress toward achieving water quality standards, EPA and the States should address the nonpoint source using all available authorities including State and local authorities and section 319 of the CWA. (Note that where point and nonpoint sources on the same waterbody contribute different priority pollutants, the degree of nonpoint source contributions will not affect the decision whether to list the water under paragraph B of section 304(l)(1). For

more information see the discussion of the (B) list in section III.B of this preamble.)

Nonpoint sources are part of the process of developing water quality-based effluent limits for point sources because nonpoint sources are considered when developing TMDLs and WLAs under section 303(d) of the CWA. EPA emphasizes that nonpoint source controls can make significant improvements in water quality. For many waters, the most significant sources of pollutants are nonpoint sources. Furthermore, nonpoint source controls are, in some cases, more cost-effective than point source controls. The wasteload allocation process gives States the flexibility to allocate wasteloads among various points and nonpoint sources on an affected waterbody, in order to maximize environmental benefits while keeping control costs to a minimum. Thus where possible, WPA encourages the States to use nonpoint source controls to meet the objectives of section 304(l) of the CWA.

Section III.B.1 of this preamble explains that a waterbody may qualify for the (B) list if the source of the priority pollutant is sediment deposited or contaminated by an active point source subject to section 402 of the CWA. For example, the effluent from an active point source discharge may contain priority pollutants that are deposited as sediments in the receiving water, or the effluent may contaminate existing sediment in the receiving water. In such cases the sediment can interfere with the designated use of the water, and the releases can cause excursions above applicable water quality standards. Where contaminated sediment is caused by an active point source, it is EPA's position that the point source is responsible for the priority pollutants. It is EPA's goal that the ICSs for these active point sources achieve applicable water quality standards within the timeframes of section 304(l). However, because controls for in-place sediments raise unique problems for the NPDES program, an ICS for such a point source should, wherever possible, prevent additional accumulation or contamination of the sediments that are the source of the toxic pollutant.

Under EPA's interpretation of section 304(l) all permits, including final or effective permits for point sources subject to section 304(l)(1)(C) must be included in the review required by section 304(l). It is EPA's position that section 304(l) gives EPA the authority to reopen a permit before the term of the permit expires regardless of whether the permit has a reopener clause. The authority to reopen final and effective permits is indicated by the language in section 304(l) that requires an ICS to "establish [ ] * * * effluent limitations under section 402." EPA's authority under section 304(l) to reopen final and effective permits is also supported by the fact that the alternatives to reopening permits do not necessarily meet the requirements of section 304(l)(1)(D). The alternatives are: (1) Allow ICSs to be unenforceable plans that might incorporate limitations under section 402 at some later time; (2) omit certain point sources from the section 304(l) process because the permits for these point sources are not due for review under 40 CFR 123.44; or (3) wait until a permit expires (possibly after the deadlines in section 304(l)) to change the terms of the permit. None of these alternatives would satisfy the requirement that ICSs attain water quality standards by the deadlines in section 304(l). Therefore, EPA will review, and possibly disapprove under section 304(l), final or effective permits, regardless of whether the permit has a reopener clause.

In enacting section 304(l) Congress mandated that EPA and the States act expeditiously to control point sources of priority pollutants. Congress established, in section 304(l), a new process for reviewing permits. To implement section 304(l), EPA will use existing procedures where possible. However, EPA will use the section 304(l) process where pre-existing regulatory procedures are inconsistent with the section 304(l) review process. For example, EPA's regulations at 40 CFR 123.44 describe the procedures for EPA's objections to permits prepared by the States. (Section 402 of the CWA establishes conditions that are prerequisites to EPA's authority to issue permits in approved States. For example, section 402 requires an approved State to submit a permit to EPA for review and requires EPA to object in writing within ninety days, as prerequisites to EPA's authority to issue the permit.) Although the procedures under section 304(l) provide an equivalent opportunity for State-EPA cooperation in the development of permits, section 304(l) also gives EPA the authority to issue permits where the State fails to issue permits that satisfy section 304(l). Under the existing regulations the State submits a proposed permit to EPA, and EPA then has 90 days to object to the terms of the permit. After EPA's objection, the State has 90 days to request a public hearing or to re-submit the permit to EPA. If EPA grants a public hearing, the State may re-submit the permit within 30 days after the Administrator issues the post-hearing decision. If the State does not re-submit the permit within the time limits in § 123.44, the exclusive authority to issue the permit passes to EPA. These procedures are not appropriate for the section 304(l) review process. First, EPA must review final or effective permits in the ICS review process, not just draft or proposed permits. Second, section 304(l) gives EPA a specific deadline by which to review an ICS, not the 90 days provided for in § 123.44. Third, section 304(l) makes no provision for the State to resubmit a disapproved ICS. Rather, section 304(l) directs EPA to work in cooperation with the State in preparing and implementing EPA's ICSs. Finally, section 304(l) requires EPA to provide for public notice and an opportunity to comment on the ICSs, not just an opportunity to request a hearing as provided under § 123.44. Taken as a whole the ICS review process is inconsistent with the permit review process under § 123.44. Therefore EPA will not use the permit review and objection procedures set forth in Part 123 when reviewing ICSs. Instead, EPA will review and approve or disapprove an ICS using the criteria and procedures set forth in today's proposed amendments to 40 CFR 123.46.

For disapproved ICSs, EPA will use existing procedures to issue these ICSs. After EPA disapproves an ICS that is a draft or final NPDES permit, the Agency will use the procedures described in 40 CFR Part 124 to issue a final ICS. If EPA disapproves a decision document for an on-site response action under CERCLA, the Agency will use the procedures under CERCLA for issuing these ICSs.

EPA expects that many of the ICSs that are subject to section 304(l) will be final State-issued permits that EPA has previously reviewed under 40 CFR Part 123. When a State submits an ICS to EPA for review under section 304(l), any previous EPA decision to not object to the permit under Part 123 does not waive EPA's authority to review and approve or disapprove the ICS under section 304(l). If EPA reviewed a permit under Part 123, EPA reserves the right to review the same permit under the provisions of section 304(l).

2. Technical Review Criteria

Section 304(l) requires an ICS to achieve applicable water quality standards as soon as possible but not later than three years after the ICS is established. Although this language establishes a general standard for evaluating an ICS, the language says little about the permit conditions

necessary to ensure that applicable water quality standards will be achieved. EPA is proposing review criteria in 40 CFR 123.46(f) that will assist the Regions, States, and regulated community in evaluating whether an ICS meets the requirements of section 304(l).

The criteria that EPA will use to review ICSs are the same as the criteria EPA uses to review the water quality-based effluent limits for any permit. Section III.A of this preamble discusses proposed amendments to § 122.44 (d) and (e). These proposed amendments describe how to establish water quality-based effluent limits in NPDES permits. Effluent limits derived from water quality standards must satisfy the proposed language for § 122.44 (d) and (e). The proposed regulations at § 123.46(f), provide that ICSs shall be reviewed according to the criteria in § 122.44 (d) and (e). EPA is also amending § 123.44(c) to incorporate the review criteria for ICSs into EPA's criteria for reviewing other permits not subject to section 304(l). Section 123.44(c) enumerates the criteria that EPA may use to review State-issued permits. By using the same criteria for reviewing ICSs and for reviewing permits that are not subject to section 304(l), EPA is insuring consistency in reviewing the technical adequacy of these two categories of permits.

Where EPA disapproves an ICS, section 304(l)(3) requires EPA to implement section 304(l) in a manner which will achieve applicable water quality standards on or before June 4, 1993. A final permit issued after EPA disapproves the permit under section 304(l) must include language in the fact sheet or statement of basis that identifies the permit as an ICS that satisfies the requirements of section 304(l) of the CWA. This requirement is similar to the language in draft permits subject to section 304(l) which identifies the permit as an ICS. The language in the final permit will identify for the public and the regulated community those ICSs which satisfy the requirements of section 304(l).

D. EPA Review of Lists and Individual Control Strategies

Section 304(l) requires EPA to review and approve or disapprove the lists and ICSs submitted by a State. If a State fails to submit the lists or ICSs, or if a State submits inadequate lists or ICSs, then EPA must disapprove the lists or ICSs. Section 304(l)(2) gives EPA 120 days to approve or disapprove a State's submittal, and where EPA disapproves a list or ICS, section 304(l)(3) requires EPA to implement section 304(l)(1) on or before June 4, 1990. Today's proposed rules establish the same review procedures for the lists and for the ICSs. (Note, however, that the regulations describing the notice and comment procedures for the lists are separate from the regulations for the ICSs because Part 130 addresses State lists of waters, and Part 123 addresses EPA review of permits.)

The procedures described in this section are necessary because the time frame in EPA's existing procedures for reviewing similar State submittals are different from the deadlines established by section 304(l). For example, section 303(d) of the CWA and EPA's implementing regulations at § 130.7 include procedures for reviewing State submittals of "Water quality limited segments" under section 303(d) of the CWA. It is unrealistic for the Regional Administrator to review the lists submitted under section 304(l) within the 30 days allowed by section 303(d).

The first step in the review process occurs when a State submits its lists and ICSs to the appropriate Regional Office for review. The States' deadline for submitting the lists and ICSs is February 4, 1989, and the Regional Offices must approve or disapprove the lists and ICSs by June 4, 1989. EPA's deadline for approving or disapproving the lists and ICSs is June 4, 1989 and does not change if a State submits its lists or ICSs before February 4, 1989. If a State submits its lists and ICSs after the February 4, 1989 deadline, then it will be difficult for EPA to meet the June 4, 1989 deadline for approving or disapproving a State's submittal.

1. Partial Approval and Disapproval of State Submittals

Section 304(l) gives EPA the discretion to approve or disapprove an entire list of waters or facilities, or to approve or disapprove individual waters of the list, or individual point sources on the (C) list. EPA has the same discretion to approve or disapprove one or more ICSs. The basis for this conclusion is the requirement in section 304(l) that EPA implement the listing and ICS requirements of the statute where the State fails to submit an ICS in accordance with paragraph (l). Submission of an ICS in accordance with paragraph (l) includes listing the water where appropriate, and preparing an adequate ICS. For simplicity EPA has decided to refer to approvals or disapprovals of a listed waterbody rather than an entire list of waterbodies.

As described in section III.B.1 of this preamble, section 304(l) requires each State to submit three lists of waters to EPA. EPA will review each waterbody on each of the three lists. If the waterbody meets the criteria described in the proposed regulations at § 130.10(d) of today's rulemaking, then EPA will approve the State's decision to list that waterbody. If EPA identifies a waterbody that qualifies for one or more of the three lists of waters, and the State had not included the waterbody on the appropriate list(s), then EPA will disapprove the State's decision to not list the waterbody under the applicable paragraph(s) in its notice of approval and disapproval. For example, if a State included a waterbody on the (A)(i) list, but not on the (B) list, and if EPA determined that the waterbody qualified for both lists, then EPA would approve the decision to list the waterbody on the (A)(i) list, but would disapprove the State's decision to not list the waterbody under the (B) list. Another example is where a State does not include a waterbody on any of the three lists, but EPA determines that the waterbody qualifies for one or more of the lists. EPA would disapprove the State's decision to not list the waterbody under each paragraph for which the waterbody qualifies.

EPA also has the authority to disapprove the listing of a waterbody by a State if the waterbody does not qualify for the list. For example, if the State includes a waterbody on the (B) list, and EPA determines that the waterbody does not qualify for the (B) list, EPA would disapprove the State's listing of the waterbody on the B list, and indicate this decision in EPA's notice of approval or disapproval.

EPA will also review each point source on the (C) list. EPA will approve the listing of each point source that meets the criteria in section 304(l)(1)(C). EPA will disapprove the listing of any point source that does not satisfy section 304(l)(1)(C), and will disapprove a State's decision to not list any point source that meets the criteria in paragraph C of section 304(l)(1).

Like EPA's review of individual waters, EPA will review each ICS, and will approve each ICS submitted by a State that meets the requirements of an ICS. EPA will also disapprove a State's decision to not submit an ICS if EPA determines that the State should have included the ICS in its submittal to EPA. The notice of approval and disapproval, explained in the following section, will include EPA's decisions with respect to each water, point source, and ICS.

2. Public Notice of Approval or Disapproval

Under section 304(l)(3) of the CWA, if a State fails to submit one or more waters or ICSs, or if EPA disapproves

one or more waters or ICSs, then EPA will implement the requirements of section 304(l)(1) after notice and opportunity for public comment. This section describes the public participation procedures necessary when EPA implements section 304(l). Today's proposed regulations on public participation amend § 130.10(d) (relating to lists of waters), and § 123.46(c) (relating to ICSs).

EPA intends to rely, to the extent possible, on State public participation procedures. EPA encourages the States to provide for full public participation when developing their lists and ICSs under section 304(l). State public participation procedures must, at a minimum, provide for public notice and an opportunity to comment on the State's lists and ICSs. Parts 25 and 124 of EPA's regulations describe procedures for public notice and comment that States may use under section 304(l). The 120-day comment period in section 304(l)(3) does not apply to States because section 304(l)(3) applies only when EPA disapproves one or more ICSs. Where a State does provide adequate public participation on the lists and ICSs, and where the Regional Administrator approves all of a State's decisions with respect to the lists and ICSs, today's proposed regulations give the Regional Administrator the discretion to forego an additional round of notice and comment on the lists and ICSs.

Where the Regional Administrator determines that a State did not provide for adequate notice and opportunity to comment on the lists and ICSs, EPA's notice of approval or disapproval must include all approvals and disapprovals. Such notice would include all of EPA's approvals and disapprovals for all waters and ICSs subject to section 304(l).

If a State provides for adequate public participation, but the Regional Administrator disapproves any of a State's decisions with respect to the waters, point sources, or ICSs, then EPA's notice must include each of the Agency's disapprovals. In this case it is not necessary for the notice to include EPA's approvals of a State's decisions under section 304(l). However, the Regional Administrator has the discretion to include EPA's approvals in the notice provided under section 304(l). (*See* proposed 40 CFR 123.46(e) and 130.10(d)(7).)

The proposed rules require the Regional Offices to mail a copy of the notice to the State Director, to each permittee identified as a point source under section 304(l)(1)(C), and to every interested person on the mailing list maintained by the Regional Office. (Interested persons may contact the appropriate Regional Office for more information about the mailing lists maintained in each Region.) The proposed rule also requires the Regional Administrator to publish a notice of availability in a daily or weekly newspaper with State-wide circulation. (*See* proposed 40 CFR 123.46(e) and 130.10(d)(7).) The notice of availability tells the public where to obtain copies of EPA's notice of approval or disapproval. Under today's proposed rules, public participation for the lists and ICSs occurs at the same time, and the Regional Offices will probably use the same notice for the lists and ICSs.

EPA considered notice in the **Federal Register** as an alternative to today's proposal. However, a **Federal Register** notice does not necessarily provide actual notice to the parties involved, whereas a direct mailing to the interested parties provides actual notice. A **Federal Register** notice takes more time to prepare and publish than notification by mail. Finally, a notice in the **Federal Register** is not necessarily appropriate because the lists are primarily of State-wide concern.

EPA considered providing notice and an opportunity for comment on a State's submittal before issuing a notice of approval or disapproval. EPA rejected this approach because such notice is not required under section 304(l) and because the ambitious deadlines in section 304(l) preclude public notice and comment before EPA approves or disapproves a State's lists and ICSs. EPA solicits comment on the methods that should be used for providing notice of the approvals and disapprovals.

a. *Contents of EPA's Notice of Approval or Disapproval.* Today's proposed amendments to § 123.46 and to § 130.10(d) describe the contents of the public notice provided under section 304(l). If the Regional Office combines the notice for the lists and ICSs, then each notice would include the following:

1. The name and address of the EPA office that reviews the State's submittals.

2. A brief description of the 304(l) process. For example, the notice should describe the requirement to identify point sources of toxic pollutants, and should discuss EPA's review of the State's submittal.

3. A list of the waters disapproved under paragraph (A)(i), (A)(ii), and (B), and a short finding that the waters do not meet the applicable review criteria.

4. A list of point sources disapproved under paragraph (C) of section 304(l)(1), and a short finding that the point sources do not satisfy the criteria of paragraph (C).

5. A list of ICSs disapproved under paragraph (D) of section 304(l)(1) and a short finding that the ICSs do not meet the applicable review criteria.

6. If the Regional Administrator determines that a State did not provide adequate public notice and an opportunity to comment on the waters, point sources, or ICSs prepared under section 304(l), or if the Regional Administrator chooses to exercise his or her discretion, a list of approvals and a short finding that the approved waters, point sources, or ICSs meet the applicable review criteria.

7. The name, address, and telephone number of the person at the Regional Office from whom interested parties may obtain more information.

8. The location where interested persons may examine EPA's records of approval or disapproval.

9. Notice that written petitions or comments are due within 120 days.

The contents of these notices are similar to the notices given under 40 CFR 124.10. EPA believes that by using existing procedures wherever possible the agency will minimize the administrative burden of implementing section 304(l).

EPA's notice of approval or disapproval allows 120 days for public comment. The 120-day comment period coincides with the 120 days described in section 304(l)(3), which allows interested persons to petition EPA to list additional waters. Under section 304(l)(3), EPA will consider for listing any navigable water for which any person submits a petition to EPA. Under the statute, interested persons must submit petitions on or before October 4, 1989. Today's proposed rule uses the same 120-day period for receiving petitions and for taking comments on EPA's notice of approval and disapproval. EPA chose to provide a 120-day comment period because it would be impractical to close the public comment period on the notice of approval or disapproval before the statutory deadline for petitions. If EPA closed the comment period before October 4, 1989, it is possible that the Agency would receive petitions for additional listings after the close of public comments. EPA solicits comments on the appropriate notice and comment procedures under section 304(l).

b. *Public Hearings.* EPA is not proposing new regulations for public hearings under section 304(l). The 120-day comment period allows sufficient public involvement in reviewing EPA's decisions with respect to the lists and

ICSs. Furthermore, new regulations for public hearings are not necessary because the Regional Administrator may hold a public hearing if he or she finds a significant degree of public interest in the State's submittal. EPA is soliciting comment on the need for public hearings.

c. *Petitions for Additional Listings.* Under section 304(l)(3), EPA must consider petitions from the public for additional listings of navigable waters. Petitions are due within 120 days after disapproval under section 304(l)(3), and should be submitted to the appropriate Regional Administrator. A petition must identify a waterbody with sufficient detail so that EPA is able to determine the location and boundaries of the waterbody. For example, the petition could identify the waterbody using the name and number assigned to the waterbody by EPA's REACH file. The REACH file is a data base on the nation's surface waters, and the information is available from EPA's Regional Offices. Another method for identifying a waterbody is to use the common name for the waterbody, and give the geographic boundaries for the water. The petition must also identify the list or lists for which the waterbody qualifies, and the petition must explain why the waterbody satisfies the criteria for the list or lists. EPA needs this information to evaluate the petition. If EPA has data that show the water should be listed, and the State has not listed the water, then EPA will disapprove the State's failure to list the water.

Petitions submitted to EPA pursuant to section 304(l)(3) are limited to adding waters to one or more of the three lists of waters prepared under section 304(l)(1). Under section 304(l)(3), an interested party may not petition EPA to delete a water, point source, or ICS from the lists prepared under section 304(l). The relevant language describing petitions under section 304(l)(3) limits the petitions to navigable waters "* * * for listing under [section 304(l)]," and does not discuss deleting waters, point sources, or ICSs from the lists prepared under section 304(l). As a result of the statutory language, the public may submit petitions only for adding waters to one or more lists of waters prepared under section 304(l).

d. *Response to Comments and Petitions.* After the close of the public comment period on October 4, 1989, the Regional Offices will provide, not later than January 4, 1990, a response to the comments and petitions received. The response to comments will be given in the same manner as the first notice. The contents of the response to comments are the same as the first notice of approval or disapproval except for the following changes:

1. The lists of disapproved waters, point sources, and ICSs must reflect any changes made pursuant to comments or petitions received.

2. A brief summary of major comments and petitions received, and EPA's response to the comment or petition.

3. A brief description of the subsequent steps in the 304(l) process. For example, the point sources on the (C) list will require ICSs such that water quality standards will be met by the applicable deadline in section 304(l).

Interested persons will have an additional opportunity to comment on disapproved ICSs. Where EPA disapproves an ICS because it does not meet the requirements of section 304(l), or because the State failed to submit the ICS to EPA for review, section 304(l) requires EPA to prepare an ICS in cooperation with the State after notice and an opportunity to comment. The public notice requirements of section 304(l)(3) will be fulfilled by the public notice procedures followed by EPA or the State when issuing the permit that will constitute the ICS. If EPA disapproves one or more ICSs, then EPA or the State may modify, revoke and reissue, or terminate that ICS using the procedures in 40 CFR Part 124. The procedures in Part 124 require the permitting authority to provide for public notice and an opportunity to comment before issuing a final permit. Therefore, if the permitting authority modifies, revokes and reissues, or terminates a disapproved ICS, the permitting authority must provide for public notice and an opportunity to comment. Judicial review of a disapproved ICS under section 509(b) of the CWA is not available until EPA makes a final decision with respect to the NPDES permit under Part 124 of EPA's regulations. At any time after the Regional Administrator disapproves an ICS (or conditionally approves a draft permit as an ICS), the Regional Office may submit a written notification to the State that the Regional Office intends to issue the ICS. Upon mailing the notification to the State, exclusive authority to issue the permit passes to EPA. This issue is addressed in today's proposed regulations at 40 CFR 123.46(f). EPA is proposing this regulation to clarify the time at which exclusive authority to issue ICSs passes to EPA under section 304(l).

IV. Regulatory Analysis

A. Executive Order 12291

Under section 3(b) of Executive Order 12291 the agency must judge whether a regulation is major and thus subject to the requirements of a Regulatory Impact Analysis. The proposed regulation published today is not major because the rule will not result in an effect on the economy of $100 million or more, will not result in increased costs or prices, will not have significant adverse effects on competition, employment, investment, productivity, and innovation, and will not significantly disrupt domestic or export markets. Therefore, the Agency has not prepared a Regulatory Impact Analysis under the Executive Order. EPA submitted this regulation to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the *Paperwork Reduction Act*, 44 U.S.C. 3501 *et seq.* An Information Collection Request document has been prepared by EPA (ICR No. 1490) and a copy may be obtained from Rick Westlund, Information Policy Branch, U.S. EPA, 401 M Street, SW. (PM–223), Washington, DC 20460 or by calling (202) 382–2706.

The public reporting burden for this collection of information is approximately 730 hours per response for the listing requirements of these proposed regulations, and approximately one hour per response for the preparation of permit issuance schedules. These estimates include 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 the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM–223, U.S. EPA, 401 M Street SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), Federal agencies must, when developing regulations, analyze their impact on small entities (small businesses, small government jurisdictions, and small organizations). This analysis is unnecessary, however, where the agency's administrator certifies that the rule will not have a significant economic effect on a substantial number of small entities. The agency has concluded that this rule will not have a significant economic effect on a substantial number of small entities because today's rulemaking proposes no new requirements for the regulated community. Today's proposed regulations merely establish the procedures for implementing section 304(l) of the CWA, and clarify certain elements of EPA's surface water toxics control program.

List of Subjects

40 CFR Part 122

EPA administered permit programs: The National Pollutant Discharge Elimination System.

40 CFR Part 123

State program requirements.

40 CFR Part 130

Water quality planning and management.

Date: January 4, 1989.

Lee M. Thomas,

Administrator.

PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

1. The authority citation for Part 122 continues to read as follows:

Authority: The Clean Water Act, 33 U.S.C. 1251 et seq.

2. Section 122.2 is amended by adding a new definition as follows:

§ 122.2 Definitions.

* * * * *

Whole effluent toxicity means the aggregate toxic effect of an effluent measured directly by a toxicity test.

3. Paragraph (d)(1) of § 122.44 is revised to read as follows:

§ 122.44 Establishing limitations, standards, and other permit conditions (applicable to State NPDES programs, see § 123.25).

* * * * *

(d) * * *

(1) Achieve water quality standards established under section 303 of the CWA, including State narrative standards for water quality.

(i) When determining whether a discharge causes or has the reasonable potential to cause an in-stream excursion above a narrative or numeric State water quality standard, the permitting authority shall use procedures which account for existing controls on point and nonpoint sources of pollution, the variability of the pollutant or pollutant parameter in the effluent, the sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity), and where appropriate, the dilution of the effluent in the receiving water.

(ii) When the permitting authority determines, using the procedures in paragraph (d)(1)(i) of this section, that a discharge causes or has the reasonable potential to cause an in-stream excursion above the allowable ambient concentration for a State numeric water quality standard, the permit must contain effluent limits for the individual pollutant (where the pollutant is regulated by a State numeric water quality standard) and for whole effluent toxicity (where whole effluent toxicity is regulated by a numeric State water quality standard).

(iii) Except as provided in this subparagraph, when the permitting authority determines, using the procedures in paragraph (d)(1)(i) of this section, and using toxicity testing data or other information, that a discharge causes or has the reasonable potential to cause, an in-stream excursion above the allowable ambient concentration for a State narrative water quality standard, the permit must contain effluent limits for whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the permitting authority demonstrates in the fact sheet or statement of basis of the NPDES permit, using the procedures in paragraph (d)(1)(i) of this section, that chemical-specific limits for the effluent are sufficient to attain and maintain applicable numeric and narrative State water quality standards.

(iv) Where a State has not established a water quality standard for a specific chemical pollutant that is known to adversely affect or threaten human health or aquatic life, the permitting authority must establish effluent limits using one or more of the following options:

(A) Establish permit limits, on a case-by-case basis, using EPA's Water Quality Criteria; or

(B) establish permit limits using a numeric criterion for the pollutant which the permitting authority demonstrates is protective of aquatic life and human health. Such criteria may be derived using the procedures described in EPA's Water Quality Standards Handbook, October 1983, or from an acceptable State criteria development procedure which employs all information available to the State including risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration, and current EPA criteria documents.

(v) When developing water quality-based effluent limits under this paragraph the permitting authority shall ensure that:

(A) The level of water quality to be achieved by limits on point sources established under this paragraph is derived from, and complies with all applicable water quality standards; and

(B) effluent limits developed to protect a narrative water quality standard, a numeric water quality standard, or both standards, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the State and approved by EPA pursuant to 40 CFR 130.7.

* * * * *

4. The introductory text of paragraph (e) of § 122.44 is revised to read as follows:

* * * * *

(e) *Toxic pollutants and sources of toxicity.* Limitations established under paragraphs (a), (b), or (d) of this section, to control pollutants meeting the criteria listed in paragraphs (e)(1) and (e)(2) of this section. Limitations will be established in accordance with paragraph (e)(2) and (e)(3) of this section. An explanation of the development of these limitations shall be included the fact sheet under § 124.56(b)(1)(i).

* * * * *

5. Paragraph (e)(1) of § 122.44 is revised, paragraph (e)(2) of § 122.44 is redesignated as paragraph (e)(3), a new paragraph (e)(2) is added, and redesignated paragraph (e)(3) is amended by adding (iii) as follows:

(e) * * *

(1) Limitations must control all toxic pollutants which the Director determines (based on information reported in a permit application under § 122.21(g) (7) or (10) or in a notification under § 122.42(a)(1) or on other information) are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements

appropriate to the permittee under § 125.3(c).

(2) Limitations must control all pollutants (either conventional, nonconventional, or toxic pollutants) which the Director determines are or may be discharged at a level which will cause or have the reasonable potential to cause an excursion above any State water quality standard, including State narrative standards for water quality.

(3) * * *

(iii) Limitations on whole effluent toxicity which control the combined toxic effects of two or more pollutants. (If the discharge has the potential to adversely affect human health, and if limitations on whole effluent toxicity do not adequately protect against all human health impacts, then limitations on the appropriate specific chemicals must be used to address the potential human health impacts.)

* * * * *

PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for Part 123 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.44 is amended by adding paragraph (c)(8) to read as follows:

§ 123.44 EPA review of and objections to State permits.

* * * * *

(c) * * *

(8) The effluent limits of a permit fail to satisfy the requirements of 40 CFR 122.44(d).

* * * * *

3. Paragraphs (c), (d), (e), and (f) are added to § 123.46 as follows:

§ 123.46 Individual control strategies.

* * * * *

(c) For the purposes of this section the term individual control strategy, as set forth in section 304(l) of the CWA, means a final NPDES permit with supporting documentation showing that applicable water quality standards will be met not later than three years after the individual control strategy is established. Where a State is unable to issue a final permit on or before February 4, 1989, an individual control strategy may be a draft permit with an attached schedule (provided the State meets the schedule for issuing the final permit) indicating that the permit will be issued on or before February 4, 1990. If a point source that is subject to section 304(l)(1)(C) of the CWA is also subject to an on-site response action under section 104 or 106 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 *et seq.*), an individual control strategy may be the decision document (which incorporates the applicable or relevant and appropriate requirements under the CWA) prepared under section 104 or 106 of CERCLA to address the release or threatened release of hazardous substances to the environment.

(d) A petition submitted pursuant to section 304(l)(3) of the CWA must be submitted to the appropriate Regional Administrator. Petitions must identify a aterbody in sufficient detail so that EPA is able to determine the location and boundaries of the waterbody. Petitions must also identify the list or lists for which the waterbody qualifies, and petitions must explain why the waterbody satisfies the criteria for the list or lists.

(e) If the Regional Administrator disapproves one or more individual control strategies, or if a State fails to provide adequate public notice and an opportunity to comment on the ICSs, then, not later than June 4, 1989, the Regional Administrator shall give a notice of approval or disapproval of the individual control strategies submitted by each State pursuant to this section as follows:

(1) The Regional Administrator shall distribute the notice of approval or disapproval given under this paragraph to the appropriate State Director, to each permittee identified in the notice, and to every interested person on the mailing list maintained by the Regional Administrator. The Regional Administrator shall also publish a notice of availability, in a daily or weekly newspaper with State-wide circulation, for the notice of approval or disapproval.

(2) The notice of approval or disapproval given under this paragraph shall include the following:

(i) The name and address of the EPA office that reviews the State's submittals.

(ii) A brief description of the section 304(l) process.

(iii) A list of ICSs disapproved under this section and a finding that the ICSs will not meet all applicable review criteria under this section and section 304(l) of the CWA.

(iv) If the Regional Administrator determines that a State did not provide adequate public notice and an opportunity to comment on the waters, point sources, or ICSs prepared pursuant to section 304(l), or if the Regional Administrator chooses to exercise his or her discretion, a list of the ICSs approved under this section, and a finding that the ICSs satisfy all applicable review criteria.

(v) The location where interested persons may examine EPA's records of approval and disapproval.

(vi) The name, address, and telephone number of the person at the Regional Office from whom interested persons may obtain more information.

(vii) Notice that written petitions or comments are due within 120 days.

(3) Not later than January 4, 1990, the Regional Offices shall issue a response to petitions or comments received under section 304(l). The response to comments shall be given in the same manner as the notice described in paragraph (e)(ii) of this section except for the following changes:

(i) The lists of ICSs must reflect any changes made pursuant to comments or petitions received.

(ii) A brief description of the subsequent steps in the 304(l) process.

(f) EPA shall review, and approve or disapprove, the individual control strategies prepared under section 304(l) of the CWA, using the applicable criteria set forth in section 304(l) of the CWA, and in 40 CFR Part 122, including § 122.44 (d) and (e). At any time after the Regional Administrator disapproves an ICS (or conditionally approves a draft permit as an ICS), the Regional Office may submit a written notification to the State that the Regional Office intends to issue the ICS. Upon mailing the notification, exclusive authority to issue the permit passes to EPA.

(4) Section 123.63 is amended by adding paragraph (a)(5) to read as follows:

§ 123.63 Criteria for withdrawal of State programs.

* * * * *

(a) * * *

(5) Where the State fails to develop an adequate regulatory program for developing water quality-based effluent limits in NPDES permits.

* * * * *

PART 130—WATER QUALITY PLANNING AND MANAGEMENT

1. The authority citation for Part 130 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

2. Section 130.7 is amended by redesignating paragraph (b)(2) as paragraph (b)(10), adding new paragraphs (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), and (b)(9); by revising the first sentence of paragraph (d)(1); and by adding new paragraphs (d)(2) and (d)(3) to read as follows:

§ 130.7 Identification and listing of waters and development of total maximum daily loads (TMDL).

* * * * *

(b) * * *

(2) Each State shall divide the waters required to be identified by paragraph (b)(1) of this section into three lists as described below:

(i) Waters within the State which cannot reasonably be anticipated to attain or maintain water quality standards for such waters reviewed, revised, or adopted in accordance with section 303(C)(2)(B) of the CWA, due to toxic pollutants;

(ii) Waters in the State for which the State does not expect the applicable standard under section 303 of the CWA will be achieved due entirely or substantially to discharges from point sources of any toxic pollutants listed pursuant to section 307(a) of the Clean Water Act;

(iii) All other waters identified under paragraph (b)(1) of this section.

(3) For the purposes of listing waters under § 130.7(b)(2)(ii), "applicable standard" means a numeric criterion for a toxic pollutant within State water quality standards. Where a State numeric criterion for a toxic pollutant is not established in State water quality standards, for the purposes of listing waters "applicable standard" means the State narrative water quality standard (e.g., "no toxics in toxic amounts") interpreted by applying the EPA national water quality criteria on a chemical-by-chemical basis.

(4) If a water meets one or more of the three conditions listed below it meets the requirements for being listed under § 130.7(b)(2)(ii) on the grounds that the applicable standard is not achieved or expected to be achieved due entirely or substantially to discharges from point sources.

(i) Initial or additional water quality-based limits on one or more point sources would result in the achievement of an applicable water quality standard for a toxic pollutant *or;*

(ii) The discharge of a toxic pollutant from one or more point sources, regardless of any nonpoint source contribution of the same pollutant, would be sufficient to cause a violation of the applicable water quality standard for the toxic pollutant *or;*

(iii) The contribution of a toxic pollutant from one or more point sources is large enough that the applicable water quality standard for that toxic pollutant is threatened and additional point source controls are needed to limit the discharge of the toxic pollutant.

(5) Each State shall assemble and evaluate all existing and readily available water quality-related data and information and each State shall develop the lists required by § 130.7(b)(2) based upon this data and information. At a minimum, all existing and readily available water quality-related data and information includes all of the categories of waters listed in § 130.10(d)(6).

(6) Each State shall provide documentation to the Regional Administrator to support the State's determination to list or not to list waters as required by § 130.7(b)(2). This documentation shall be submitted to the Regional Administrator together with the lists required by § 130.7(b)(2) and shall include as a minimum:

(i) A description of the methodology used to develop each list; and

(ii) A description of the data and information used to identify waters, including a description of the data and information used by the State as required by § 130.7(b)(5) and described in § 130.10(d)(6); and

(iii) A rationale for any decision to not use any one of the categories of existing and readily available data required by § 130.7(b)(5) and described in § 130.10(b)(6); and

(iv) Any other information requested by the Regional Administrator. Upon request by the Regional Administrator, each State must demonstrate good cause for not including a water or waters on one or more lists. Good cause includes, but is not limited to, more recent or accurate data; more sophisticated water quality modeling; flaws in the original analysis that led to the water being listed in the categories in § 130.10(d)(6); or changes in conditions, e.g., new control equipment, or elimination of discharges.

(7) The State shall establish a priority ranking for such water quality limited segments identified and listed pursuant to paragraph (b) of this section taking into account the severity of the pollution and the uses to be made of such waters.

(8) For each segment of each list of waters required under paragraph (b)(2) of this section, the State shall identify each pollutant causing or expected to cause violations of the water quality standards.

(9) For each segment of navigable waters included on the list required pursuant to § 130.7(b)(2)(ii), the State shall identify the specific point sources discharging any toxic pollutant which is believed to be preventing or impairing the water quality. The State shall submit a list of these point sources to EPA no less frequently than every two years.

* * * * *

(d) *Submission and EPA approval.* (1) Each State shall submit biennially for approval to the Regional Administrator the lists of waters and pollutants required under paragraph (b) of this section. The lists of waters and pollutants shall be submitted to EPA in the biennial water quality report required by § 130.8 of this part and section 305(b) of the CWA.

* * * * *

(2) The Regional Administrator shall approve or disapprove each list required by § 130.7(b)(2). The Regional Administrator shall approve each list under § 130.7(b)(2) only if it meets the requirements of § 130.7(b)(2) and if the State has met the requirements of § 130.7 (b)(5) and (b)(6).

(3) Each State shall submit to EPA no less frequently than every two years the list of point sources required under § 130.7(b)(9). The list of sources may be included in the State's biennial section 305(b) report under § 130.8 of this part or submitted to EPA under separate cover.

* * * * *

3. Section 130.8 is amended by adding paragraphs (b) (5) and (6) to read as follows:

§ 130.8 Water quality report.

* * * * *

(b) * * *

(5) The lists of waters and pollutants required under § 130.7(b). These lists fulfill the requirements for listing under section 303(d) of the CWA and are subject to the review and approval procedures of that section of the Act.

(6) An assessment of the water quality of all publicly owned lakes, including the status and trends of such water quality as specifically outlined in section 314(a)(1) of the Clean Water Act.

* * * * *

4. Section 130.10 is amended by adding paragraphs (d)(4), (d)(5), (d)(6), (d)(7), (d)(8), (d)(9), (d)(10), and (d)(11) to read as follows:

§ 130.10 State submittals to EPA.

* * * * *

(4) For the purposes of listing waters under § 130.10(d)(2), "applicable standard" means a numeric criterion for a toxic pollutant within State water quality standards. Where a State numeric criterion for a toxic pollutant is not established in State water quality standards, for the purposes of listing waters "applicable standard" means the State narrative water quality standard (e.g., "no toxics in toxic amounts") interpreted by applying the EPA national water quality criteria on a chemical-by-chemical basis.

(5) If a water meets one or more of the three conditions listed below it meets the requirements for being listed under

§ 130.10(d)(2) on the grounds that the applicable standard is not achieved or expected to be achieved due entirely or substantially to discharges from point sources.

(i) Initial or additional water quality-based limits on one or more point sources would result in the achievement of an applicable water quality standard for a toxic pollutant *or;*

(ii) The discharge of a toxic pollutant from one or more point sources, regardless of any nonpoint source contribution of the same pollutant, would be sufficient to cause a violation of the applicable water quality standard for the toxic pollutant *or;*

(iii) The contribution of a toxic pollutant from one or more point sources is large enough that the applicable water quality standard for that toxic pollutant may be exceeded and additional point source controls are needed to limit the discharge of the toxic pollutant.

(6) Each State shall assemble and evaluate all existing and readily available water quality-related data and information and each State shall develop the lists required by paragraphs (d) (1), (2), and (3) of this section based upon this data and information. At a minimum, all existing and readily available water quality-related data and information includes all of the following categories of waters:

(i) Waters where fishing or shellfish bans and/or advisories are currently in effect or are anticipated.

(ii) Waters where there have been repeated fishkills or where abnormalities (cancers, lesions, tumors, etc.) have been observed in fish or other aquatic life during the last ten years.

(iii) Waters where there are restrictions on water sports or recreational contact.

(iv) Waters identified by the State in its most recent State section 305(b) report as either "partially achieving" or "not achieving" designated uses.

(v) Waters identified by the States and reported to EPA as waters needing water quality-based controls.

(vi) Waters identified by the State as priority waterbodies. (State Water Quality Management plans often include priority waterbody lists which are those waters that most need water pollution control decisions to achieve water quality goals.)

(vii) Waters where ambient data indicate potential criteria exceedances due to toxic pollutants from primary industries.

(viii) Waters for which effluent toxicity test results indicate possible violations of State water quality standards, including narrative "free from" criteria or EPA criteria where State standards are not available.

(ix) Waters with primary industrial major dischargers where dilution analyses indicate exceedances of State water quality standards (or EPA criteria where State standards are not available) for toxic pollutants, ammonia, or chlorine. These dilution analyses must be based on estimates of BAT levels from effluent guidelines development documents, NPDES permit application data (e.g., Form 2C), Discharge Monitoring Reports (DMRs), or other available information.

(x) Waters with municipal major dischargers requiring pretreatment where dilution analyses indicate exceedances of State water quality standards (or EPA criteria where State standards are not available) for toxic pollutants, ammonia, or chlorine. These dilution analyses must be based upon data from NPDES permit applications (e.g., Form 2A), Discharger Monitoring Reports (DMRs), or other available information.

(xi) Waters with facilities not included in the previous two categories such as municipal majors, and minors having water quality impacts where dilution analyses indicate exceedances of State water quality standards (or EPA criteria where State standards are not available) for toxic pollutants, ammonia, or chlorine. These dilution analyses must be based upon estimates of BAT levels from effluent guideline development documents, NPDES permit application data, Discharge Monitoring Reports, (DMRs), or other available information.

(xii) Waters classified for uses that will not support the "fishable/swimmable" goal of the Clean Water Act.

(xiii) Waters where ambient toxicity or adverse water quality conditions have been reported by local, State, EPA or other Federal Agencies, the private sector, public interest groups, or universities. These organizations and groups should be actively solicited for research they may be conducting or reporting. For example, university researchers, the U.S. Department of Agriculture Extension Service, the National Oceanic and Atmospheric Administration, the U.S. Geological Society, and the U.S. Fish and Wildlife Service are good sources of field research and activities.

(xiv) Waters identified as having impaired or threatened designated uses in the Clean Lake Assessments conducted under section 314 of the Clean Water Act.

(xv) Waters identified as impaired by nonpoint sources in the 1985 *America's Clean Water: State Nonpoint Source Assessments* (Association of State and Interstate Water Pollution Control Administrators (ASIWPCA)) or waters identified as impaired or threatened in the nonpoint source assessments submitted by States to EPA under section 319 of the Clean Water Act.

(xvi) Surface waters impaired by pollutants from hazardous waste sites on the National Priority List prepared under section 105(8)(A) of CERCLA.

(7) Each State shall provide documentation to the Regional Administrator to support the State's determination to list or not to list waters as required by paragraphs (d)(1), (d)(2), and (d)(3) of this section. This documentation shall be submitted to the Regional Administrator together with the lists required by paragraphs (d)(1), (d)(2), and (d)(3) of this section and shall include as a minimum:

(i) A description of the methodology used to develop each list; and

(ii) A description of the data and information used to identify waters and sources including a description of the data and information used by the State as required by paragraph (d)(6) of this section; and

(iii) A rationale for any decision to not use any one of the categories of existing and readily available data required by paragraph (d)(6) of this section; and

(iv) Any other information requested by the Regional Administrator. Upon request by the Regional Administrator, each State must demonstrate good cause for not including a water or waters on one or more lists. Good cause includes, but is not limited to, more recent or accurate data; more sophisticated water quality modeling; flaws in the original analysis that led to the water being listed in the categories in § 130.10(d)(6); or changes in conditions, e.g., new control equipment, or elimination of discharges.

(8) The Regional Administrator shall approve or disapprove each list required by paragraphs (d)(1), (d)(2), and (d)(3) of this section no later than June 4, 1989. The Regional Administrator shall approve each list required under paragraphs (d)(1), (d)(2) and (d)(3) of this section only if it meets the regulatory requirements for listing under paragraphs (d)(1), (d)(2), and (d)(3) of this section and if the State has met all the requirements of paragraphs (d)(6) and (d)(7) of this section.

(9) If a State fails to submit lists in accordance with paragraph (d) of this section or the Regional Administrator does not approve the lists submitted by such State in accordance with this paragraph, then not later than June 4,

1990, the Regional Administrator, in cooperation with such State, shall implement the requirements of CWA section 304(l)(1) in such State.

(10) If the Regional Administrator disapproves a State's decision with respect to one or more of the waters required under paragraphs (d) (1), (2), and (3) of this section, or one or more of the individual control strategies required pursuant to section 304(l)(1)(D), then not later than June 4, 1989, the Regional Administrator shall give a notice of approval of disapproval of the lists submitted by each State pursuant to this paragraph. The notice shall include the following:

(i) The name and address of the EPA office that reviews the State's submittals.

(ii) A brief description of the section 304(l) process.

(iii) A list of waters, point sources and pollutants disapproved under this paragraph.

(iv) If the Regional Administrator determines that a State did not provide adequate public notice and an opportunity to comment on the lists prepared under this section, or if the Regional Administrator chooses to exercise his or her discretion, a list of waters, point sources, or pollutants approved under this paragraph.

(v) The name, address, and telephone number of the person at the Regional Office from whom interested persons may obtain more information.

(vi) Notice that written petitions or comments are due within 120 days.

(11) Not later than January 4, 1990, the Regional Office shall issue a response to petitions or comments received under paragraph (d)(10) of this section. Notice shall be given in the same manner as the notice descried in paragraph (10) of this section, except for the following changes:

(i) The lists of waters, point sources and pollutants must reflect any changes made pursuant to comments or petitions received.

(ii) A brief description of the subsequent steps in the section 304(l) process shall be included.

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