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Wednesday
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CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

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ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Parts 305 and 310

Recommendations and Statements of the Administrative Conference Regarding Administrative Practice and Procedure

AGENCY: Administrative Conference of the United States.

ACTION: Amendments to 1 CFR Parts 305 and 310.

SUMMARY: This action removes the texts of certain recommendations and statements of the Administrative Conference of the United States from the Code of Federal Regulations.

DATES: These amendments are to be effective February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, Deputy Research Director, Office of the Chairman, 2120 L Street NW., Suite 500, Washington, DC 20037; (202) 254–7065.

SUPPLEMENTARY INFORMATION: While all recommendations and statements of the Administrative Conference of the United States are published in the Federal Register upon adoption, the texts of recommendations and statements are published in the Code of Federal Regulations on a selective basis and their continued publication is subject to periodic review by the Office of the Chairman (*see* 1 CFR 304.2 (a)). By this action, the Administrative Conference removes the texts of specified recommendations and statements from the Code of Federal Regulations to minimize the cost of annual reprinting. Explanatory notes are included for some recommendations, mainly those that called for legislative change that was later enacted or other action or inaction that has been effected or mooted by specific executive and judicial decisions. The titles of all recommendations and statements will continue to be listed in the Code of Federal Regulations and copies of recommendations and statements whose texts have been omitted or removed may be obtained from the Office of the Chairman.

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

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

Authority: 5 U.S.C. 571–576.

2. Part 305 is amended by removing the texts (but not the titles or Federal Register citations) of the following sections and, in some cases, inserting explanatory notes:

§ 305.68–1 Adequate Hearing Facilities (Recommendation No. 68–1).

§ 305.69–9 Recruitment and Selection of Hearing Examiners; Continuing Training for Government Attorneys and Hearing Examiners; Creation of a Center for Continuing Legal Education in Government (Recommendation No. 69–9).

§ 305.70–4 Discovery in Agency Adjudication (Recommendation No. 70–4).

§ 305.71–4 Minimum Procedures for Agencies Administering Discretionary Grant Programs (Recommendation No. 71–4).

§ 305.71–9 Enforcement of Standards in Federal Grant-in-Aid Programs (Recommendation No. 71–9).

§ 305.73–3 Quality Assurance Systems in the Adjudication of Claims of Entitlement to Benefits or Compensation (Recommendation No. 73–3).

§ 305.73–6 Procedures for Resolution of Environmental Issues in Licensing Proceedings (Recommendation No. 73–6).

§ 305.74–3 Procedures of the Department of the Interior with Respect to Mining Claims on Public Lands (Recommendation No. 74–3).

§ 305.75–1 Licensing Decisions of the Federal Banking Agencies (Recommendation No. 75–1).

§ 305.75–2 Affirmative Action for Equal Opportunity in Nonconstruction Employment (Recommendation No. 75–2).

§ 305.76–4 Judicial Review Under the Clean Air Act and Federal Water Pollution Control Act (Recommendation No. 76–4).

§ 305.77–1 Legislative Veto of Administrative Regulations (Recommendation No. 77–1).

Note: This recommendation has become moot as a result of the United States Supreme Court decision, *Immigration and Naturalization Service* v. *Chadha*, 462 U.S. 919.

§ 305.78–1 Reduction of Delay in Ratemaking Cases (Recommendation No. 78–1).

§ 305.79–1 Hybrid Rulemaking Procedures of the Federal Trade Commission (Recommendation No. 79–1).

§ 305.79–5 Hybrid Rulemaking Procedures of the Federal Trade Commission—Administration of the Program to Reimburse Participants' Expenses (Recommendation No. 79–5).

§ 305.79–6 Elimination of the Presumption of Validity of Agency Rules and Regulations in Judicial Review, as Exemplified by the Bumpers Amendment (Recommendation No. 79–6).

Note: Legislation opposed by the Conference in this recommendation was not enacted by the Congress.

§ 305.80–1 Trade Regulation Rulemaking Under the Magnuson-Moss Warranty—Federal Trade Commission Improvement Act (Recommendation No. 80–1).

§ 305.80–5 Eliminating or Simplifying the "Race to the Courthouse" in Appeals from Agency Action (Recommendation No. 80–5).

Note: This recommendation has been implemented by Pub. L. 100–236.

§ 305.81–1 Procedures for Assessing and Collecting Freedom of Information Act Fees (Recommendation No. 81–1).

Note: This recommendation has been largely implemented by Pub. L. 99–570.

§ 305.81–2 Current Versions of the Bumpers Amendment (Recommendation No. 81–2).

Note: Legislation opposed by the Conference in this recommendation was not enacted by the Congress.

§ 305.82-1 Exemption (b)(4) of the Freedom of Information Act (Recommendation No. 82-1).

Note: The President in 1987 issued Executive Order 12600, which requires agencies to follow procedures similar to those recommended by the Administrative Conference.

§ 305.82-3 Federal Venue Provisions Applicable to Suits Against the Government (Recommendation No. 82-3).

Note: Legislation opposed by the Conference in this recommendation was not enacted by the Congress.

PART 310—MISCELLANEOUS STATEMENTS

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

Authority: 5 U.S.C. 571-576

2. Part 310 is amended by removing the texts (but not the titles or **Federal Register** citations) of the following sections:

§ 310.4 Strengthening Regulatory Agency Management Through Seminars for Agency Officials.

§ 310-10 Statement on Agency Use of an Exceptions Process to Formulate Policy.

Michael W. Bowers,

Deputy Research Director.

Dated: February 7, 1989.

[FR Doc. 89-3373 Filed 2-14-89; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 959

South Texas Onions; Expenses and Assessment Rate

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule regarding South Texas onions authorizes expenses and establishes an assessment rate under Marketing Order 959 for the 1988-89 fiscal period. Authorization of this budget allows the South Texas Onion Committee to incur expenses reasonable and necessary to administer the program. Funds for this program are derived from assessments on handlers.

EFFECTIVE DATE: August 1, 1988, through July 31, 1989.

FOR FURTHER INFORMATION CONTACT: Robert F. Matthews, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone 202-447-2431.

SUPPLEMENTARY INFORMATION: This rule is effective under Marketing Order No. 959 (7 CFR Part 959), regulating the handling of onions grown in South Texas. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities.

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

There are approximately 35 handlers of Texas onions under this marketing order, and approximately 75 producers. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

An annual budget of expenses is prepared by the committee and submitted to the Department of Agriculture for approval. The members of the committee are handlers and producers of onions. They are familiar with the committee's needs and with the costs for goods, services and personnel in their local area and are thus in a position to formulate an appropriate budget. The budget was formulated and discussed in a public meeting. Thus, all directly affected persons have had an opportunity to participate and provide input.

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

The South Texas Onion Committee met on October 19, 1988, and unanimously recommended a 1988-89 budget of $379,675 and an assessment rate of 5½ cents per 50-pound container. Regulated shipments during the 1989 season are projected to be 5.76 million 50-pound bags and to yield $316,800 in assessment income. This amount when added to $9,500 from interest and $53,375 from the reserve will be adequate to cover budgeted expenses. Last year's budget totaled $312,380, and the assessment rate was initially established at 5½ cents per container. However, the assessment rate was increased in May to 7 cents per container due to an expected shortfall in production caused by unfavorable weather conditions. The higher assessment rate was deemed necessary to prevent a depletion of the committee's reserve fund.

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

Findings

A proposed rule was published in the **Federal Register** (54 FR 2137, January 19, 1989). That document contained a proposal to add § 959.229 to establish expenses and an assessment rate for the South Texas Onion Committee. The proposed rule provided that interested persons could file comments through January 30, 1989. None were filed.

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

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

days after publication in the Federal Register (5 U.S.C. 553).

List of Subjects in 7 CFR Part 959

Marketing agreements and orders, Onions (Texas).

For the reasons set forth in the preamble, 7 CFR Part 959 is hereby amended as follows:

PART 959—ONIONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR Part 959 continues to read as follows:

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

2. Section 959.229 is added to read as follows:

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

§ 959.229 Expenses and assessment rate.

Expenses of $379,675 by the South Texas Onion Committee are authorized and an assessment rate of $0.055 per 50-pound container or equivalent quantity of regulated onions is established for the fiscal period ending July 31, 1989. Unexpended funds may be carried over as a reserve.

Dated: February 10, 1989.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–3555 Filed 2–14–89; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 981

[AMS–FV–88–050FR]

Almonds Grown in California; Administrative Rules and Regulations Concerning Crediting for Marketing Promotion and Paid Advertising Expenditures

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes administrative rules and regulations established under the Federal marketing order for California almonds to: (1) Allow handlers credit against their assessments for payments for instore supermarket advertising using fixed position (i.e., stationary) display advertisements, or video media; and (2) remove restrictions on a provision which allows handlers to receive 150 percent credit for handler payments to the Almond Board of California (Board) for the Board's use for generic promotion and paid advertising. These changes were recommended by the Board, the agency responsible for local administration of the order, and will give handlers additional flexibility in obtaining credit against their advertising assessments under the order.

EFFECTIVE DATE: March 17, 1989.

FOR FURTHER INFORMATION CONTACT: Allen Belden, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 447–5120.

SUPPLEMENTARY INFORMATION: This final rule is issued under marketing agreement and Order No. 981 (7 CFR Part 981), both as amended, hereinafter referred to as the order, regulating the handling of almonds grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

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

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities.

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

There are approximately 115 handlers of almonds who are subject to regulation under the almond marketing order and approximately 7,500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having gross annual revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California almonds may be classified as small entities.

This action allows handlers of California almonds to receive credit against their assessments under the order for payments for certain types of in-store supermarket advertising. This action also relaxes restrictions on a provision which allows handlers to receive 150 percent credit against their assessments for direct payments to the Board by removing volume limitations on the use of the provision and by allowing handlers to make payments on an installment basis over a longer time period. This action relieves restrictions on handlers by providing additional opportunities to handlers to receive credit against their advertising assessments, while not imposing any additional costs on handlers.

This action revises § 981.441 of Subpart—Administrative Rules and Regulations and is based on recommendations of the Board and upon other available information.

Section 981.41(c) of the order provides that the Board, with the approval of the Secretary, may allow handlers to receive credit for their direct marketing promotion expenditures, including paid advertising, against those portions of such handlers' assessment obligations which are designated for marketing promotion, including paid advertising. That paragraph also provides that handlers shall not receive credit for allowable expenditures that would exceed the amount of such creditable assessments. Section 981.41(e) provides that before crediting is undertaken, and once a recommendation is received from the Board, the Secretary shall prescribe appropriate rules and regulations as are necessary to effectively administer provisions for creditable advertising expenditures.

Section 981.441 currently prescribes rules and regulations to regulate crediting for marketing promotion which includes paid advertising. This final rule amends § 981.441(c) concerning crediting for paid advertising and § 981.441(e) which allows handlers to receive a 150 percent credit against their advertising assessments for payments to the Board for the Board's generic promotion and paid advertising program.

Section 981.441(c) describes requirements which specifically apply to crediting for paid advertising. This final rule amends § 981.441(c) by adding a new provision to § 981.441(c)(3)(i) to allow handlers credit against their creditable assessments for 100 percent of such handlers' payments for in-store supermarket generic or brand advertising using fixed position or video media. Such in-store supermarket advertising will have to be conducted through an advertising firm. The advertising firm will pay the supermarket for displaying the advertisements. Therefore, the payment to the supermarket would not come directly from the handler who owned

the brand or the product. Provision for advertising directly between a handler and a supermarket would not allow the Board to separate the costs for advertising and shelf space as these are usually consolidated under the general heading "advertising" on the invoice from the retailer. Therefore, the rule requires documentation from an advertising firm which would allow the Board to ascertain amounts spent on advertising as distinct from amounts spent for shelf space. Fixed position advertisements, which are stationary display advertisements, must include at least two of the following: (1) Processed color displays enclosed in frames and mounted on supermarket shopping carts; (2) overhead directories enclosed in frames placed at the end or middle of supermarket aisles; or (3) processed color advertisements enclosed in frames and mounted on a supermarket shelf. Two of the three methods are required in each store or supermarket as the Board believes this to be the most effective method of utilizing fixed position advertisements. Video advertisements must be shown on video monitors running television commercials, or "infomercials" (informative commercials), for specific products on a rotating basis. Handlers must submit to the Board a copy of the agency invoice to the supermarket, a copy of the actual advertisement or video tape, a published rate card from an advertising firm, and a copy of the agency invoice to the handler. This action could give handlers using a brand name an increased opportunity to receive credit against their creditable assessments, allow more handlers to take advantage of crediting under current rules and regulations, and increase almond sales through additional promotions.

Section 981.441(e) currently allows a handler to receive credit for 150 percent of payments made to the Board against the creditable assessment obligation incurred on the first 4,000,000 redetermined kernelweight pounds received by such a handler during a crop year. In addition, the poundage limit is reduced by any poundage on which a handler incurs an obligation and receives 150 percent credit pursuant to the provisions for credit on distribution of sample packages. This action removes these weight limitations and allows handlers to receive 150 percent credit for an unlimited tonnage of almonds, subject to the conditions provided for in § 981.41(c), concerning creditable expenditures. These changes could give some handlers additional opportunities to obtain credit against their advertising assessments.

This action also permits handlers to make payments for 150 percent credit to the Board in installments between January 31 and June 30 of each crop year. Payments will have to be made on a quarterly basis with payments made on or before January 31, March 31, May 31, and June 30, respectively. If the entire amount of the claim is not paid by June 30, or if a handler fails to meet any payment deadline, credit for payment will revert to the 100 percent basis. Currently, the full amount must be paid by January 31. In order to provide handlers with ample time during this crop year to file claims based upon the provisions in this final rule, handlers will be permitted to file new or supplementary claims with the Board on or before March 31, 1989. Payments for these claims must be made as follows: One-third on or before March 31, 1989; one-third on or before May 31, 1989; and one-third on or before June 30, 1989. In addition, this action allows handlers to utilize the 150 percent provision in conjunction with a deferment provision contained in paragraph (b) of § 981.441. Paragraph (b) provides that handlers may receive 100 percent credit against their creditable assessment obligations for their own advertisements published, broadcast, or displayed and other marketing promotion activities conducted during the crop year for which credit is requested (July 1–June 30) except that handlers may receive 100 percent credit up to a maximum of 40 percent of their creditable assessment obligations for such advertising and promotion activities deferred until no later than December 31 of the subsequent crop year. This action will allow handlers to receive 100 percent credit for up to 40 percent of their creditable assessment obligations for their own advertising and promotion activities deferred until no later than December 31, while also receiving 150 percent credit for direct payments made to the Board in installments between January 31 and June 30 of each crop year.

These changes will give handlers additional flexibility in meeting their assessment obligations and should be particularly beneficial to small handlers. The action will also benefit handlers who, because they have no brand name or because they do not market their almonds in retail outlets, find the rules concerning crediting for marketing promotion and paid advertising less advantageous to their marketing strategies than handlers who do have a brand name or market their almonds in retail outlets.

Since the inception of the creditable advertising and promotion program in 1972, new activities for which credit may be received have frequently been added to the rules. The Board has attempted to add new activities which benefit a wide range of handlers who market their almonds in different types of outlets. It is the AMS's view that this action will reduce the costs to handlers of meeting their creditable assessment obligations by making more creditable activities available to more handlers.

The information collection requirements contained in the provisions of the administrative rules and regulations to be revised by the final rule have been previously approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB No. 0581–0071.

Based on the above, the Administrator of the AMS has determined that this rule will not have a significant economic impact on a substantial number of small entities.

Notice of this action was published in the **Federal Register** on August 29, 1988, (53 FR 32909). Written comments were invited from interested persons until September 28, 1988. Three comments were received from Frank S. Swain, Chief Counsel for Advocacy for the U.S. Small Business Administration; Brian C. Leighton, an attorney representing independent almond handler Cal-Almond, Inc.; and Steven W. Easter, Vice President for Member and Government Relations for Blue Diamond Growers, a cooperative handler.

Frank S. Swain of the U.S. Small Business Administration, requested that the Department of Agriculture (Department) perform a regulatory flexibility analysis before issuing a final rule on this matter. Mr. Swain made several points in support of this position, as discussed below.

Mr. Swain's comment outlined the structure of the almond industry, almond supplies and dispositions, major provisions of the almond order, and rules and regulations established under the order concerning crediting for marketing promotion and paid advertising. While some of the statistics concerning the almond industry quoted by Mr. Swain do not reflect the statistics and information available to and used by the AMS, this does not affect the substance of Mr. Swain's comments relative to this action. Specifically, Mr. Swain stated that paragraph (a) of § 981.41 of the order provides that the Board may use monies collected from a

handler's assessments to fund the brand advertising of another handler. There is no such authority in either the order or the administrative rules and regulations established under the order. Paragraph (a) of § 981.41 provides that the Board, with the approval of the Secretary of Agriculture, may establish or provide for the establishment of projects involving production research, marketing research and development, and marketing promotion, including paid advertising. That paragraph also provides that the Board may credit the pro rata expense assessment obligations of a handler with such portion of that handler's direct expenditures for marketing promotion and paid advertising as may be authorized. In other words, a handler's own advertising assessments may be credited if the handler conducts authorized advertising for its own brand name or generic advertising. There is no provision in the order to permit the advertising assessments of other handlers to be used to support brand name advertising of another handler.

Mr. Swain disagreed with a statement in the proposed rule that "marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf." He noted that the changes made by this action were recommended by the Board, and that a majority of the Board's members are affiliated with Blue Diamond, which is not a small entity. The order, which includes provisions for establishing the Board, apportioning representation on the Board among various segments of the industry, and empowering the Board to make rules and regulations to effectuate the terms and provisions of the order, was, after a lengthy process involving public hearings and a referendum of all California almond producers, voted into effect by a two-thirds majority of almond producers, the vast majority of which may be classified as small entities. Therefore, the marketing order is brought about by the action of essentially small entities.

Mr. Swain objected to the removal of weight limitations on the use of a provision which allows handlers to receive 150 percent credit against their assessments for payments to the Board. He stated that this action will be of no benefit to the majority of independent handlers because the tonnage of almonds upon which those handlers pay assessments is less than the weight limitations currently in effect. It is true that only handlers receiving more than 4,000,000 kernel weight pounds of almonds may avail themselves of the increased ability to receive 150 percent credit. However, this action has no adverse impact on small handlers, and to the extent that increased funds are paid to the Board and utilized in its promotional activities which increase the market for almonds, this action would benefit all handlers of almonds.

Mr. Swain stated that the proposed rule did not explain how the changes would benefit handlers who do not have a brand name. Many small handlers who do not have a brand name utilize the order provision which allows 150 percent credit for payments to the Board, and these handlers will benefit by more flexible payment terms. Mr. Swain stated that payments made to the Board do not benefit handlers without a brand name because such handlers do not sell their almonds to consumers. However, a significant portion of the assessments paid to the Board under the 150 percent provision are used by the Board to increase sales of almonds to industrial users (i.e., food manufactures). Moreover, the AMS believes that the Board's generic program benefits all handlers by increasing demand for all almonds.

Mr. Swain concluded his comment by requesting that the AMS perform a regualtory flexibility analysis which examines the true costs and benefits of the assessments for advertising and develops alternatives which will provide options for handlers who do not sell almonds at retail. Mr. Swain disagreed with the AMS's certification that this action "will not have a significant economic impact on a substantial number of small entities" and stated that the AMS has not followed the provisions of the RFA.

Section 605(b) of the RFA provides that a regulatory flexibility analysis is not necessary if the head of an agency has certified that a rule will not have a "significant economic impact on a substantial number of small entities." That section further requires the agency to provide a succinct statement explaining the reasons for such certification. The AMS has considered the economic impact of this rule on small entities. The majority of handlers and producers in the California almond industry may be classified as small businesses. This action does not impose any additional costs on those small businesses and, therefore, is not expected to have a significant economic impact on them. For these reasons, the Administrator of the AMS has certified that this action will not have a significant economic impact on a substantial number of small entities. This certification meets the requirements of the RFA.

For the reasons stated above, Mr. Swain's objections are denied.

Brian C. Leighton, representing Cal-Almond, Inc., objected to the proposed rule for several reasons as discussed below.

Mr. Leighton opposed the proposed rule because he believes that the Act and the order preclude the Board from imposing creditable assessments on almonds which are ultimately disposed of in reserve outlets. Mr. Leighton cited a portion of section 610(b)(2)(ii) of the Act and stated that this section precludes the Department from imposing assessments on almonds held for the account of the Board.

Mr. Leighton cited § 981.52 of the order, which states that handlers must hold at all times a quantity of almonds necessary to meet their reserve obligations "in proper storage for the account of the Board" and § 981.81 of the order, which states that "each handler shall pay to the Board on demand by the Board, from time to time, such sum less any amounts credited pursuant to § 981.41, based on such rate per pound of almonds, kernel weight basis, received by him for his own account * * *." Mr. Leighton stated that almonds cannot be held for both a handler's own account and for the account of the Board, and that since assessments can only be imposed on almonds held for a handler's own account, reserve almonds are not assessable. A handler receives almonds and, subsequently, if a reserve percentage is in effect, the handler's reserve obligations is determined based on the kernel weight of almonds received by the handler. Section 981.81 provides that assessments shall be based on all almonds received by a handler for such handler's own account, regardless of whether or not a handler may subsequently be required to hold a percentage of those almonds as a reserve for the account of the Board.

Mr. Leighton further opposed the proposed rule because he believes that those provisions of the order and the rules and regulations established under the order which authorize promotion and paid advertising and permit handlers to receive credit against a portion of their assessments for specified promotion and paid advertising activities are unconstitutional. Mr. Leighton believes that those provisions violate the First Amendment right to free speech because they force handlers to speak (i.e., advertise almonds). The research and promotion provisions of the almond

marketing order are promulgated pursuant to authority in the Act. Neither the order issued pursuant to that authority nor the regulations issued pursuant thereto require regulated parties to advertise to take advantage of the credit provisions contained in this rule. Any generic advertising or promotion into which the Board enters with the payment of assessments is clearly contemplated by the enabling statute and supported by an administrative rulemaking record and works to the benefit of all handlers by increasing market opportunities for all almonds. For these reasons, the assessments are constitutional.

Mr. Leighton stated that the cut-off date by which handlers must make payments to the Board to receive 150 percent credit against the creditable portion of their assessments should be changed from January 31 of each crop year to the December 31 following the end of each crop year rather than to the installment method in the proposed rule.

Mr. Leighton stated that the December 31 date should be used because handlers have until December 31 to publish, broadcast, or display advertising for which credit may be received, and he believes that it would be equitable for the same date to apply to payments made to the Board. The administrative rules and regulations established under the order provide that handlers may defer advertising for which they wish to receive credit from June 30 (the last day of the crop year) to the succeeding December 31 for a maximum of only 40 percent of their creditable assessment obligations. This final rule would allow handlers to use the 40 percent deferment in conjunction with the 150 percent credit provision. Deadlines for payments to the Board are earlier than deadlines for creditable advertising because handlers making payments to the Board are turning over the responsibility for advertising and promotion to the Board. The earlier cut-off date for direct payments to the Board provides time for the Board to ascertain the amounts available for generic advertising and to plan and conduct advertising and promotion based upon known revenue.

Mr. Leighton also objected to the in-store advertising provisions in the proposed rule. Mr. Leighton stated that § 981.441 currently is devoid of provisions providing opportunities to receive credit which will benefit those handlers who do not have a brand label or who do not sell their almonds in the retail market. Mr. Leighton believes that the proposed in-store advertising provisions also will only benefit those handlers who have a brand to advertise. Section 981.441, however, has been amended thirteen times since its inception in 1972, and many of those amendments have added provisions designed to provide opportunities for handlers who do not have a brand name to receive credit. Moreover, it is the AMS's view that all almond advertising and promotion activities benefit all handlers by increasing demand for all almonds.

Mr. Leighton also stated that permitting credit for in-store advertising would conflict with § 981.441(c)(5)(iii) of the rules and regulations established under the order unless such advertising is restricted to stores where only the advertising handler's brand is available. Section 981.441(c)(5)(iii) provides that advertisements which direct consumers to one or more named retail outlets, other than handler operated, shall not be eligible for credit. There is no conflict between § 981.441(c)(5)(iii) and the in-store advertising provision; handlers whose in-store advertising directed consumers to specific retail outlets, other than handler operated, would not be eligible for credit.

For the reasons stated above, Mr. Leighton's objections are denied.

In his comment, Steven W. Easter of Blue Diamond supported the amendments proposed by the August 29, 1988, rule. Mr. Easter believes that in-store advertising is an important new method for reaching the consumer and retail trade and should be encouraged. The commenter stated that there are only two or three companies that provide the type of in-store advertising envisioned by the Board. The commenter pointed out that the advertising offered by these companies is similar to national network television advertising in that they both have published rate cards, reach and frequency data, and are national in scope. Mr. Easter also stated that in-store advertising may be purchased through those companies for specific retail stores within a region.

After consideration of all relevant matter presented, including the Board's recommendation, the comments received, and other available information, it is found that the changes hereinafter set forth will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, California, and Marketing agreements and orders.

For the reasons set forth in the preamble, 7 CFR Part 981 is amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 981 continues to read as follows:

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

Subpart—Administrative Rules and Regulations

2. Section 981.441 is amended by revising paragraph (c)(3)(i) and redesignating the current (c)(6)(v) as (c)(6)([vi); adding a new paragraph (c)(6)(v); and revising paragraph (e) to read as follows:

Note: The following sections will be published in the annual Code of Federal Regulations.

§ 981.441 Crediting for marketing promotion including paid advertising.

* * * * *

(c) * * *

(3) * * *

(i) For 100 percent of a handler's payment to an advertising medium: (A) For a generic advertisement of California almonds; (B) for an advertisement of the handler's brand of almonds; (C) when either of these advertisements includes reference to a complementary commodity or product; (D) for a trade media advertisement that displays branded food products containing almonds, or announces a handler's future promotion activities, including joint promotions, and the entire expenditure is borne by the handler; or (E) for in-store supermarket advertisements using fixed position or video media, when such payments are made through an advertising firm: (*1*) Fixed position advertisements must include at least two of the following: (*i*) Processed color displays enclosed in plastic frames and mounted on supermarket shopping carts; (*ii*) overhead directories enclosed in frames placed at the end or middle of supermarket aisles; or (*iii*) processed color advertisements enclosed in frames and mounted on a supermarket shelf; (*2*) Video advertisements must be shown on a fixed video monitor running television commercials, or infomercials for specific products on a rotating basis.

* * * * *

(6) * * *

(v) For in-store supermarket advertising, submit a copy of the company invoice, a copy of the actual advertisement or video tape, a published rate card from a nationally recognized company, and a copy of the agency invoice, if any.

* * * * *

(e) Credit shall be granted for payments made to the Board for use by the Board for generic marketing promotion including paid advertising subject to the following conditions:

(1) A handler may receive credit for 150 percent of a payment made to the Board against the creditable assessment obligation.

(2) When a handler elects to use this method of crediting for all or a portion of such handler's assessment obligation, the handler may use the extension provided for pursuant to paragraph (b) of this section for the handler's deferred advertising and promotion obligation.

(3) Handlers must file claims with the Board on ABC Form 31 in order to receive credit for payments made to the Board. No credit shall be granted unless a claim is filed on or before January 31 of the then current crop year: *Provided,* That for the 1988–89 crop year for claims not previously filed on or before January 31, 1989, a claim or supplementary claim must be filed with the Board on ABC Form 31 on or before March 31, 1989. Payments must be made as follows: One-fourth of total claim on or before January 31; one-fourth on or before March 31; one-fourth on or before May 31; and one-fourth on or before June 30 of the then current crop year: *Provided,* That for the 1988–89 crop year, payments not previously made on or before January 31, 1989, must be made as follows: One-third on or before March 31, 1989; one-third on or before May 31, 1989; and one-third on or before June 30, 1989. If the entire amount of the claim is not paid by June 30, or if a handler fails to meet any payment deadline of this paragraph, credit for payment shall revert to the 100 percent basis.

Dated: February 10, 1989.

Robert C. Keener,

Deputy Director, Fruit and Vegetable Divison.

[FR Doc. 89–3554 Filed 2–14–89; 8:45 am]

BILLING CODE 3410-02-M

Rural Electrification Administration

7 CFR Part 1700

Procedures

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) amends 7 CFR Chapter XVII by adding a new subsection 1700.3d to 7 CFR Part 1700. The publication of 7 CFR Part 1709 elsewhere in this issue implements a program for rural development mandated by a 1987 amendment to the Rural Electrification Act (RE Act). The amendment to 7 CFR Part 1700 reflects the addition of this new program in the Agency's rule on its procedures.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Blaine Stockton, Jr., Assistant Administrator—Management, Rural Electrification Administration, Room 4063-South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–9552.

SUPPLEMENTARY INFORMATION: 7 CFR Part 1709, published elsewhere in this issue, implements the provisions of section 313, Cushion of Credit Payments Program, added to the RE Act on December 21, 1987. Section 313 establishes a Rural Economic Development Subaccount and authorizes the Administrator of REA to utilize funds in this subaccount to provide zero interest loans or grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

Two periods for public comment were provided before 7 CFR Part 1709 became effective. The advance notice of proposed rulemaking published on April 7, 1988, at 53 FR 11511 and the proposed rule published on October 27, 1988, at 53 FR 43442 both noted periods for public comment. This new rule 7 CFR 1700.3d is simply a technical amendment reflecting the addition of 7 CFR Part 1709 and, therefore, requries no public comment period of its own.

List of Subjects in 7 CFR Part 1700

Community development, Grand programs, Loan programs, Rural areas.

For the reasons set forth in the preamble, Part 1700 of Title 7 Code of Federal Regulations is amended to read as follows:

PART 1700—[AMENDED]

1. The authority citation for Part 1700 is revised to read:

Authority: 7 U.S.C. 901–950(b); Title I, Subtitle D, Section 1403, Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203: Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72; 7 U.S.C. 1921 et seq., and 44 FR 30313, May 25, 1979.

2. The following new section is added after § 1700.3c:

§ 1700.3d Loans and grants pursuant to section 313 of the Rural Electrification Act as amended December 21, 1987.

General. These zero interest loans and grants are made to borrowers under the Rural Electrification Act for the purpose of promoting rural economic development and rural job creation projects. Selection and approval of applications for zero interest loans and grants rests solely within the discretion of the Administrator, and preference shall be given to providing borrowers with zero interest loans rather than grants under this program.

Dated: February 9, 1989.

Jack Van Mark,

Acting Administrator.

[FR Doc. 89–3447 Filed 2–14–89; 8:45 am]

BILLING CODE 3410-15-M

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7 CFR Part 1709

Rural Development

AGENCY: Rural Electrification Administration, USDA.

ACTION: Final rule.

SUMMARY: The Rural Electrification Administration (REA) hereby amends 7 CFR Chapter XVII by adding a new Part 1709, Rural Development, and adding Subpart B, Rural Economic Development Loan and Grant Program. The new part contains REA's policies, requirements and procedures covering rural development programs. The new subpart establishes policies, requirements and procedures that implement a rural economic development loan and grant program established by section 313 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*) (the "RE Act"). The program provides zero interest loans and grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Mark Wyatt, Assistant to the Assistant Administrator—Management, Rural Electrification Administration, Room 4063-South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–9552. The Final Regulatory Impact Analysis describing the options considered in developing this rule and the impact of implementing the rule is available on request from the above office.

SUPPLEMENTARY INFORMATION: This rule is issued in conformity with Executive Order 12291, Federal Regulations. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or (3) result in significant

adverse effects on competition, employment, investment or productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, this rule has been determined to be "not major."

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. (1976)) and, therefore, does not require an environmental impact statement or an environmental assessment.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.853, Rural Economic Development Loan and Grant Program.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the Act. The OMB approval number for these requirements is 0572–0086.

Public reporting burden for this collection of information is estimated to average 1.7 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 this collection of information, including suggestions for reducing this burden, to Department of Agriculture, Clearance Officer, OIRA, Room 404–W, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB #0572–0086), Washington, DC 20503.

Background

On December 21, 1987, section 313, Cushion of Credit Payments Program, was added to the RE Act. Section 313 establishes a Rural Economic Development Subaccount and authorizes the Administrator of REA to utilize funds in this subaccount to provide zero interest loans or grants to RE Act borrowers for the purpose of promoting rural economic development and job creation projects.

On April 7, 1988, REA published an advance notice of proposed rulemaking in an effort to obtain public comments on all aspects of this new program. REA received a total of 54 written comments. These comments were taken into account in preparing the proposed rule.

On October 27, 1988, REA published a proposed rule at 53 FR 43442 to amend 7 CFR Chapter XVII by adding a new Part 1709, Rural Development, and adding Subpart B, Rural Economic Development Loan and Grant Program. REA invited interested parties to file comments on or before December 28, 1988.

Comments

REA received 39 written comments from the following:

(1) Pennsylvania Rural Electric Association
(2) North Central Electric Cooperative, Inc.
(3) Grundy Electric Cooperative, Inc.
(4) East River Electric Power Cooperative
(5) Sunflower Electric Cooperative, Inc.
(6) Mountrail Electric Cooperative, Inc.
(7) North Dakota Association of Rural Electric Cooperatives
(8) James Valley Electric Cooperative, Inc.
(9) McLean Electric Cooperative, Inc.
(10) Sheyenne Valley Electric Cooperative, Inc.
(11) Plains Electric Generation and Transmission Cooperative, Inc.
(12) Wolverine Power Supply Cooperative, Inc.
(13) Choctaw Electric Cooperative, Inc.
(14) Claiborne Electric Cooperative, Inc.
(15) South Louisiana Electric Cooperative Association
(16) Georgia Electric Membership Corporation (Legislative Director)
(17) Georgia Electric Membership Corporation (Exec. Vice President)
(18) James Valley Cooperative Telephone Company
(19) Terril Telephone Company
(20) National Rural Utilities Cooperative Finance Corporation
(21) National Cooperative Bank
(22) First Security National Bank
(23) West Central Wisconsin Community Action Agency, Inc.
(24) Green River Area Development District
(25) Georgia Department of Community Affairs
(26) Makah Tribe
(27) Draketown Gas, Inc.
(28) Georgia Power
(29) Dixie Electric Membership Corporation
(30) Edison Electric Institute
(31) National Telephone Cooperative Association
(32) National Rural Electric Cooperative Association
(33) Greater Minnesota Corporation
(34) Cajun Electric Power Cooperative, Inc.
(35) Lake Region Co-op Electrical Association
(36) Utilicorp United, Inc.
(37) South Carolina Electric and Gas Company
(38) Central Power Electric Cooperative, Inc.
(39) Teche Electric Cooperative, Inc.

Overall, REA received widespread support for the proposed rule. Thirty-four organizations comprised of REA borrowers, electric and telephone utility trade organizations, cooperative banks, economic development organizations and state governments supported the new program. One gas company and one electric and gas investor-owned utility expressed adamant opposition to the new program. An additional three investor-owned electric utilities suggested modifications in the program.

Most of the organizations made specific comments on the proposed rule. These comments will be addressed in the following paragraphs by first discussing REA's modifications to the proposed rule and then discussing the remaining suggested modifications. REA considered all comments in preparing the final rule.

REA received numerous comments on the section of the proposed rule which discussed the eligibility of a borrower that is not current on its RE Act financing or is in bankruptcy proceedings. There were comments both supporting and opposing the eligibility section. The organizations opposed to this section felt that areas served by borrowers that would not be eligible under this section of the proposed rule could benefit from rural economic development under this program. They suggested that REA consider whether the borrower is working in good faith with REA on repayment matters. Current federal policy, as set forth in OMB Circular A–129, Managing Federal Credit Programs, dated November 25, 1988, restricts further financial assistance to applicants who are delinquent on a Federal debt. Therefore, REA is retaining the section in the rule on the eligibility of borrowers with some modifications. REA would like to point out that if one distribution borrower of a generating and transmission system is ineligible for funds under this program that does not mean the generating and transmission system itself or the other distribution members are ineligible. In addition to the eligibility section, REA has also added under paragraph (m) of § 1709.17, Selection of recipients of zero interest loans and grants, a consideration of the Borrower's management and financial situation which will be important to the success of the program.

Two organizations suggested that the rule should contain the statutory requirement that REA use the full amount of funds in the Subaccount each year to make zero interest loans or grants. REA has added § 1709.15, Disposition of funds in the Subaccount, which addresses the annual disposition of funds. For administrative purposes, REA must make a determination of the amount held in the Subaccount as of some date prior to the end of the fiscal year. REA would not be able to use

funds repaid into or credited to the Subaccount a few days before the end of the fiscal year in that same fiscal year.

Many organizations commented on the selection factors listed in the proposed rule. REA has made additions to several of the factors based on these comments. Several organizations suggested that REA take into account the outmigration of people and also the underemployment of people in part-time jobs or jobs below their skill level. REA will take these into account when looking at employment levels to the extent the borrower provides satisfactory data on a local basis in the preapplication. There was also a suggestion that REA look at other personal income measurements. As with underemployment and outmigration, REA will also consider other personal income measurements to the extent the borrower provides satisfactory data on a local basis in the preapplication. Several organizations recommended that REA consider the size and nature of the community while considering the number of jobs created to the amount of funds requested. REA has modified this factor to take into account the impact of the number of jobs created on the rural community. One organization suggested that REA consider whether a project will assist a rural community to diversify its economic base. REA has agreed to include this in the list of factors.

Several organizations discussed the size of zero interest loans and grants. One organization suggested that a maximum size should be established due to the limited amount of funds available under this program. REA agrees that given the limited amount of funds available to borrowers under this program and in order to provide funds to more projects it will modify the rule to establish the maximum size of a zero interest loan or grant at $100,000.

Several organizations discussed the preapplication periods REA established and suggested that REA increase the number per year. REA has modified the rule to provide for six preapplication periods during the year. This should provide a faster turnaround time on requests for funds while retaining a mechanism to provide equitable consideration of all preapplications.

Many organizations discussed whether REA should take into consideration, along with other factors, the borrower's commitment to generating funds for this program through cushion of credit payments. Some organizations were in favor of this consideration; one organization even suggested that REA establish a strong preference for those borrowers making cushion of credit payments. Other organizations believed that this consideration should be deleted since borrowers serving rural areas that could benefit from economic development might not have the same level of funds available to make cushion of credit payments as other borrowers in more prosperous areas. After considering both arguments, REA has decided that the language in the proposed rule which provides for the Administrator to take into consideration borrowers' cushion of credit payments is appropriate.

One organization believed that the rule should provide for case-by-case discretion to handle a few projects that might require a longer loan repayment period than ten years. The first sentence of the section of the proposed rule outlining the terms of zero interest loans establishes REA's discretion on determining the repayment terms. The Administrator may determine under the language of the proposed rule that in certain situations a longer repayment term is necessary for the success of the project.

REA mentioned in the notice of proposed rulemaking that it had considered including an objective ranking procedure based on assigning a given number of points for each of the selection factors. Four organizations recommended that REA establish a ranking procedure in the rule. After further consideration of this issue, REA has decided to leave the proposed language unchanged. The selection of projects will rest within the discretion of the Administrator. REA needs the latitude to develop its method of evaluating rural economic development projects as it gains experience. The rule as written provides REA the needed latitude while providing a list of selection factors the Administrator will consider to guide borrowers applying for loan or grant funds.

Several investor-owned electric utilities that compete with REA electric borrowers for business in the same service area were concerned about REA borrowers using the funds under this program to offer rate incentives or only submitting preapplications for projects that agreed to take their service. REA deliberately did not set forth language dealing with whether the project was in the REA borrower's service territory or whether it would take service from the REA borrower. The rule was written to encourage economic development in rural areas without regard to service territory. The Administrator will use his discretion to select projects that meet this objective and REA does not believe written requirements are necessary. Additionally, REA cannot, as some investor-owned electric utilities have suggested, provide funds directly to the economic development project and bypass the REA borrower. The law provides for funds to go to the REA borrowers who in turn will promote rural economic development.

Finally, REA received two comments, one from a gas company and another from an investor-owned electric and gas utility, that expressed adamant opposition to the law establishing the zero interest loan and grant program. The gas company did not believe that the REA program should be expanded while the nation has a budget deficit. It believes private industry could do the job of providing financing for utilities. The gas company does not believe its competitors, the REA electric borrowers, should receive subsidized Government funds. It also believes many REA borrowers are wealthy enough to go to the private markets.

The investor-owned electric and gas utility believes that utilizing the REA borrowers to disburse rural economic development funds will potentially result in an unfair, inequitable and ineffective distribution of funds. It suggests that the state governments disburse the funds. The utility also believes that the REA borrowers receive preferential tax and loan interest rate treatment. It suggested that the rule restrict funds to REA borrowers serving rural areas. REA believes the proposed rule was very clear that the program is to promote economic development in rural areas.

Despite the two organizations' objections, REA must implement this program since it was established by law.

On August 11, 1986, REA published a proposed rule in the **Federal Register** (51 FR 28722) with the number 7 CFR Part 1709 entitled Primary Support Documents. In accordance with REA's newly developed plan to number parts 7 CFR Part 1700, that proposed rule remains a proposed rule that will be redesignated 7 CFR Part 1716, Subpart A—Power Requirements Studies. The text of that proposed rule remains unaltered by this change in number.

List of Subjects in 7 CFR Part 1709

Rural development.

In view of the above, REA hereby amends 7 CFR Chapter XVII by adding the following new Part 1709 to read as follows:

PART 1709—RURAL DEVELOPMENT

Subpart A—[Reserved]

Sec.
1709.1–1709.9 [Reserved]

Subpart B—Rural Economic Development Loan and Grant Program

Authority: 7 U.S.C. 901 *et seq.*; Title I, Subtitle D, Section 1403, Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203: Delegation of Authority by the Secretary of Agriculture, 7 CFR 2.23; Delegation of Authority by the Under Secretary for Small Community and Rural Development, 7 CFR 2.72.

Subpart A—[Reserved]

§§ 1709.1–1709.9 [Reserved]

Subpart B—Rural Economic Development Loan and Grant Program

§ 1709.10. Purpose.

(a) This subpart sets forth the Rural Electrification Administration's (REA's) policies and procedures for making zero interest loans and grants to Borrowers in accordance with the Cushion of Credit Payments Program authorized in section 313 of the Act.

(b) The zero interest loans and grants are to be provided for the purpose of promoting rural economic development and rural job creation projects.

§ 1709.11 Policy.

(a) It is REA's policy to encourage borrowers to make deposits voluntarily into cushion of credit accounts of the Rural Electrification and Telephone Revolving Fund. Borrowers are also encouraged to use the Rural Economic Development Loan and Grant Program to promote rural economic development and rural job creation projects that are based on sound economic and financial analysis.

(b) REA will maintain liaison with officials of other federal, state, regional and local rural development agencies to coordinate rural economic development programs.

§ 1709.12 Definitions.

(a) "Act"—the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 *et seq.*).

(b) "Administrator"—the Administrator of the Rural Electrification Administration.

(c) "Associated Utility Organization"—state or regional utility organizations, utility trade organizations or other professional utility organizations of which the Borrower proposing the Project is a member.

(d) "Borrower"—a borrower of funds under the Act.

(e) "Demonstration Project"—a Project for which the owner agrees to provide REA with detailed information on the steps it takes in organizing and operating the Project, will permit REA and REA's guests to make reasonable visits to the Project, and honor any other reasonable REA request to disseminate information on the Project

(f) "Employee Ownership"—owned by the employees of the organization.

(g) "Project"—a rural economic development project or rural job creation project which a Borrower proposes and the Administrator approves to receive benefits of the Rural Economic Development Loan and Grant Program.

(h) "REA"—the Rural Electrification Administration.

(i) "Rural Area"—a rural area as defined in section 13 of the Act.

(j) "Technical Assistance"—Market research, product and/or service improvement, feasibility studies, environmental studies, and similar activities that benefit rural economic development or rural job creation projects.

§ 1709.13 Source of funds.

All funds for zero interest loans and grants provided under this program shall come from interest differential credits to the Rural Economic Development Subaccount (Subaccount), any other funds made available to the Subaccount and from the repayment of zero interest loans into the Subaccount.

§ 1709.14 Eligibility

Zero interest loans and grants may be made to any borrower that is not delinquent on any Federal debt or in bankruptcy proceedings, both as determined by the Administrator.

§ 1709.15 Disposition of funds in Subaccount.

Zero interest loans and grants shall be made during each fiscal year to the full extent of the amounts held in the Subaccount subject only to limitations imposed by law. For administrative purposes, REA will make a determination of the fiscal year-end amount held in the Subaccount as of a date prior to, but as near as practicable to, the end of fiscal year.

§ 1709.16 Purposes of zero interest loans and grants.

Zero interest loans and grants shall be provided to promote rural economic development and/or job creation projects, including, but not limited to, project feasibility studies, start-up costs, incubator projects, and other reasonable expenses for the purpose of fostering rural economic development.

§ 1709.17 Selection of recipients of zero interest loans and grants.

The selection and approval of applications for zero interest loans and/or grants rests solely within the discretion of the Administrator. In making this determination, the Administrator will consider, among other factors, the following:

(a) The amount of supplemental grant or loan funds provided or to be provided to the Project from private sources, state and local government sources, federal government sources, the Borrower(s) or other sources of funds.

(b) A comparison of the unemployment rate in the rural area where the Project will be located to the state and National unemployment rates taking into account outmigration and underemployment.

(c) A comparison of the Per Capita Personal Income or other income measurements in the rural area where the Project will be located to state and National income levels.

(d) A comparison of the number of jobs and employment hours per week that the Project will create in rural areas to the amount of grant and zero interest loan funds requested taking into account the impact on the rural community.

(e) Projects that lead directly to improving marketable skills of people in rural areas or will diversify the rural economic base.

(f) Commitment from the owner(s) of the Project that the Project will be a Demonstration Project.

(g) Projects that will be located in Rural Areas or will provide greater benefit to Rural Areas than other areas.

(h) Projects that have received the endorsement or sponsorship of businesses, local business and community leaders, Associated Utility Organizations, or local, state or federal governmental organizations.

(i) Projects that have received the endorsement of Certified Development Companies approved by the U.S. Small Business Administration.

(j) Projects that will be organized or reorganized on a not-for-profit basis or to provide full or majority Employee Ownership.

(k) Projects that in REA's best judgment have the greatest probability of success as measured by long-term job creation or retention and rural economic development.

(l) Applications submitted by Borrowers that have made cushion of credit payments as set forth in section 313 of the Act.

(m) The management and financial situation of the Borrower applying for the zero interest loan or grant.

§ 1709.18 Preference for zero interest loans over grants.

Selection of applications shall be based on a preference for providing Borrowers zero interest loans rather than grants under this program since the repaid principal of zero interest loans will provide additional funds for new Projects.

§ 1709.19 Limitation on use of zero interest loan and grant funds.

(a) Zero interest loans and grants shall not be used:

(1) To fund or assist projects of which any director, officer, or owner of the Borrower, or close relative thereof, is an owner, or which would create a conflict of interest or would create the appearance of a conflict of interest; provided, however, cooperative members are not to be considered owners of the Borrower in this determination;

(2) For any costs incurred on the Project prior to approval of the Project by REA, except for any costs approved by REA as necessary for the initiation of the Project;

(3) For payment to any owner, partner or beneficiary of any property, building, equipment acquired for the Project when such person will retain any interest in the Project or is an owner, director or officer of the Borrower; provided, however, cooperative members are not to be considered owners of the Borrower in this determination; or

(4) For any purpose not reasonably related to the Project as determined by the Administrator.

(b) A Borrower may not charge the Project interest for the use of the proceeds of the zero interest loan provided under this program; however, it may charge the Project reasonable loan servicing charges, as determined by the Administrator.

(c) A Borrower must calculate any costs to charge the Project for the use of or in connection with the grant proceeds provided under this program based on 7 CFR Part 3015 and 7 CFR Part 3016.

(d) A Borrower may not make a profit from any zero interest loan or grant provided from the Subaccount.

(e) The Borrower may temporarily deposit the zero interest loan funds into a separate Federally insured account. However, all interest earned on temporarily deposited funds in excess of $250 per year must be passed on to the Project or returned to the Rural Economic Development Subaccount.

(f) The Borrower may temporarily deposit the grant funds in accordance with 7 CFR Part 3015 and 7 CFR Part 3016.

§ 1709.20 Size of zero interest loans and grants.

The minimum size of a zero interest loan or grant shall be $10,000 and the maximum size of a zero interest loan or grant shall be $100,000.

§ 1709.21 Terms of zero interest loan repayment.

(a) REA shall determine the terms and repayment schedule of the zero interest loan to the Borrower based on the nature of the Project. In general, the repayment terms the Borrower sets on zero interest loan proceeds provided to the Project must be at least as generous as the zero interest loan provided to the Borrower but, with the Administrator's approval, may be more generous.

(b) Ordinarily, the terms of the zero interest loan shall not exceed 10 years. The first principal repayment installment on the zero interest loan may be deferred two years or until the project generates sufficient cash to begin repaying its loan to the Borrower, whichever comes first as determined by the Administrator, provided an equivalent deferred repayment schedule is provided on the loan to the Project. The terms of the zero interest loan to the Borrower may provide for either equal periodic principal payments or, if the Administrator determines that it is necessary, a graduated repayment schedule where the first principal repayment will be equal to some fraction of the last principal repayment. If the Borrower receives a graduated principal repayment schedule it shall provide a comparable graduated repayment schedule to the Project. Ordinarily, monthly principal payments will be established on the note to the Borrower.

§ 1709.22 Agreements and security for funds.

(a) The Borrower and REA shall execute agreements, including any necessary security agreements, covering the repayment of funds from this program.

(b) REA must approve all agreements between the Borrower and the Project, including all:

(1) Grant, loan and security agreements,

(2) Loan notes, and

(3) All subsequent revisions or amendments thereof. (OMB approval number 0572–0086).

§ 1709.23 Transfer of employment or business.

The Project must not result primarily in the transfer of any existing employment or business activity from one area to another, as determined by the Administrator.

§ 1709.24 Environmental requirements.

(a) Prospective recipients of zero interest loans or grants must consider the potential environmental impacts of their applications at the earliest planning stages and develop plans and Projects that minimize the potential to adversely affect the quality of the environment.

(b) *Application for Technical Assistance zero interest loans or grants.* The application for a Technical Assistance zero interest loan or grant is generally covered by 7 CFR 1794.31(b)(13) and (14). Consequently, normally no Borrower's Environmental Report or other environmental documentation is required to support such an application. No zero interest loan or grant funds will be available for Technical Assistance for any Project, any portion of which, lies within an area designated for protection under the Coastal Barrier Resources Act.

(2) *Application for zero interest loans or grants other than Technical Assistance.* REA will review supporting materials in the application and initiate its environmental review process pursuant to 7 CFR Part 1794. This process will focus on any environmental concerns or problems that are associated with the Project. The level and scope of environmental review required will be determined in accordance with the National Environmental Policy Act of 1969

(NEPA), as amended, (42 U.S.C. 4321 *et seq.*), the Council on Environmental Policy for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500—1508), 7 CFR Part 1794 and other relevant Federal environmental laws, regulations and Executive Orders. No activity related to the Project that would have an adverse affect on the environment shall be undertaken prior to completion of REA's environmental review process.

§ 1709.25 Other considerations.

(a) *Equal opportunity and nondiscrimination requirements.* All zero interest loans and grants made under this Subpart are subject to certain provisions in REA Bulletin 320–19(20–19), Nondiscrimination Among Beneficiaries of the REA Program and REA Bulletin 320–15(20–15), Equal Employment Opportunity in Construction Financed with REA Loans depending on the dollar amount involved and other characteristics (to be codified in 7 CFR Part 1790).

(b) *Architectural Barriers Act of 1968.* All facilities financed with REA zero interest loans or grants which are accessible to the public or in which physically handicapped persons may be employed or reside must be developed in compliance with this law.

(c) *Flood hazard area precautions.* In accordance with 7 CFR Part 1788, if the Project is in an area subject to flooding, flood insurance must be provided to the extent available and required under the National Flood Insurance Act of 1968, as amended by the Flood Disaster Protection Act of 1973 (Pub. L. 93–231). The insurance shall cover, in addition to the buildings, any machinery, equipment, fixtures and furnishings contained in the buildings. REA shall comply with Executive Order 11988, Floodplain Management, in considering the application for the Project.

(d) *Real property acquisition.* Any acquisition of real property in connection with this program is subject to 7 CFR Part 21, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. These regulations require that owners of real property to be acquired for Federal or federally-assisted programs and persons displaced from their dwellings, businesses, or farms as a result of such acquisition be provided fair, consistent, and equitable treatment.

§ 1709.26 Preapplications and applications.

(a) Borrowers may file a preapplication during any of six preapplication periods each year. The preapplication periods will cover the official working days from February 1 through February 14, from April 1 through April 14, from June 1 through June 14, from August 1 through August 14, from October 1, through October 14, and from December 1 through December 14 of each year. The Administrator may establish other special preapplication periods.

(b) Preapplications shall consist of:

(1) An application form, "Application for Federal Assistance," Standard Form 424;

(2) A board resolution requesting a zero interest loan and/or grant, specifying any commitment from the Borrower to the owner of the proposed Project and stating that the proposed Project will not violate the limitations in § 1709.19, Limitation on use of zero interest loan and grant funds; and

(3) A brief written narrative containing, but not limited to, the following:

(i) Proposed rural economic development and job creation Project including location, primary beneficiaries, number and type of jobs to be created, and, if available, various employment and personal income measurements for the rural area in which the Project will be located;

(ii) Amount of zero interest loan and/or grant requested;

(iii) General description of conditions and terms to be placed on ultimate recipient of funds, including collateral;

(iv) Source and amount of any supplemental grant or loan funds to be provided to the Project from private sources, governments, the Borrower or any other source. The conditions, terms, interest rate, etc. of the supplemental funds shall be detailed;

(v) Any commitment from the owner of the Project that the Project will be a Demonstration Project;

(vi) Any endorsements of Associated Utility Organizations, businesses, local leaders, local or state governments, a SBA-approved Certified Development Company and any specific commitments, either financial or otherwise, from these parties;

(vii) Depending on the stage of development of the Project, any budgets, pro forma operating reports and balance sheets, market research, etc.;

(viii) Description of the entity which will own, construct or operate the Project, including but not limited to: (A) The form of organization (i.e., corporation, nonprofit corporation, cooperatives, partnership, sole proprietor), (B) the owners and officers and (C) any Employee Ownership; and

(ix) Any other information that the Borrower believes is relevant. (OMB approval number 0572–0086).

(c) REA may request additional information from the Borrower deemed relevant.

(d) During the preapplication review process, the Borrower may change the amount of the zero interest loan or grant funds requested, if approved by the Administrator.

(e) REA will prepare a written notification for each preapplication indicating whether or not it has been selected. Selected applicants will be provided with environmental information, requirements and guidelines for filing a complete application. A Borrower that submitted a preapplication that was not selected will be asked whether it desires to be considered during the next period. The Borrower may modify its preapplication after it has been considered without resubmitting all material required in a preapplication. If the Borrower so desires, REA will consider a preapplication that has not been substantially modified or updated, as determined by the Administrator, for up to one year. A Borrower may submit new or updated preapplications as often as it desires. (The information collection requirements contained in paragraph (b)(1) were approved by the Office of Management and Budget under control number 0348–0043.)

§ 1709.27 Application processing.

Upon selection of a Project to receive a zero interest loan and/or grant, REA will prepare a Letter of Agreement setting forth conditions under which the zero interest loan or grant will be made and send it to the Borrower. The Borrower will sign the Letter of Agreement and return it to REA. The Letter of Agreement will include, among other things, the maximum amount of zero interest loan or grant, Project description and approved use of zero interest loan and/or grant funds, supplemental funds to be provided, any agreements or conditions the Borrower proposed in the preapplication, any special conditions REA establishes, and any loan/grant agreement, other legal documents or certifications the Borrower will be required to sign.

§ 1709.28 Zero interest loan and grant approval.

All zero interest loans and grants made under this subpart will be approved by the Administrator, or designee.

§ 1709.29 Disbursement of zero interest loan and grant funds.

REA shall disburse grant funds to the Borrower and the Borrower shall disburse grant proceeds to the Project in accordance with the provisions of 7 CFR Part 3015 and 7 CFR Part 3016. REA shall disburse zero interest loan funds to the Borrower and the Borrower shall disburse zero interest loan proceeds to the Project in accordance with REA regulations.

§ 1709.30 Review and other requirements.

(a) REA will review Borrowers receiving zero interest loans or grants, as necessary, to ensure that funds are expended for approved purposes. Borrowers receiving zero interest loans or grants shall monitor the Project to the extent necessary to ensure the Project is in compliance with all applicable regulations, including ensuring that funds are expended for approved purposes.

(b) Borrowers receiving zero interest loans shall have prepared a financial report and general accounting of all zero interest loan funds in accordance with the provisions of 7 CFR Part 1789.

(c) Grants provided under this program will be administered under and are subject to 7 CFR Part 3015 and 7 CFR Part 3016, as appropriate. The Borrower that receives a grant shall be subject to requirements under these regulations which cover, among other things, financial reporting, accounting records, budget controls, record retention and audits. (The information collection and the recordkeeping and recording requirements contained in paragraph (c) were approved by OMB under the following control numbers: Budget Information—Nonconstruction, Standard Form 424A (OMB control number 0348–0044), Budget Information—Construction, Standard Form 424C (OMB control number 0348–0041), Assurances—Nonconstruction, Standard Form 424B (OMB control number 0348–0040), Assurances—Construction, Standard Form 424D (OMB control number 0348–0042), Financial Status Report—Long Form, Standard Form 269 (OMB control number 0348–0039), Financial Status Report—Short Form, Standard Form 269A (OMB control number 0348–0039), Request for Advance and Reimbursement, Standard Form 270 (OMB control number 80–R0183), Outlay Report and Request for Reimbursement for Construction Programs, Standard Form 271 (OMB control number 80–R0181), Federal Cash Transactions Report, Standard Form 272 (OMB control number 80–R0182).)

Dated: January 24, 1989.

Jack Van Mark,

Acting Administrator.

[FR Doc. 89–3416 Filed 2–14–89; 8:45 am]

BILLING CODE 3410–15–M

Farmers Home Administration

7 CFR Part 1822

Section 502 Rural Housing Weatherization Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations by removing section 502 Rural Housing Weatherization Loan program. This action is necessary due to unappropriated funds by Congress since 1983, and, there are no allocation of funds for this program in the 1989 fiscal year budget. The intended effect of this action is to remove this regulation from the CFR.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Reginald J. Rountree, Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, room 5346, South Agricultural Building, 14th and Independence Avenue SW., Washington, DC 20250, Telephone (202)475–4209.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts, notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal agency management, making publication for comment unnecessary.

Program Affected

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.410 Low Income Housing Loans, No. 10.411 Rural Housing Site Loans and No. 10.417 Very Low-Income Housing Repair Loans and Grants. For the reasons set forth in the Final Rule related Notice(s) to 7 CFR Part 3015, Subpart V, this program is excluded from Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–90, an Environmental Impact Statement is not required.

Background

Current FmHA Regulations (7 CFR Part 1822, Subpart B) provides policies and procedures and delegates the authority for processing and approving section 502 Rural Housing Weatherization (RHW) loans made under title V, of the Housing Act of 1949, as amended. However, Public Utilities companies in many areas of the nation have programs to provide low interest loans, often times lower than the FmHA rate, to consumers to weatherize their homes. State and local governments also have agencies that provide assistance to residents for weatherization of their homes.

Since this program has not been funded and there are agencies available to provide individuals assistance in weatherizing their homes often at lower rates and shorter terms, FmHA eliminates this program.

List of Subjects in 7 CFR Part 1822

Energy conservation, Home improvement, Loan program—Housing and community development, Low- and moderate-income housing.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1822—RURAL HOUSING LOANS AND GRANTS

1. The authority citation for Part 1822 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70 unless otherwise noted.

Subpart B—[Removed and Reserved]

2. Subpart B of Part 1822, consisting of §§ 1822.21 through 1822.26 and Exhibit A are removed and reserved.

Date: December 29, 1988.

La Verne Ausman,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–3514 Filed 2–14–89; 8:45 am]

BILLING CODE 3410–07–M

7 CFR Part 1924

Construction and Repair

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) is amending its regulations to give State Directors authority to accept manufactured housing thermal designs proposed under the "overall structure performance" method described in the regulations. The intended effect of this Action is to expedite FmHA's process of accepting manufactured housing designs.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Rich Davis, Energy Systems Engineer, Farmers Home Administration, U.S. Department of Agriculture, Room 6309, South Agriculture Building, Washington, DC 20250, Telephone (202) 382–9649.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and, since this action has no impact on FmHA borrowers or other members of the public, it has been determined to be exempt from those requirements because it involves only internal agency management. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves internal agency management and publication for comment is unnecessary.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, Environmental Program. It is the determination of FmHA that this action does not constitute a major Federal Action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

For reasons set forth in the Final Rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), this activity is related to the following programs that are subject to intergovernmental consultant with State and local officials:

10.405 Farm Labor Housing Loans and Grants.
10.411 Rural Housing Site Loans (Section 523 and 524 Site Loans).
10.415 Rural Rental Housing Loans.
10.420 Rural Self-Help Housing Technical Assistance (Section 523 Technical Assistance).
10.427 Rural Rental Assistance Payment (Rental Assistance).

This activity is also related to the following programs which are not subject to Executive Order 12372:

10.410 Low-Income Housing Loans (Section 502 Rural Housing Loans).
10.417 Very Low-Income Housing Repair Loans and Grants (Section 504 Rural Housing Loans and Grants).

List of Subjects in 7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and Community development, Low and moderate income housing.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for Part 1924 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23 and 2.70.

Subpart A—Planning and Performing Construction and Other Development

2. Exhibit D is amended by revising the introductory text of paragraph IV. C. to read as follows:

Exhibit D—Thermal Performance Construction Standards

* * * * *

IV. * * *

C. *Optional Standards*

Housing design not in compliance with the requirements of paragraphs IV A or B of this Exhibit may be approved in accordance with the provisions of this paragraph. Requests for acceptance proposed under paragraph C 1 below, must be approved by the State Director. Requests for acceptance of site-built housing proposed under paragraph C 2 must be approved by the Administrator. Requests for acceptance of manufactured housing proposed under paragraph C 2 may be approved by the State Director. All submissions of proposed options to the State Director or Administrator shall contain complete descriptions of materials, engineering data, test data (when U values claimed are lower than the ASHRAE Handbook of Fundamentals), and calculations to document the validity of the proposal. All data and calculations will be based upon the current edition of the ASHRAE Handbook of Fundamentals or other universally accepted data sources.

* * * * *

Dated: December 21, 1988.

LaVerne Ausman,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89–3513 Filed 2–14–89; 8:45 am]

BILLING CODE 3410–07–M

7 CFR Parts 1955 and 1965

Property Management and Security Servicing; Correction

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule; correction.

SUMMARY: The Farmers Home Administration (FmHA) corrects a final rule published July 25, 1988 (53 FR 27819). In the subject rulemaking action, a few minor errors and omissions were inadvertently made which could affect the interpretation of these regulations. This action is taken to correct those errors and omissions. The intended effect is to make these regulations read as intended.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: David J. Villano, Senior Realty Specialist, Single Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5309, South Agriculture Building, 14th and Independence Avenue SW., Washington, DC, telephone (202) 382–1452.

SUPPLEMENTARY INFORMATION: The following is a list of minor errors and omissions being corrected by this document:

1. In § 1955.4(b) regarding redelegation of authority, the words "delegated to the State Director" were inadvertently omitted. This may cause a reader to incorrectly interpret that the State Director could delegate any authority contained in this subpart.

2. In § 1955.113(a)(1) regarding administrative price reductions on single family housing (SFH) inventory property, the words "at least" were inappropriately included which could cause a reader to believe the time between administrative price reductions could be longer than authorized.

3. In § 1955.118(h)(2) regarding closing costs on nonprogram (NP) inventory property sales, a sentence was added that clarified that any closing costs legally or customarily paid by the seller

(FmHA) will be paid by FmHA. A similar sentence should have been added to § 1955.117(f) regarding program property sales and that omission is corrected.

4. In § 1955.143 (a)(1) and (a)(2) regarding reporting unsold SFH properties to the National Office, the time-frame mentioned for reporting is inconsistent with other sections of the subpart.

5. In § 1955.147 regarding sealed bid sales, FmHA inadvertently omitted a minor revision to paragraph (f). The revision was issued to our field offices making the information in the **Federal Register** conflict with published FmHA Instructions. We would like to correct this conflict. The proposed revision to Subpart C of Part 1955 published in the **Federal Register** (52 FR 10577) on April 2, 1988, did not specifically propose to change § 1955.147(f). However, as a result of changes to other sections of Subpart C of Part 1955, it was necessary to change this subparagraph. Paragraph (f) deals with cases where no acceptable bids are received. The section ends by stating that if no acceptable bids are received, sale by negotiation may commence however, the sale price cannot be lower than the minimum established price for the sealed bid sale. If no acceptable sealed bid was received, there would be no purpose to trying to sell the property through negotiation for the same price. Therefore, we intend to remove from the **Federal Register**, as we did in our Agency Instructions on August 24, the portion of paragraph (f) which stated that the sale price in a negotiated sale cannot be lower than the minimum established price for the sealed bid sale. In addition, due to revisions to this subpart published on September 14, 1988 (See 53 FR 35638), a reference change is also needed in paragraph (f).

6. In § 1965.125(a)(2)(ii)(B) regarding a sale of property for less than the debt, the section inadvertently addresses expenses of the transferee. This section should reference expenses of the "transferor" (seller), not transferee (purchaser) of the property

7. In § 1965.126(e)(4)(iii) regarding flood insurance, the section states that the County Supervisor must make a determination that the property is "made." The correct word should be "safe."

8. In § 1965.129 regarding cosigners, the section states that an FmHA loan may be assumed "or program of NP terms". The first "or" should be "on"

Accordingly, the Farmers Home Administration is correcting 7 CFR Parts 1955 and 1965, as published on July 25, 1988 (53 FR 27819), as follows:

PART 1955—[CORRECTED]

1. The authority citation for Part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart A—Liquidation of Loans Secured By Real Estate and Acquisition of Real and Chattel Property

2. On page 27826, in the first column, § 1955.4(b) is corrected to read as follows:

§ 1955.4 Redelegation of authority.

* * * * *

(b) Except as provided in paragraph (a) of this section, the State Director is authorized to redelegate, in writing, any authority delegated to the State Director in this subpart to a Program Chief, Program Specialist or Property Management Specialist on the State Office staff; except the authority to approve or disapprove foreclosure as outlined in § 1955.115(a)(2) of this subpart may not be redelegated. However, a duly-designated Acting State Director may approve or disapprove foreclosure.

* * * * *

Subpart C—Disposal of Inventory Property

§ 1955.113 [Corrected]

3. On page 27831, in the third column, § 1955.113, the first sentence of paragraph (a)(1) is corrected by removing the words "at least."

4. On page 27835, in the first column, § 1955.117, paragraph (f) is corrected by adding the following sentence to the end of the paragraph to read as follows:

§ 1955.117 Processing credit sales on program terms (housing).

* * * * *

(f) * * * Any closing costs which are legally or customarily paid by the seller will be paid by FmHA and charged to the inventory account as a nonrecoverable cost items.

* * * * *

§ 1955.143 [Corrected]

5. On Page 27838, column three, § 1955.143, the first sentence of paragraphs (a)(1) and (a)(2) are corrected by replacing the words "in inventory" with the words "actively marketed."

6. On page 27839, column three, § 1955.147, paragraph (f) should have been included and then revised as follows:

§ 1955.147 Sealed bid sales.

* * * * *

(f) *No acceptable bid.* Where no acceptable bid is received although adequate competition is evident, the State Director may authorize a negotiated sale in accordance with § 1955.108(d) of this subpart

PART 1965—[CORRECTED]

7. The authority citation for Part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989, 42 U.S.C. 1480, 5 U.S.C. 301, 7 CFR 2.23, 7 CFR 2.70.

Subpart C—Security Servicing for Single Family Rural Housing Loans

§ 1965.125 [Corrected]

8. On page 27841, in the first column, § 1965.125, the, third sentence of paragraph (a)(2)(ii)(B) is corrected by replacing the word "transferee" with the word "transferor."

§ 1965.126 Corrected]

10. On page 27842, in the third column, § 1965.126, the second sentence of paragraph (e)(4)(ii) is corrected by replacing the word "made" with the word "safe."

§ 1965.129 [Corrected]

11. On page 27843, in the second column, § 1965.129, the second sentence of the introductory text is corrected by replacing the word "or" first mentioned in the sentence with the word "on."

Dated: January 9, 1989.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 89-3512 Filed 2-14-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

[INS Number 1200-89]

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds the job title "investigative assistant" to 8 CFR 103.1(q) to reflect inclusion of this position within the definition of "Immigration Officer".

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Ronald W. Dodson, Investigations Division, Immigration and Naturalization Service, 425 "I" Street NW., Washington, DC 20536, (202) 633–3050.

SUPPLEMENTARY INFORMATION: The Investigations Division of the Immigration and Naturalization Service has implemented an investigative support position "investigative assistant" (GS–1802). This rule allows the performance of duties included within the "investigative assistant" position description.

Compliance with 5 U.S.C. 553 as of notice of proposed rulemaking and delayed effective date is unnecessary because this rule relates to agency management.

In accordance with 5 U.S.C. 605(b) the Commissioner of the Immigration and Naturalization Service certifies that this final rule will not have a significant economic impact on substantial numbers of small entities. This order is not a rule within the definition of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Authority delegations (Government agencies), Fees, Reporting and record keeping requirements.

Accordingly, Part 103 Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 103—POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

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

Authority: 5 U.S.C. 522(a); 8 U.S.C. 1101, 1103, 1201, 1301–1305, 1351, 1443, 1454, 1455; 28 U.S.C. 1746; 7 U.S.C. 2243, 31 U.S.C. 9701; E.O. 12356; 3 CFR 1982 Comp., p. 166.

§ 103.1 (Amended)

2. Section 103.1(q) is amended by inserting the term "investigative assistant," immediately after the term "special agent,".

Dated: February 9, 1989.

Clarence M. Coster,

Associate Commissioner, Enforcement.

[FR Doc. 89–3485 Filed 2–14–89; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 70 and 74

Centralization of Material Control and Accounting Licensing and Inspection Activities for Non-Reactor Facilities

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to reflect a management action to centralize material control and accounting (MC&A) licensing and inspection activities in NRC Headquarters, Rockville, Maryland, for non-reactor facilities. Effective February 15, 1989 for affected facilities located in Regions I, III, and V, MC&A licensing reviews required by 10 CFR 70.32(c) and inspections will be performed by the Domestic Safeguards and Regional Oversight Branch, Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards. The performance of these activities for facilities located in Region II will remain in Region II until further notice by the Commission. This action is necessary because the small number of affected facilities in each region cannot support the full spectrum of knowledge, skills, and disciplines needed to conduct MC&A inspections.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Dr. Stanley L. Dolins, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555 Telephone (301) 492–3745 or Priscilla A. Dwyer, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555 Telephone (301) 492–0478.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1988, the Executive Director for Operations approved, with the concurrence of the Chairman, a phased centralization in NRC Headquarters, Rockville, Maryland, of MC&A activities for non-reactor facilities. Affected are those non-reactor facilities required to maintain an MC&A program. Nationwide, there are, at the present time, sixteen non-reactor facilities required to maintain MC&A programs and which are subject to MC&A inspections (10 fuel cycle and 6 others). Transfer of these licensing and inspection activities from Regions I, III, and V to the Domestic Safeguards and Regional Oversight Branch, Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards is effective February 15, 1989 while the Region II MC&A inspection program and 10 CFR 70.32(c) licensing reviews will be phased into Headquarters through Region II staff attrition or over a two-year period, whichever occurs first. Region IV has not affected facilities.

This centralization for these functions is needed because the relatively small annual workload requirements for the NRC in the majority of Regions foreclose the possibility of maintaining within each Region a full spectrum of the knowledge, skills, and disciplines needed to perform MC&A inspections. Centralization in NRC Headquarters will assure the maintenance of a viable and adequate nationwide MC&A inspection program for non-reactor facilities.

These revisions, necessitated by the centralization, are administrative in nature. They change the NRC recipient office point of contact for licensee reports, and conform the regulation to track the responsibilities now assigned to the Director, Office of Nuclear Material Safety and Safeguards.

Because these are amendments dealing with minor matters of agency management and personnel, the notice and comment provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). These amendments are effective upon publication in the **Federal Register.** Good cause exists to dispense with the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing with the centralization to Headquarters of licensing and inspection activities formerly conducted in the NRC Regional Offices.

Environmental Impact: Categorical Exclusion

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget approval numbers 3150–0009 and 3150–0123.

Backfit Analysis

The backfit rule, 10 CFR 50.109, does not apply to the facilities subject to this final rulemaking. Therefore, no backfit analysis has been prepared.

List of Subjects

10 CFR Part 70

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Security measures, Special nuclear material.

10 CFR Part 74

Accouting, Hazardous materials—transportation, Material control and accounting, Nuclear materials, Packaging and containers, Penalty, Radiation protection, Reporting and recordkeeping requirements, Scientific equipment, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Parts 70 and 74.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

1. The authority citation for Part 70 continues to read in part as follows:

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

2. In § 70.5, paragraph (b)(1)(vi) is added to read as follows:

§ 70.5 Communications.

* * * * *

(b) * * *

(1) * * *

(vi) Reviews pursuant to § 70.32(c).

* * * * *

3. In § 70.32, the introductory text of paragraph (c)(2) and paragraph (c)(3) are revised to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(c) * * *

(2) The licensee shall maintain records of changes to the material control and accounting program made without prior Commission approval for a period of five years from the date of the change. Licensees located in Regions I, III, IV, and V as indicated in Appendix A of Part 73 of this chapter, shall furnish to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, a report containing a description of each change within:

* * * * *

(3) Licensees located within Region II, as indicated in Appendix A of Part 73 of this chapter, shall meet the provisions of paragraph (c)(2) of this section except that, until further notice by the Commission, these licensees shall furnish the required report to the Regional Administrator, U.S. Nuclear Regulatory Commission, 101 Marietta Street, NW., Suite 2900, Atlanta, Georgia 30323 with a copy to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

* * * * *

4. In § 70.55, paragraph (c)(3) is revised to read as follows:

§ 70.55 Inspections.

* * * * *

(c) * * *

(3) The licensee shall afford any NRC resident inspector assigned to that site or other NRC inspectors identified by the Regional Administrator or the Director, Office of Nuclear Material Safety and Safeguards, as likely to inspect the facility, immediate unfettered access, equivalent to access provided regular plant employees, following proper identification and compliance with applicable access control measures for security, radiological protection, and personal safety.

PART 74—MATERIAL CONTROL AND ACCOUNTING OF SPECIAL NUCLEAR MATERIAL

5. The authority citation for Part 74 continues to read in part as follows:

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

6. In § 74.13, the introductory text of paragraph (b) is revised to read as follows:

§ 74.13 Material status reports.

* * * * *

(b) Each licensee subject to the requirements of § 70.51(e) of this chapter shall submit a report, in accordance with paragraph (b)(1) or (b)(2) of this section, to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, except licensees located in Region II, as indicated in Appendix A of Part 73 of this chapter, shall submit their report to the Region II Regional Office until further notice by the Commission, within 30 calendar days after the start of each ending physical inventory required by §70.51(e)(3).

* * * * *

7. In § 74.17, paragraphs (a) and (b) are revised to read as follows:

§ 74.17 Special nuclear material physical inventory summary report.

(a) Each licensee subject to the requirements of § 74.31 shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 60 calendar days from the start of the physical inventory required by § 74.31(c)(5) of this chapter. The licensee shall report the inventory results by plant and total facility to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, except licensees located in Region II as indicated in Appendix A to Part 73 of this chapter shall submit their report to the Region II Regional Office until further notice by the Commission.

(b) Each licensee subject to the requirements of § 70.51(e) of this chapter shall submit a completed Special Nuclear Material Physical Inventory Summary Report on NRC Form 327 not later than 30 calendar days from the start of the physical inventory required by § 70.51(e)(3) of this chapter. The licensee shall report the inventory results by plant and total facility to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatoryμ Commission, Washington, DC 20555, except licensees located in Region II as indicated in Appendix A to Part 73 of this chapter shall submit their report to the Region II Regional Office until further notice by the Commission.

* * * * *

8. In § 74.57, the introductory text of paragraph (c) and paragraph (f)(2) are revised to read as follows:

§ 74.57 Alarm resolution.

* * * * *

(c) Each licensee shall notify the Domestic Safeguards and Regional Oversight Branch of the Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards by telephone on (301) 492–0352, except licensees located in Region II as indicated in Appendix A to Part 73 of this chapter shall notify the Region II Regional Office until further notice by the Commission, of any MC&A alarm that remains unresolved beyond the time period specified for its resolution in the licensee's fundamental nuclear material control plan. Notification must occur within 24 hours except when a holiday or weekend intervenes in which

case the notification must occur on the next scheduled workday. The licensee may consider an alarm to be resolved if:

* * * * *

(f) * * *

(2) Within 24 hours, the licensee shall notify the Domestic Safeguards and Regional Oversight Branch of the Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards, except licensees located in Region II, as indicated in Appendix A to Part 73 of this chapter shall, until further notice by the Commission, notify the Region II Regional Office by telephone that an MC&A alarm resolution procedure has been initiated.

9. In § 74.59, paragraph (f)(1)(iii) is revised to read as follows:

§ 74.59 Quality assurance and accounting requirements.

* * * * *

(f) * * *

(1) * * *

(iii) Investigate and report to the Domestic Safeguards and Regional Oversight Branch of the Division of Safeguards and Transportation, Office of Nuclear Material Safety and Safeguards, except licensees located in Region II, as indicated in Appendix A to Part 73 of this chapter, shall notify the Region II Regional Office until further notice by the Commission, of any difference that exceeds three times the standard deviation determined from the sequential analysis:

* * * * *

10. In §74.81, paragraph (c)(3) is revised to read as follows:

§ 74.81 Inspections.

* * * * *

(c) * * *

(3) The licensee shall afford any NRC resident inspector assigned to their site, or other NRC inspectors identified by the Regional Administrator or Director of the Office of Nuclear Material Safety and Safeguards as likely to inspect the facility, immediate unfettered access, equivalent to access provided regular plant employees, following proper identification and compliance with applicable access control measures for security, radiological protection, and personal safety.

Dated at Rockville, Maryland this 3rd day of February 1989.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Executive Director for Operations.

[FR Doc. 89-3546 Filed 2-14-89; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-NM-154-AD; Amdt. 39-6142]

Airworthiness Directives; British Aerospace Model BAe 146 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146 series airplanes, which requires a one-time inspection of the aileron and elevator trim screwjack assemblies to determine the presence of a circlip, and installation of the circlip if it is missing. This amendment is prompted by reports that some of the aileron and elevator trim screwjacks have been assembled without a circlip during production. This condition, if not corrected, could lead to a hazardous trim system configuration in the event of a single failure in the trim tab system.

EFFECTIVE DATE: March 28, 1989.

ADDRESSES: The applicable service information may be obtained from British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive, applicable to British Aerospace Model BAe 146 series airplanes, which requires a one-time inspection of the aileron and elevator trim screwjack assemblies to determine the presence of a circlip, and installation of the circlip if it is missing, was published in the **Federal Register** on November 17, 1988 (53 FR 46470).

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

The commenter supported the proposal.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 45 airplanes of U.S. registry will be affected by this AD, that it will take approximately 5 man-hours per airplane to accomplish the required actions, and that the average labor cost will be $40 per man-hour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $9,000.

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact, positive or negative, on a substantial number of small entities because few, if any, Model BAe 146 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

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

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

British Aerospace.—Applies to all British Aerospace Model BAe 146 100A series airplanes, serial numbers up to and including E1101; and 200A series airplanes, serial numbers up to and including E2100; certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent a hazardous trim system configuration, accomplish the following:

A. Within 60 days or 600 landings after the effective date of this AD, whichever occurs first, inspect the right and left aileron and elevator trim screwjack assemblies for the presence of a circlip, in accordance with BAe Inspection Service Bulletin 27-74, dated April 8, 1988. If the circlip is missing, prior to further flight, install a circlip in accordance with the service bulletin.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

Note.—The request should be forwarded through an FAA Principal Maintenance Inspector (PMI), who may add any comments and then send it to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspection and/or modification required by this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to British Aerospace, Librarian for Service Bulletins, P.O. Box 17414, Dulles International Airport, Washington, DC 20041. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective March 28, 1989.

Issued in Seattle, Washington, on February 6, 1989.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 89-3498 Filed 2-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 73

[Airspace Docket No. 88-AEA-9]

Amend Time of Designation of Restricted Areas R-4005, R-4006, R-4007A and R-4008; Patuxent River, MD

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the time of designation for R-4005, R-4006, R-4007A and R-4008 in the vicinity of Patuxent River, MD. A "continuous" time of designation for these restricted areas is no longer required by the using agency. The time changes will more accurately reflect actual use, release time periods during which the areas are available for public access, and provide for the more efficient utilization of airspace.

EFFECTIVE DATE: 0901 u.t.c., April 6, 1989.

FOR FURTHER INFORMATION CONTACT: Jesse B. Bogan, Jr., Airspace Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9255.

The Rule

This amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) reduces the time of use for Restricted Areas R-4005, R-4006, R-4007A and R-4008, Patuxent River, MD, from "continuous" to "0700-2300 local time, daily; other times as specified by NOTAM issued 48 hours in advance." The Department of the Navy indicated that continuous use of R-4005, R-4006, R-4007A and R-4008 is no longer required. This action amends the time of designation to reflect actual times of use and reduces the times that the restricted areas are in effect. For this reason, I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor technical amendment in which the public would not be particularly interested. Section 73.40 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) was republished in Handbook 7400.6D dated January 4, 1988.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, as follows:

PART 73—SPECIAL USE AIRSPACE

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.40 [Amended]

2. Section 73.40 is amended as follows:

R-4005 Patuxent River, MD [Amended]

By removing the word "Continuous" and substituting the words "0700-2300 local time, daily; other times as specified by NOTAM issued 48 hours in advance."

R-4006 Patuxent River, MD [Amended]

By removing the word "Continuous" and substituting the words "0700-2300 local time, daily; other times as specified by NOTAM issued 48 hours in advance."

R-4007A Patuxent River, MD [Amended]

By removing the word "Continuous" and substituting the words "0700-2300 local time, daily; other times as specified by NOTAM issued 48 hours in advance."

R-4008 Patuxent River, MD [Amended]

By removing the word "Continuous" and substituting the words "0700-2300 local time, daily; other times as specified by NOTAM issued 48 hours in advance."

Issued in Washington, DC, on February 7, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89-3499 Filed 2-14-89; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 75

[Airspace Docket No. 88-ASW-11]

Alteration of Jet Route J-17; Texas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of J-65 located in the vicinity of Abilene, TX. The NPRM stated that J-17 would be realigned by adding a west dogleg between Abilene and San Antonio, TX. After further study, the FAA has decided to leave the description of J-17 unchanged and extend J-65 over the west dogleg

between Abilene and San Antonio, leaving J–17 as currently charted. This will provide air traffic control with an alternate route if required.

EFFECTIVE DATE: 0901 u.t.c., April 6, 1989.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace Branch (ATO–240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–9250.

SUPPLEMENTARY INFORMATION:

History

On June 2, 1988, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign Jet Route J–17 via a west dogleg between Abilene and San Antonio (53 FR 20126). The Fort Worth Air Route Traffic Control Center requested the alteration to provide improved course guidance in that area, thereby increasing safety in the vicinity of the Brownwood MOA. This action enhances safety by adding a dogleg in an area where military activity is concentrated. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. One comment objecting to the proposal was received from the Air Transport Association of America (ATA) because of the following:

1. The proposed change would increase the mileage between Abilene and San Antonio.

2. The proposed change would permanently realign the jet route around airspace occasionally used for military operations.

The FAA concurs with the objections offered by the ATA. FAA has determined that the realignment of J–17 would be a burden on the public, therefore, J–17 will not be changed from its current alignment. Except for the extension of J–65 over the proposed dogleg for J–17 and editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6D dated January 4, 1988.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations alters only the description of J–65 located in the vicinity of Abilene, TX. The FAA has realigned J–65 by adding a west dogleg between Abilene and San Antonio, TX. After a review of the proposed action to realign J–17, the FAA leaves J–17 unchanged and extends J–65 over the dogleg route we had originally proposed for J–17 in the NPRM. This action provides increased safety by providing improved course guidance in the vicinity of Brownwood, TX, Military Operations Area (MOA).

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

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

1. The authority citation for Part 75 continues to read as follows:

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

§ 75.100 [Amended]

2. Section 75.100 is amended as follows:

J–65 [Amended]

By removing the words "From Abilene, TX, via;" and substituting the words "From San Antonio, TX, INT San Antonio 323° and Abilene, TX, 180° radials; Abilene;"

Issued in Washington, DC, on February 6, 1989.

Harold W. Becker,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 89–3500 Filed 2–14–89; 8:45 am]

BILLING CODE 4910–13–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1203

Information Security Program

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: NASA is amending 14 CFR Part 1203 by revising Subpart I, NASA Information Security Program Committee." This revision makes organizational title changes in § 1203.900; adds the Associate Administrator for Safety, Reliability, Maintainability and Quality Assurance to the list of nominating officials set forth in § 1203.902; and designates the Director, NASA Security Office, as the Chairperson and the Senior Security Specialist as the Executive Secretary in § 1203.900.

EFFECTIVE DATE: February 15, 1989.

ADDRESS: NASA Security Office, Code NIS, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Erwin V. Minter, 202–453–2953.

SUPPLEMENTARY INFORMATION: Since this action is internal and administrative in nature and does not affect the existing regulations, notice and public comments are not required.

The National Aeronautics and Space Administration has determined that:

1. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, since it will not exert a significant economic impact on a substantial number of small entities.

2. This rule is not a major rule as defined in Executive Order 12291.

List of Subjects in 14 CFR Part 1203

Classified information, Foreign relations.

For reasons set out in the preamble, 14 CFR Part 1203 is amended as follows:

PART 1203—INFORMATION SECURITY PROGRAM

The authority citation for Part 1203 continues to read as follows:

Authority: 42 U.S.C. 2451 et seq., and E.O. 12356.

2. Subpart I, consisting of §§ 1203.900 through 1203.904, is revised to read as follows:

Subpart I—NASA Information Security Program Committee

Subpart I—NASA Information Security Program Committee

§ 1203.900 Establishment.

Pursuant to Executive Order 12356, "National Security Information," and the National Aeronautics and Space Act of 1958, as amended, there is established a NASA Information Security Program Committee (hereinafter referred to as the Committee) as part of the permanent administrative structure of NASA. The Director, NASA Security Office, is designated to act as the Chairperson of the Committee. The Senior Security Specialist, Classification Management and Physical Security Section, NASA Security Office, is designated to act as the Committee Executive Secretary.

§ 1203.901 Responsibilities.

(a) The Chairperson reports to the Administrator concerning the management and direction of the NASA Information Security Program as provided for in Subpart B of this part. In this connection, the Chairperson is supported and advised by the Committee.

(b) The Committee shall act on all appeals from denials of declassification requests and on all suggestions and complaints with respect to administration of the NASA Information Security Program as provided for in Subpart B of this part.

(c) The Executive Secretary of the Committee shall maintain all records produced by the Committee, its subcommittees, and its ad hoc panels.

(d) The NASA Security Office, NASA Headquarters, will provide staff assistance, and investigative and support services for the Committee.

§ 1203.902 Membership.

The Committee will consist of the Chairperson and Executive Secretary. In addition, each of the following NASA officials will nominate one person to Committee membership:

(a) Associate Administrators for:

(1) Aeronautics and Space Technology.

(2) Space Science and Applications.

(3) Space Flight.

(4) Space Station.

(5) Space Operations.

(6) Management.

(7) External Relations.

(8) Safety, Reliability, Maintainability and Quality Assurance.

(b) Associate Deputy Administrator.

(c) General Counsel.

Other members may be designated upon specific request of the Chairperson.

§ 1203.903 Ad hoc committees.

The Chairperson is authorized to establish such ad hoc panels or subcommittees as may be necessary in the conduct of the Committee's work.

§ 1203.904 Meetings.

(a) Meetings will be held at the call of the Chairperson.

(b) Records produced by the Committee and the minutes of each meeting will be maintained by the Executive Secretary.

February 8, 1989.

James C. Fletcher,

Administrator.

[FR Doc. 89-3521 Filed 2-14-89; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Ch. I

[T.D. 89-26]

Customs Regulations Amendments To Conform With Harmonized System of Tariff Classification; Correction

AGENCY: U.S. Customs Service, Treasury.

ACTION: Correction to interim regulations.

SUMMARY: This notice and Interim Regulation sets out technical corrections to the Interim Regulations published December 21, 1988, 53 FR 51244, that amend the Custom Regulations to conform with the Harmonized System of Tariff Classification. The corrections eliminate the impression, erroneously given by restating or revising the authority portion of some parts being amended, that individual section authority was being removed. Additionally, some authority citations were misstated and are corrected herein.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Kathryn C. Peterson, Regulations and Disclosure Law Branch, (202) 566-8237.

SUPPLEMENTARY INFORMATION:

Purpose of Document

The interim regulations, published December 21, 1988, 53 FR 51244, follow the **Federal Register** requirements by restating or revising in full the general statutory authority applicable to each part being amended. In several instances the language of the restatement or revision failed to use the word "general" to indicate that only the general authority was being restated or amended, as distinguished from the individual section authority which was not being amended. As a result, the document conveyed the erroneous impression to the public and the office publishing the Code of Federal Regulations that the separately stated statutory authority for individual sections was intended to be removed. In most instances, the specific statutory authority for individual sections was intended to be left unaffected. This document corrects that impression.

In addition, some authority citations were misstated and are being corrected in this document. In particular, references to the General Notes of the Harmonized Tariff Schedules of the United States are being corrected, owing to a renumbering of the notes after the July 1987 version of the HTSUS, on which most of the interim rule was based.

The authority citations that follow are corrections to those published at 53 FR 51244:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for Part 4 is revised to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1624; 46 U.S.C. App. 3.

PART 10—ARTICLES CONDITIONALLY FREE SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202, 1481, 1484, 1498, 1508, 1623, 1624.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The authority citation for Part 12 is revised in part to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

* * * * *

Section 12.34 also issued under 19 U.S.C. 1202 (additional U.S. Note to Chapter 36, HTSUS);

* * * * *

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

1. The general authority citation for Part 18 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1551, 1552, 1553, 1624.

PART 19—CUSTOMS WAREHOUSES, CONTAINER STATIONS AND CONTROL OF MERCHANDISE

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

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

1. The general authority citation for Part 24 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58a–58c, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 31 U.S.C. 9701; Pub. L. 99–662.

PART 54—CERTAIN IMPORTATIONS TEMPORARILY FREE OF DUTY

1. The authority citation for Part 54 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Section XV, Note 5, Harmonized Tariff Schedule of the United States), 1624, unless otherwise noted.

PART 101—GENERAL PROVISIONS

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

Authority: 5 U.S.C. 301, 19 U.S.C. 2, 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

PART 103—AVAILABILITY OF INFORMATION

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

Authority: 5 U.S.C. 301, 552; 19 U.S.C. 66, 1624; 31 U.S.C. 9701.

PART 111—CUSTOMS BROKERS

1. The authority citation for Part 111 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624, 1641; Section 111.3 also issued under 19 U.S.C. 1484; Section 111.96 also issued under 31 U.S.C. 9701.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 is revised to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624. Subpart E also issued under 19 U.S.C. 1484, 1551, 1565.

PART 114—CARNETS

1. The authority citation for Part 114 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

PART 122—AIR COMMERCE REGULATIONS

1. The authority citation for Part 122 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 58b, 66, 1433, 1436, 1459, 1590, 1624, 1644, 49 U.S.C. App. 1509.

PART 123—CUSTOMS RELATIONS WITH CANADA AND MEXICO

1. The general authority citation for Part 123 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

PART 127—GENERAL ORDER, UNCLAIMED, AND ABANDONED MERCHANDISE

1. The general authority citation for Part 127 is revised to read as follows:

Authority: 19 U.S.C. 66, 1311, 1312, 1484, 1485, 1490, 1491, 1492, 1506, 1559, 1563, 1623, 1624, 1646a; 26 U.S.C. 7553.

PART 132—QUOTAS

1. The authority citation for Part 132 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624.

PART 134—COUNTRY OF ORIGIN MARKING

1. The authority citation for Part 134 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1304, 1624.

PART 144—WAREHOUSE AND REWAREHOUSE ENTRIES AND WITHDRAWALS

1. The general authority citation for Part 144 continues to read as follows:

Authority: 19 U.S.C. 66, 1484, 1557, 1559, 1624.

PART 145—MAIL IMPORTATIONS

1. The general authority citation for Part 145 is revised to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1624.

PART 146—FOREIGN TRADE ZONES

1. The general authority citation for Part 146 is revised to read as follows:

Authority: 19 U.S.C. 66, 81a–81u, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1623, 1624. Section 146.5 also issued under 31 U.S.C. 9701.

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

1. The general authority citation for Part 148 is revised to read as follows:

Authority: 19 U.S.C. 66, 1496, 1624. The provisions of this part, except for Subpart C, are also issued under General Note 8, Harmonized Tariff Schedule of the United States, 19 U.S.C. 1202.

PART 151—EXAMINATION, SAMPLING, AND TESTING OF MERCHANDISE

1. The authority citation for Part 151 is revised in part to read as follows:

Authority: 19 U.S.C. 66, 1202 (General Notes 8 and 9, Harmonized Tariff Schedule of the United States (HTSUS)), 1624. Subpart A also issued under 19 U.S.C. 1499. Subpart D also issued under Additional U.S. Notes to Chapter 26, HTSUS. Subpart E also issued under Additional U.S. Note 2(f) to Chapter 51, HTSUS. Subpart F also issued under Additional U.S. Notes to Chapter 52, HTSUS.

Section 151.21 also issued under the provisions of Chapters 17 and 18, HTSUS;

* * * * *

Section 151.91 also issued under the Additional U.S. Notes to Chapter 20, HTSUS.

PART 152—CLASSIFICATION AND APPRAISEMENT OF MERCHANDISE

1. The authority citation for Part 152 is revised to read as follows:

Authority: 19 U.S.C. 66, 1401a, 1500, 1502, 1624; Subpart B also issued under 19 U.S.C. 1315; Subpart C also issued under 19 U.S.C. 1503; Subpart D also issued under 19 U.S.C. 1202 (General Note 9, Harmonized Tariff Schedule of the United States (HTSUS)); Section 152.3 also issued under 19 U.S.C. 1499; Section 152.13 and 152.24 also issued under 19 U.S.C. 1202 (General Note 5, HTSUS); Section 152.31—152.32 also issued under 19 U.S.C. 1401a.

PART 171—FINES, PENALTIES AND FORFEITURES

1. The general authority citation for Part 171 continues to read as follows:

Authority: 19 U.S.C. 66, 1592, 1618, 1624.

PART 177—ADMINISTRATIVE RULINGS

1. The authority citation for Part 177 is revised to read as follows:

Authority: 5 U.S.C. 301, 19, U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule

of the United States), 1624, unless otherwise noted.

PART 191—DRAWBACK

1. The general authority citation for Part 191 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 8, Harmonized Tariff Schedule of the United States), 1313, 1624.

February 10, 1989.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 89-3516 Filed 2-14-89; 8:45 am]

BILLING CODE 4820-02

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19 CFR Part 4

[T.D. 89-25]

Adding Ecuador, Antigua and Barbuda, and the Hungarian People's Republic, to the List of Nations Entitled to Special Tonnage Tax Exemption

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by adding Ecuador, Antigua and Barbuda, and Hungary to the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money. The Department of State informed Customs that there is satisfactory evidence that no discriminatory duties of tonnage or impost are being imposed in the ports of Ecuador, Antigua and Barbuda, and the Hungarian People's Republic, upon vessels belonging to citizens of the United States or on their cargoes. This asmendment provides reciprocal privileges for vessels registered in these countries.

DATES: The exemptions for Ecuador, Antigua and Barbuda, and Hungary, became effective February 4, April 25, and August 22, 1988, respectively. This document is effective February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Paul Hegland, Carrier Rulings Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

Background

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money", on all foreign vessels which enter United States ports (46 U.S.C. App. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or impost are imposed by that foreign nation on U.S. vessels or their cargoes (46 U.S.C. App. 141). Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the U.S. and from the payment of light money.

Ecuadorian ships were exempted as a result of a finding, based on reciprocity, issued in 1944. By letter dated January 12, 1988, the Department of State informed the U.S. Customs Service that the U.S. Embassy in Ecuador had reported it had been advised that U.S. vessels had been paying lighthouse fees in Ecuadorian ports since 1983. Accordingly, T.D. 88-15, published in the **Federal Register** on March 22, 1988, (53 FR 9315), amended § 4.22 by removing Ecuador from the list of nations whose vessels are exempted from the payment of the special tonnage tax and light money, effective February 4, 1988. A communication from the Department of State, dated September 7, 1988, requesting the addition of Ecuador to the list of nations in § 4.22, indicates an effective date of January 1, 1988, has been agreed to. However, in order to maintain consistency of sequence for the removal and reinstatement of Ecuador from and to the list of nations in § 4.22, both the removal and reinstatement will be deemed to have coincided on the same effective date, February 4, 1988. It is noted that vessels of Ecuador would not have been liable for payment of special tonnage tax or light money during the period from January 1 to February 4, 1988, in any event.

By letters dated April 22, and August 18, 1988, the Department of State informed the Customs Service that the Governments of Antigua and Barbuda, and Hungary, respectively, do not impose or levy any discriminatory duties of tonnage or impost in the ports of those countries upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported into those countries on United States vessels.

The authority to amend this section of the Customs Regulations has been delegated to the Chief, Regulations and Disclosure Law Branch.

Finding

On the basis of the information received from the Department of State regarding the absence of discriminatory duties of tonnage or impost imposed on U.S. vessels in the ports of Ecuador, Antigua and Barbuda, and the Hungarian People's Republic, it has been determined that these countries should be added to the list of nations whose vessels are exempted from the payment of the special tonnage tax and payment of light money.

Inapplicability of Public Notice and Delayed Effective Date Requirements

Because these amendments merely implement a statutory requirement and involve a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons, good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

Inapplicability of the Regulatory Flexibility Act

This document is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). That Act does not apply to any regulation such as this for which a notice of proposed rulemaking is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

Executive Order 12291

This amendment does not meet the criteria for a major regulation as defined in E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Drafting Information

The principal author of this document was Earl Martin, Regulations and Disclosure Law Branch, U.S. Customs Service. However, personnel from other offices of the Customs Service participated in its development.

List of Subjects in 19 CFR Part 4

Cargo vessels, Coastal zone, Customs duties and inspection, Fishing vessels, Freight, Harbors, Imports, Maritime carriers, Reporting and recordkeeping requirements, Seamen, Vessels and yachts.

Amendment to the Regulations

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority for Part 4 and the specific authority for § 4.22 are revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624, and 46 U.S.C. App. 3.

Section 4.22 also issued under 46 U.S.C. App. 121, 122, 141.

§ 4.22 [Amended]

2. Section 4.22 is amended by inserting Ecuador, Antigua and Barbuda, and the Hungarian People's Republic, in appropriate alphabetical order, in the list of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

Dated: February 8, 1989.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 89-3517 Filed 2-14-89; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 122

[T.D. 89-24]

Customs Regulations Amendments Concerning Overflight Exemptions for Private Aircraft; Correction

AGENCY: U.S. Customs Service, Treasury.

ACTION: Final rule; correction.

SUMMARY: A document was published in the Federal Register (54 FR 5427) on February 3, 1989, setting forth amendments to the Customs Regulations that modify the overflight exemption program for private aircraft. This document corrects an error that appears in that document.

EFFECTIVE DATE: March 6, 1989.

FOR FURTHER INFORMATION CONTACT: Glenn Ross or Sam McLinn, Office of Passenger Enforcement and Facilitation, (202) 566-5607.

SUPPLEMENTARY INFORMATION:

Background

A document was published in the Federal Register (54 FR 5427) on February 3, 1989, that set forth amendments to the Customs Regulations that modify the overflight exemption progam for private aircraft. The regulations provide for more stringent controls of the overflight program. Customs states in the document that any company, regardless of where it is based, may apply for an overflight exemption. However, the inadvertent inclusion of certain words in the regulatory language of § 122.25(a), Customs Regulations on page 5429 of the document may possibly lead one to another conclusion. Accordingly, this document corrects the possibly misleading language in the first sentence of § 122.25 by deleting the words "in the U.S."

Correction

As corrected, the first sentence of § 122.25(a), Customs Regulations (19 CFR 122.25(a)) should read as follows:

§ 122.25 Exemption for special landing requirements.

(a) *Request.* Any company or individual that has operational control over an aircraft required to give advance notice of arrival under § 122.23 may request an exemption from the landing requirements in § 122.24. * * * * * * * * * *

Dated: February 9, 1989.

Kathryn C. Peterson,

Chief, Regulations and Disclosure Law Branch.

[FR Doc. 89-3520 Filed 2-14-89; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Veterinary Medicine

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority relating to responses to citizen petitions under 21 CFR Part 10, seeking a determination of the suitability of an abbreviated new animal drug application (ANADA) for an animal drug product.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Melissa M. Moncavage, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION: On November 16, 1988, the Generic Animal Drug and Patent Term Restoration Act (the Act) was enacted. The Act amended the Federal Food, Drug, and Cosmetic Act by extending the generic approval system to copies of new animal drugs that were approved after October 1962 and amended Title 35, United States Code, to authorize patent extension for certain animal drugs. FDA is amending § 5.31 *Petitions under Part 10* (21 CFR 5.31) in paragraph (e)(2) by adding "(CVM)" after "Center for Veterinary Medicine" and by adding a new paragraph (f)(7) that will authorize the Director and Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine, to issue responses to citizen petitions seeking a determination of the suitability of an ANADA for an animal drug product.

Further delegation of authority is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Imports, Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: 5 U.S.C. 504, 552; 7 U.S.C. 2217; 15 U.S.C. 638, 1451 *et seq.*, 3701 *et seq.*; 21 U.S.C. 41 *et seq.*, 61-63, 141 *et seq.*, 301-392, 467f(b), 679(b), 801 *et seq.*, 823(f), 1031 *et seq.*; 35 U.S.C. 156; 42 U.S.C. 219, 241, 242(a), 242a, 2421, 242o, 243, 262, 263, 263b through 263m, 264, 265, 300u *et seq.*, 1395y and 1396y note, 3246b(b)(3), 4831(a), 10007, and 10008; Federal Caustic Poison Act (44 Stat. 1406); Federal Advisory Committee Act (Pub. L. 92-463); E.O. 11490, 11921, 12591.

2. Section 5.31 is amended in paragraph (e)(2) by adding "(CVM)" after "Center for Veterinary Medicine", by reserving paragraph (f)(6), and by adding a new paragraph (f)(7) to read as follows:

§ 5.31 Petitions under Part 10.

* * * * *

(f) * * *

(6) [Reserved]

(7) The Director and Deputy Director, Office of New Animal Drug Evaluation, CVM, are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter, seeking a determination of the suitability of an abbreviated new animal drug application for an animal drug product.

Dated: February 9, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89-3492 Filed 2-14-89; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 10

[Docket No. 88N-0374]

Designation of Office To Receive Petitions for Review of Agency Action

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: Under a recent amendment to Title 28 of the United States Code, each Federal agency must designate an office and officer to receive copies of petitions for review challenging agency action in the U.S. Court of Appeals. The designated officer is then required to notify the Judicial Panel on Multidistrict Litigation of any petitions received in the first 10 days after the effective date of the agency action. If those petitions had been filed in different circuits of the U.S. Court of Appeals, then the panel will, by random process, choose one of those circuits to hear all appeals of that agency action. The Food and Drug Administration (FDA) is designating the Chief Counsel as the officer to receive copies of the petitions for review.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Robert L. Spencer, Division of Regulations Policy (HFC-220), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3480.

SUPPLEMENTARY INFORMATION: Former President Reagan recently signed into law Pub. L. 100-236, 101 Stat. 1731, which amends 28 U.S.C. 2112. This amendment, intended to eliminate races to the different circuits of the U.S. Court of Appeals, sets forth a procedure for determining which court shall hear challenges to a final agency action when the action is challenged in different circuits by different petitioners. In brief, the statute requires each petitioner to send time-stamped copies of its petition for review to an office and officer to be designated by each Federal agency to ensure that the agency's choice of forum is considered in the random selection process established by Pub. L. 100-236. When the designated officer receives copies of two or more petitions filed in two or more courts challenging final agency action within 10 days of the effective date of the action, the officer will notify the U.S. Judicial Panel on Multidistrict Litigation (Multidistrict Panel) of the petitions received. The Multidistrict Panel will then select, at random, one of the circuits in which a petition was filed to hear the challenges, and all appeals will be consolidated in that circuit.

To implement this new procedure, Pub. L. 100-236 provides that all Federal agencies must designate, by rule, an office and officer to receive copies of the petitions for review. This rule establishes the Chief Counsel of FDA as that officer for FDA.

Often actions taken by Federal agencies are, by statute, subject to direct review in the U.S. Court of Appeals. While some Federal statutes prescribe a particular circuit court where venue shall lie for challenges to final agency action taken under that statute, other statutes permit a challenge to the action to be filed in one of several circuits or do not prescribe any circuit for such challenge. For example, under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 *et seq.*), most FDA actions reviewable in the first instance in the U.S. Court of Appeals can be brought in one of three circuits: the circuit in which the petitioner resides, the circuit in which the petitioner's principal place of business is located, or the District of Columbia Circuit. (See, e.g., 21 U.S.C. 348(g)(1).)

Under the previous 28 U.S.C. 2112(a), if petitions were filed in more than one circuit, the circuit in which the actions would be heard was chosen using the "first-to-file" rule. While FDA has not had problems with multiple petitioners challenging FDA's actions in more than one circuit of the U.S. Court of Appeals, other agencies such as the Federal Energy Regulatory Commission and the Environmental Protection Agency have been plagued by courthouse races resulting from the use of this "first-to-file" rule. Public Law 100-236 is intended to redress the situation created by the "first-to-file" rule, do away with races to the courthouse, and reintroduce a measure of fairness into the circuit selection process.

Amended 28 U.S.C. 2112 establishes a scheme for determining which circuit shall have venue when petitioners challenge the same agency action in different circuits. When an agency receives date-stamped copies of petitions for review within 10 days of the effective date of the challenged action, it is required to notify the Multidistrict Panel of those petitions. However, only circuits in which petitions were filed are eligible for consideration in the random selection process. If only one petition for review is received, or more than one petition is received but all received were filed in the same circuit (within 10 days of the effective date), the case will be heard in that circuit in which they were filed. Any petitions that are filed after the 10-day period has run will be consolidated in the circuit selected by the Multidistrict Panel. If no petition is received by the agency within the first 10 days, the case will be heard in the circuit where the first petition is filed (28 U.S.C. 2112(a)).

FDA has determined that this rule is a rule of agency management or personnel, and one of agency organization, procedure, and practice. Accordingly, its promulgation does not require notice and comment under the Administrative Procedure Act (5 U.S.C. 553(a)(2) and (b)(A)). Further, this rule is a nondiscretionary action in response to a statutory directive to designate an officer to receive copies of petitions for review of agency action and does not affect any substantive rights or duties of the public. Consequently, FDA believes that good cause exists for making this rule effective immediately (5 U.S.C. 553(d)).

This rule is not subject to Executive Order 12291 because that Order exempts rules, such as this, that are related to agency organization, management, and personnel, from its requirements. The Regulatory Flexibility Act is inapplicable to rules such as this that are not preceded by a notice of proposed rulemaking. In any event, the requirements of this rule are extremely minor. Any entity, whether large or small, which is already challenging an agency action in the Court of Appeals will be burdened only with the cost of a single certified letter. Thus, this rule will not have a significant impact on a substantial number of small entities.

List of Subjects in 21 CFR Part 10

Administrative practice and procedure, News media.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 10 is amended as follows:

PART 10—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. The authority citation for 21 CFR Part 10 is revised to read as follows:

Authority: Sec. 201 *et seq.*, Pub. L. 717, 52 Stat. 1040 as amended (21 U.S.C. 321 *et seq.*); sec. 1 *et seq.*, Pub. L. 410, 58 Stat. 682 as amended (42 U.S.C. 201 *et seq.*); sec. 4, Pub. L. 91-513, 84 Stat. 1241 (42 U.S.C. 257a); sec. 301 *et seq.*, Pub. L. 91-513, 84 Stat. 1253 (21 U.S.C. 821 *et seq.*); sec. 409(b), Pub. L. 242, 81 Stat. 600 (21 U.S.C. 679(b)); sec. 24(b), Pub. L. 85-172, 82 Stat. 807 (21 U.S.C. 467f(b)); sec. 2 *et seq.*, Pub. L. 91-597, 84 Stat. 1620 (21 U.S.C. 1031 *et seq.*); secs. 1-9, Pub. L. 625, 44 Stat. 1101-1103 as amended (21 U.S.C. 141-149); secs. 1-10, Ch. 358, 29 Stat. 604-607 as amended (21 U.S.C. 41-50); sec. 2 *et seq.*, Pub. L. 783, 44 Stat. 1406 as amended (15 U.S.C. 401 *et seq.*); sec. 1 *et seq.*, Pub. L. 89-755, 80 Stat. 1296 as amended (15 U.S.C. 1451 *et seq.*); Pub. L. 100-236, 101 Stat. 1731 (28 U.S.C. 2112).

2. Section 10.3 is amended in paragraph (a) by alphabetically adding the definition to "Chief Counsel" to read as follows:

§ 10.3 Definitions.

(a) * * * "Chief Counsel" means the Chief Counsel of the Food and Drug Administration. * * *

* * * * *

3. Section 10.45 is amended by redesignating paragraph (h) as paragraph (i), by revising the cite "(h)(1)(i)" in redesignated paragraph (i)(2)(i) to read "(i)(1)(i)," and by adding new paragraph (h) to read as follows:

§ 10.45 Court review of final administrative action; exhaustion of administrative remedies.

* * * * *

(h)(1) For the purpose of 28 U.S.C. 2112(a), a copy of any petition filed in any U.S. Court of Appeals challenging a final action of the Commissioner shall be sent by certified mail, return receipt requested, or by personal delivery to the Chief Counsel of FDA. The petition copy shall be time-stamped by the clerk of the court when the original is filed with the court. The petition copy should be addressed to: Office of the Chief Counsel (GCF–1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. The Chief Counsel requests that the purpose of all petitions mailed or delivered to the Office of Chief Counsel to satisfy 28 U.S.C. 2112(a) be clearly identified in a cover letter.

(2) If the Chief Counsel receives two or more petitions filed in two or more U.S. Courts of Appeals for review of any agency action within 10 days of the effective date of that action for the purpose of judicial review, the Chief Counsel will notify the U.S. Judicial Panel on Multidistrict Litigation of any petitions that were received within the 10-day period, in accordance with the applicable rule of the panel.

(3) For the purpose of determining whether a petition for review has been received within the 10-day period under paragraph (h)(2) of this section, the petition shall be considered to be received on the date of delivery, if personally delivered. If the delivery is accomplished by mail, the date of receipt shall be the date noted on the return receipt card.

* * * * *

Dated: February 9, 1989.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 89–3491 Filed 2–14–89; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 904, 905, 913, 960 and 966

[Docket No. R–89–1020; FR–1164]

Tenancy and Administrative Grievance Procedure for Public Housing; Preliminary Injunction; Withdrawal of Final Rule

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of preliminary injunction against implementation of final rule revising Tenancy and Administrative Grievance Procedure for Public Housing; withdrawal of final rule.

SUMMARY: A final rule to amend lease and grievance procedures for the public housing program was published on August 30, 1988 (53 FR 33216, Docket No. R–88–1020; FR 1164). On October 14, 1988, HUD published a notice announcing that the final rule would become effective on November 7, 1988 (53 FR 40220, 40221). This rule has never become effective.

On November 7, 1988 (53 FR 44876), the date on which the rule was to take effect, HUD published a notice announcing that the notice of effective date was being withdrawn pursuant to a Temporary Restraining Order in *National Tenants Organization, et al. v. Samuel R. Pierce* (United States District Court for the District of Columbia, Civil Action No. 88–3134).

Public housing agencies and others are hereby notified that the United States District Court for the District of Columbia has issued a Preliminary Injunction in this case. The Preliminary Injunction provides that the Secretary of HUD, his officers, agents, servants, employees, and those persons in active concert or participation with him are enjoined from implementing the HUD lease and grievance regulation published on August 30, 1988 pending further order of court.

For the following reasons, the August 30, 1988 regulation is withdrawn as a final rule:

—To avoid publication of the regulation in the Code of Federal Regulations, which could create public confusion as to whether the final rule is currently effective.

—Because the Department intends to solicit additional public comment on public housing lease and grievance requirements, as contemplated by section 1013 of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 (Pub. L. 100–628, November 7, 1988) before issuing a new final rule.

The existing lease and grievance regulations (24 CFR Part 966) continue to remain in effect.

Accordingly, the Tenancy and Administrative Grievance Procedure for Public Housing published August 30, 1988 (53 FR 33216) is withdrawn as a final rule.

Date: February 10, 1989.

Thomas Sherman,

Acting General, Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 89–3574 Filed 2–14–89; 8:45 am]

BILLING CODE 4210–33–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, 1917, 1918, 1926, and 1928

Hazard Communication

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final rule; technical amendments; notice regarding enforcement.

SUMMARY: On August 24, 1987 (52 FR 31852), OSHA revised its Hazard Communication Standard (HCS) to expand the scope of the industries covered by the rule from the manufacturing sector to all industries where employees are exposed to hazardous chemicals. Due to subsequent court and administrative actions, OSHA has not enforced the rule in the construction industry, and has not enforced in any industry certain requirements dealing with maintenance of material safety data sheets on multi-employer worksites, coverage of consumer products, and coverage of drugs in the non-manufacturing sector.

This notice is to advise the public that, as a result of further court actions, all provisions of the rule are now in effect in all segments of industry.

This document also makes technical amendments to the HCS by deleting all notations that certain provisions lack Office of Management and Budget approval under the Paperwork Reduction Act.

EFFECTIVE DATES: The revised HCS, codified at 29 CFR 1910.1200, 1915.99, 1917.28, and 1918.90, has been in effect for all manufacturing establishments

and for all non-manufacturing establishments other than construction since June 24, 1988. The HCS for the construction industry, codified at 29 CFR 1926.59, has been in effect since January 30, 1989. Compliance with the rule will not be checked during programmed inspections in construction establishments until March 17, 1989. The technical amendments to 29 CFR 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 deleting notations that certain provisions lack OMB approval under the Paperwork Reduction Act are effective February 15, 1989. Compliance with the three provisions of the HCS that were not previously enforced in any industry will not be checked during programmed inspections until March 17, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Foster, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N3647, Washington, DC 20210; (202) 523–8151.

To aid employers' efforts to comply with the HCS, a single copy of the following documents may be obtained without charge from OSHA's Publications Office, Room N3101 at the above address, (202) 523–9667: the Hazard Communication Standard; OSHA 3084, Chemical Hazard Communication, a booklet describing the requirements of the rule; and OSHA 3111, Hazard Communication Guidelines for Compliance, a booklet which helps employers comply with the rule.

OSHA 3104, Hazard Communication—A Compliance Kit (a step-by-step guide to compliance with the standard) is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783–3238, GPO Order No. 929–022–00000–9; $18—domestic; $22.50—foreign.

SUPPLEMENTARY INFORMATION:

1. *Coverage of the construction industry.* The HCS requires employers to establish hazard communication programs to transmit information on the hazards of chemicals to their employees by means of labels on containers, material safety data sheets, and training programs. The original rule, which was promulgated on November 25, 1983, covered employees exposed to hazardous chemicals in the manufacturing sector of industry (48 FR 53280). The August 24, 1987 modified rule expanded coverage to all employees exposed to hazardous chemicals, thus providing protection for those in non-manufacturing employments as well as manufacturing (52 FR 31852)(codified at 29 CFR 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59).

The August 1987 rule was scheduled to become fully effective on May 23, 1988. On May 20, 1988, the U.S. Court of Appeals for the District of Columbia Circuit transferred several consolidated cases challenging the standard to the U.S. Court of Appeals for the Third Circuit, and in the interim, ordered an administrative stay of the revised standard "until the Third Circuit ruled on the emergency motion for stay" which had been filed by petitioners representing the construction industry.

On June 24, 1988, the Third Circuit issued an order granting the stay requested by construction industry representatives. On July 8, 1988, the Third Circuit clarified its earlier order stating: "The order entered on June 24, 1988, is clarified to make clear that the stay applies only with respect to construction employers in the non-manufacturing sector."

OSHA published a notice in the **Federal Register** on July 22, 1988 (53 FR 27679) to alert the public that the stay only applied to the construction industry. The Agency also announced that programmed inspections in the other non-manufacturing industries would begin on August 1, 1988.

After considering the merits of the challenges to the standard which were filed by employer representatives, the U.S. Court of Appeals for the Third Circuit issued a decision on November 25, 1988 that denied the petitions for review. The Court stated: "None of the substantive or procedural challenges to the application of the hazard communication standard to the construction or grain processing and storage industries have merit. The petitions for review of ABC (Associated Builders and Contractors, Inc.), AGC (The Associated General Contractors), NGFA (The National Grain and Feed Association, Inc.) and UTC (United Technologies Corporation) will therefore be denied. The stay of those standards granted by a panel of this court on June 24, 1988, shall be vacated." *Associated Builders and Contractors, Inc.* v. *Brock*, 862 F.2d 63, 69 (3d Cir. 1988). Further requests from the AGC and the ABC for a continuation of the stay were denied by both the Third Circuit and U.S. Supreme Court Justice William Brennan (Nos. 88–1070, 88–1075). The Third Circuit's ruling became fully effective on January 30, 1989.

OSHA recognizes that some employers in the construction industry may be unfamiliar with these legal actions, and may be unsure whether they must comply with the revised HCS at this time. This document provides additional notice to employers and employees in the construction sector that the HCS is in effect in their industry. As a matter of enforcement policy, OSHA will not check for compliance with the HCS during programmed inspections in the construction industry until March 17, 1989.

2. *Provisions disapproved with regard to information collection requirements.* On October 28, 1987, the Office of Management and Budget (OMB), citing authority of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.)*, disapproved certain information collection requirements in the expanded scope rule, as of the rule's effective date. On December 4, 1987 (52 FR 46075), OSHA published OMB's letter describing its determination in a notice in the **Federal Register**, (*see also* 53 FR 15033 (Apr. 27, 1988) (OMB letter to Department of Labor dated April 13, 1988)).

The provisions that OMB disapproved were: (1) The requirement that material safety data sheets be provided on multi-employer worksites; (2) coverage of any consumer product that falls within the "consumer products" exemption included in section 311(e)(3) of the Superfund Amendments and Reauthorization Act of 1986; and (3) coverage of any drugs regulated by the Food and Drug Administration in the non-manufacturing sector. In accordance with OMB's decision, OSHA has not enforced these three disapproved requirements.

OMB's disapproval of the HCS provisions was challenged in the U.S. Court of Appeals for the Third Circuit. On August 19, 1988, the Court of Appeals invalidated OMB's disapproval and ordered that: "The Secretary [of Labor] shall publish in the **Federal Register** a notice that those parts of the August 24, 1987 hazard communication standard which were disapproved by OMB are now effective." *United Steelworkers of America* v. *Pendergrass*, 855 F.2d 108, 114 (3d Cir. 1988).

On September 2, 1988, the U.S. Department of Justice filed a petition with the Third Circuit requesting a rehearing and suggesting a rehearing *en banc*, which automatically stayed the effect of the Court's order. The Court has now denied the petition for rehearing (November 29, 1988), as well as requests for stay of the decision. In addition, a further motion by industry representatives for a stay of the decision was denied by U.S. Supreme Court Justice Brennan (January 24, 1989). The Solicitor General has authorized the filing of a petition for a writ of certiorari on behalf of the government in the

United Steelworkers case. Also, on January 27, 1989, industry resubmitted its stay request with Chief Justice Rehnquist in both United Steelworkers and Associated Builders and Contractors. That request is pending. If certiorari is granted, the Supreme Court will ultimately decide the enforceability of these provisions. The Third Circuit's decision became effective January 30, 1989.

As ordered by the Third Circuit, OSHA is publishing this document to provide notice to affected employers and employees that all provisions of the HCS are now in effect in all industries. As a matter of enforcement policy, OSHA will not check for compliance with the three provisions in programmed inspections until March 17, 1989.

To implement the court order, technical amendments are being made to the HCS to delete from notes following the headings of the standard, and from the parentheticals following the text of the standard, statements that any provisions of the HCS are disapproved by OMB. The OMB-assigned control number for the approved collection of information requirements of the HCS remain following the text of the standard. The Paperwork Reduction Act requires display of OMB control numbers with all information collection provisions.

Status in State Plan States. The twenty-five (25) states with OSHA-approved State plans and their own hazard communication rules have not been bound by either the court actions or OMB's administrative actions. Those State plan states that have voluntarily honored the court stay or suspended enforcement of the disapproved provisions are expected to similarly begin enforcement of all requirements of the standard.

Authority and Signature

This document was prepared under the direction of John A. Pendergrass, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, under authority of section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), section 107 of the Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333), sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), Secretary of Labor's Order No. 9–83 (48 FR 35736), 29 CFR Part 1911, and 5 U.S.C. 553.

List of Subjects in 29 CFR Parts 1910, 1915, 1917, 1918, 1926, and 1928

Hazard communication, Occupational safety and health, Right-to-know, Labeling, Material safety data sheets, Employee training, Construction.

Signed at Washington, DC, this 9th day of February 1989.

John A. Pendergrass,

Assistant Secretary for Occupational Safety and Health.

OSHA is amending Parts 1910, 1915, 1917, 1918, and 1926 of Title 29 of the Code of Federal Regulations as follows:

PART 1910—OCCUPATIONAL SAFETY AND HEALTH STANDARDS

PART 1915—OCCUPATIONAL SAFETY AND HEALTH STANDARDS FOR SHIPYARD EMPLOYMENT

PART 1917—MARINE TERMINALS

PART 1918—SAFETY AND HEALTH REGULATIONS FOR LONGSHORING

PART 1926—SAFETY AND HEALTH REGULATIONS FOR CONSTRUCTION

1. The authority citation for Subpart Z of Part 1910 continues to read as follows:

Authority: Secs. 6, 8, Occupational Safety and Health Act (29 U.S.C. 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754); 8–76 (41 FR 25059); or 9–83 (48 FR 35736) as applicable; and 29 CFR Part 1911.

Section 1910.1000 Tables Z–1, Z–2, Z–3 also issued under 5 U.S.C. 553.

Section 1910.1000 not issued under 29 CFR Part 1911, except for "Arsenic" and "Cotton Dust" listings in Table Z–1.

Section 1910.1001 also issued under sec. 107 of Contract Work Hours and Safety Standards Act, 40 U.S.C. 333.

Section 1910.1002 not issued under 29 U.S.C. 655 or 29 CFR Part 1911; also issued under 5 U.S.C. 553.

Section 1910.1003 through 1910.1018 also issued under 29 U.S.C. 653.

Section 1910.1025 also issued under 29 U.S.C. 653 and 5 U.S.C. 553.

Section 1910.1043 also isued under 5 U.S.C. 551 *et seq.*

Section 1910.1045 and 1910.1047 also issued under 29 U.S.C. 653.

Section 1910.1200, 1910.1499 and 1910.1500 also issued under 5 U.S.C. 553.

2. The authority citation for Part 1915 continues to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

Section 1915.99 also issued under 5 U.S.C. 553.

3. The authority citation for Part 1917 continues to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers's Compensation Act (33 U.S.C. 941); secs. 4, 6, 8, Occupational Safety and Health act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable; 29 CFR Part 1911.

Section 1917.28 also issued under 5 U.S.C. 553.

4. The authority citation for Part 1918 continues to read as follows:

Authority: Sec. 41, Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

Section 1918.90 also issued under 5 U.S.C. 553 and 29 CFR Part 1911.

5. The authority citation for Subpart D of Part 1926 continues to read as follows:

Authority: Sec. 107, Contract Work Hours and Safety Standards Act (Construction Safety Act) (40 U.S.C. 333); secs. 4, 6, 8, Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order No. 12–71 (36 FR 8754), 8–76 (41 FR 25059), or 9–83 (48 FR 35736), as applicable.

Section 1926.59 also issued under 5 U.S.C. 553 and 29 CFR Part 1911.

§§ 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 [Amended]

6. The notes following the headings of §§ 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 of Title 29 of the Code of Federal Regulations are removed.

7. The OMB control number statements following the text of §§ 1910.1200, 1915.99, 1917.28, 1918.90, and 1926.59 are revised to read:

(Approved by the Office of Management and Budget under Control No. 1218–0072)

[FR Doc. 89–3525 Filed 2–14–89; 8:45 am]

BILLING CODE 4510–26–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's interim regulation on Payment of Premiums, which was published on June 30, 1988 (53 FR 24906). Appendix B to the interim regulation contains a table setting forth the interest rates that are

required by statute to be used in valuing a plan's vested benefits for purposes of determining the amount of the premium due to the PBGC. This amendment adds to that table the interest rate applicable to plan years beginning in February 1989.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202–778–8823 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, amended section 4006 of the Employee Retirement Income Security Act of 1974 ("ERISA") to establish a two-part premium structure for single-employer plans, *i.e.*, a flat rate per capita assessment and a variable rate assessment based on a plan's unfunded vested benefits, effective for plan years beginning on or after January 1, 1988. Under amended ERISA section 4006(a)(3)(E)(iii)(II), the interest rate used in valuing a plan's vested benefits for purposes of determining the amount of the plan's unfunded vested benefits must equal 80% of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

The Pension Benefit Guaranty Corporation's (the "PBGC's") interim regulation on Payment of Premiums (53 FR 24906 (June 30, 1988)) implements these new premium rules. Under § 2610.23(b)(1) of the regulation, the interest rate for valuing vested benefits is determined by reference to the annual yield for 30-year Treasury constant maturities as reported in Federal Reserve Statistical Release G.13 and H.15. The required interest rate for a given "premium payment year" (the plan year for which the premium is being paid) is 80% of this rate for the calendar month preceding the calendar month in which the premium payment year begins. As a convenience, the PBGC established an Appendix B to the interim regulation containing a table setting forth the required interest rates for premium payment years beginning in January 1988 and thereafter.

The PBGC is amending Appendix B to add the required interest rate for premium payment years beginning in February 1989. Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(d)(3).

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, Appendix B to Part 2610 of Chapter XXVI of Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

1. The authority citation for Part 2610 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by sec. 9331, Pub. L. 100–203, 101 Stat. 1330.

2. Appendix B to Part 2610 is amended by adding to the table of interest rates therein a new entry to read as follows. The explanatory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate[1]
. . . . .	
February 1989	7.14

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15, for the calendar month preceding the calendar month in which the premium payment year begins.

Issued in Washington, DC, on this 6th day of February 1989.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89–3472 Filed 2–14–89; 8:45 am]

BILLING CODE 7708–01–M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of March 1989.

EFFECTIVE DATE: March 1, 1989.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; 202–778–8820 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comments on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in

this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_k are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_u
*		*		*			*		*			*			*	
March 1989.....	.09625	.0925	.0875	.0825	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this 6th day of February 1989.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89-3473 Filed 2-14-89; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 367

[DoD Directive 5136.1]

Delegation of Authority, et al.; Assistant Secretary of Defense (Health Affairs)

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document updates the responsibilities, functions, relationships, and authorities of the ASD(Health Affairs) as follows:.

(a) Reference to a repealed statutory provision that established the ASD(Health Affairs) as an office required by law has been deleted, consistent with changes to Title 10, United States Code made by the Goldwater-Nichols DoD Reorganization Act (Pub. L. 99-433).

(b) Medical research (except AIDS research), which has been transferred to the Director of Defense Research and Engineering, has been deleted from the list of functions assigned to the ASD(Health Affairs).

(c) The DoD Human Immunodeficiency Virus (HIV) Program has been added as a function of the ASD(Health Affairs).

(d) Supervision of the Defense Medical Support Activity has been identified as a responsibility of the ASD(Health Affairs).

EFFECTIVE DATE: January 27, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. H. Becker, Office of the Director for Administration and Management, Washington, DC 20301-1155, telephone 202-697-0709.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 367

Organization and management.

Accordingly, 32 CFR Part 367 is revised to read as follows:

PART 367—ASSISTANT SECRETARY OF DEFENSE (HEALTH AFFAIRS)

Sec.

Authority: 10 U.S.C. 136.

§ 367.1 Reissuance and purpose.

This Part revises 32 CFR Part 367 and pursuant to the authority vested in the Secretary of Defense under 10 U.S.C.

(a) Designates one of the positions of Assistant Secretary of Defense as the Assistant Secretary of Defense (Health Affairs) (ASD(HA)).

(b) Assigns responsibilities, functions, relationships, and authorities, as prescribed herein, to the ASD(HA).

§ 367.2 Definition.

DoD Components. The Office of the Secretary of Defense (OSD); the Military Departments; the Joint Chiefs of Staff (JCS); the Joint Staff; the Unified and Specified Commands; the Office of the Inspector General, Department of Defense (OIG, DoD); the Defense Agencies; and the DoD Field Activities.

§ 367.3 Responsibilities.

The *Assistant Secretary of Defense (Health Affairs)* (ASD(HA)) is the principal staff assistant and advisor to the Secretary of Defense for all DoD health policies, programs, and activities. Subject to the direction of the Secretary of Defense, the ASD(HA) is responsible for overall supervision of the health affairs of the Department of Defense and exercises oversight of all DoD health resources. The ASD(HA) shall:

(a) Develop policies, conduct analyses, issue guidance on DoD plans and programs, and advise the Secretary of Defense, as appropriate.

(b) Develop systems, standards, and procedures for the administration and management of approved DoD plans and programs.

(c) Develop plans, programs, actions, and taskings to ensure adherence to DoD health policies and national security objectives and to ensure that programs and systems are designed to accommodate operational requirements.

(d) Establish requirements and standards for medical facility and material acquisition programs.

(e) Establish requirements for DoD research and development programs in medical fields. Keep abreast of technical developments to provide for their orderly transition to operational status. Make recommendations on funding levels for DoD research and development programs in medical fields and the Human Immunodeficiency Virus (HIV) Program.

(f) Serve as program manager for all DoD health and medical resources. Develop the medical portion of the Defense Guidance. In coordination with the Comptroller of the Department of Defense (C, DoD) and the Assistant Secretary of Defense (Program Analysis and Evaluation) (ASD(PA&E)), review all Program Objective Memoranda and budget submissions, and make determinations regarding priorities and resources for health and medical programs. Provide input to Program Decision Memoranda and Program Budget Decisions to the C, DoD, and the ASD(PA&E) for incorporation into the Planning, Programming, and Budgeting System (PPBS) process. Monitor the execution of approved health and medical programs by the DoD Components and, subject to the direction of the Secretary of Defense, make such determinations regarding priorities and resources as may be required to achieve DoD-wide program objectives. Serve as a member of the Defense Resources Board.

(g) Review, evaluate, and make recommendations to the Secretary of Defense on health requirements and priorities.

(h) Review and evaluate plans and programs to ensure adherence to approved policies, standards, and resource guidance and decisions.

(i) Promote coordination, cooperation, and mutual understanding within the Department of Defense and between the Department of Defense and other Federal Agencies and the civilian community.

(j) Serve on boards, committees, and other groups pertaining to ASD(HA) functional areas.

(k) Exercise direction, authority, and control over:

(1) The Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS).

(2) The Defense Medical Support Activity (DMSA), which includes the Defense Medical Systems Support Center (DMSSC) and the Defense Medical Facilities Office (DMFO).

§ 367.4 Functions.

The ASD(HA) shall:

(a) Carry out the responsibilities described in § 367.3 for the following functional areas:

(1) Medical readiness.

(2) Preventive medicine.

(3) Health promotion.

(4) Health benefits programs.

(5) Drug and alcohol abuse.

(6) Cost containment.

(7) Quality assurance.

(8) Medical information systems.

(9) DoD HIV Program and research on acquired immune deficiency syndrome (AIDS).

(10) Procurement, professional development and retention of medical and dental personnel, and related health care specialist and technicians.

(b) Perform such other functions as may be assigned.

§ 367.5 Relationships.

(a) In the performance of assigned duties, the ASD(HA) shall:

(1) Coordinate and exchange information with other OSD Officials and heads of DoD Components having collateral or related functions.

(2) Consult, as appropriate, with the C, DoD, and the ASD(PA&E) to ensure that medical planning, programming, and budget activities are integrated with the DoD PPBS.

(3) Use existing facilities and services of the Department of Defense or other Federal Agencies, whenever practicable, to achieve maximum efficiency and economy.

(4) Represent the Secretary of Defense, as an ex officio member, on the Board of Regents of the Uniformed Services University of the Health Sciences (USUHS).

(b) Other OSD officials and heads of DoD Components shall coordinate with the ASD(HA) on all matters concerning the functions in § 367.4.

§ 367.6 Authorities.

The ASD(HA) is hereby delegated authority to:

(a) Carry out the responsibilities and functions described in §§ 367.3 and 367.4.

(b) Issue orders, DoD Instructions, publications, and one-time directive-type memoranda, consistent with DoD 5025.1–M regarding the accomplishment of functions and responsibilities delegated by the Secretary of Defense in this part. Orders and Instructions to the Military Departments shall be issued through the Secretaries of those Departments, or their designees. Orders and Instructions to Unified or Specified Commands shall be issued through the Chairman, Joint Chiefs of Staff (CJCS).

(c) Obtain reports, information, advice, and assistance, consistent with DoD Directive 7750.5, as necessary.

(d) Communicate directly with heads of DoD Components. Communications to the Commanders of the Unified and Specified Commands shall be coordinated through the CJCS.

(e) Make determinations on the uniform implementation of laws relating to separation from the Military Departments due to physical disability as prescribed in DoD Directive 1332.18.

(f) Develop, issue, and maintain regulations, with the coordination of the Military Departments, as necessary and appropriate to fulfill the Secretary of Defense's responsibility to administer Chapter 55 of 10 U.S.C.

(g) Establish arrangements for DoD participation in nondefense governmental programs for which the ASD(HA) has been assigned primary cognizance.

(h) Communicate with other Government Agencies, representatives of the legislative branch, and members of the public, as appropriate, in carrying out assigned functions.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer.

February 9, 1989.

[FR Doc. 89–3522 Filed 2–14–89; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 211, 217, and 251

Appeal of Decisions Concerning the National Forest System

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: This rule makes a technical change in the Forest Service administrative appeal procedures to make explicit that the new procedures set forth in the recently adopted rules at 36 CFR Parts 217 and 251, Subpart C apply to decisions made on or after February 22, 1989. The administrative appeal procedures at 36 CFR 211.18 will remain in effect for any decision signed before February 22. This action is necessary to avoid inconsistent interpretations by Forest Service officials and the public as well as to prevent one decision being appealed by multiple parties under two separate rules.

EFFECTIVE DATE: This rule is effective February 22, 1989.

FOR FURTHER INFORMATION CONTACT: Kathryn C. Hauser, Program Analyst, National Forest System, Forest Service, U.S. Department of Agriculture, (202) 382–9346.

SUPPLEMENTARY INFORMATION: On January 23, 1989, at 54 FR 3342, Part VI, the Secretary of Agriculture gave notice of adoption of two new rules to provide a process for appeal of decisions of Forest Service officials related to management of the National Forest System. The new rules at 36 CFR Part 251, Subpart C, provide appeal procedures applicable to holders of or applicants for special use authorizations. The new rules at 36 CFR Part 217 provide a new process for appeal of National Forest System plan and project decisions. The new rules replace the current administrative appeal procedures at 36 CFR 211.18.

In order to provide an orderly transition between the use of the current rule and implementation of the new rules, the final rulemaking amended 36 CFR 211.18 to provide that those rules would not apply "to any *request to appeal* (emphasis added) filed after February 22, 1989." By linking applicability of the rules to a request to appeal, rather than to the date of a decision, the final rulemaking inadvertently created the potential for the same decision being appealed by different parties under both the current rule and the new rules. The language also inadvertently extended the application of the current rules one day beyond the effective date of the new rules. Neither of these effects was intended. Thus, a technical amendment is necessary to prevent the possibility of one decision being appealed under two separate rules and to avoid administrative and public confusion and uncertainty as to when the new rules apply.

Accordingly, the rules at 36 CFR 211.18, Part 217, and Part 251, Subpart C are being amended to tie the determination of which rule is applicable to the date a decision is rendered, rather than to the date someone appeals a decision. The amendment makes clear that appealable decisions signed on or after February 22, 1989, are subject to 36 CFR Part 217 and Part 251, Subpart C. Appealable decisions made prior to February 22 will remain subject to the appeal procedures of the current rule at 36 CFR 211.18.

This action is a technical correction of the rules, is necessary to provide an orderly transition to the new rules and to ensure all potential appellants equal treatment and access to the rules, and does not represent a change in Agency policy or intended procedures. Because of its technical nature, this final rule will not have a significant effect on the human environment, individually or cumulatively.

Controlling Paperwork Burdens on the Public

This rules does not contain any recordkeeping or reporting requirements or other information collection requirements as defined in 5 CFR Part 1320 and therefore imposes no paperwork burden on the public.

List of Subjects

36 CFR Part 211

Administrative practice and procedure, National forests.

36 CFR Part 217

Administrative practice and procedure, National forests.

36 CFR Part 251

Administrative practice and procedure, Electric power, National forests, Public lands—rights-of-way, Reporting and recordkeeping requirements, Water resources.

Therefore, for the reasons set forth in the preamble, Chapter II of Title 36 of the Code of Federal Regulations is amended as follows:

PART 211—ADMINISTRATION

1. The authority citation for Part 211 continues to read as follows:

Authority: 30 Stat. 35, as amended, sec. 1, 33 Stat 628 (16 U.S.C. 551, 472).

Subpart B—Appeal of Decisions Concerning the National Forest System

2. Revise the last sentence of paragraph(s) of § 211.18 to read as follows:

§ 211.18 Appeal of decisions of forest officers.

* * * * *

(s) * * * The procedures of this section shall not apply to any decision of a forest officer made after February 21, 1989.

PART 217—REQUESTING REVIEW OF NATIONAL FOREST PLANS AND PROJECT DECISIONS

3. The authority citation for Part 217 continues to read as follows:

Authority: 16 U.S.C. 551, 472.

4. Revise § 217.19(a) to read as follows:

§ 217.19 Applicability and effective date.

(a) The appeal procedures established in this part apply to all appealable decision documents signed on or after February 22, 1989.

* * * * *

PART 251—LAND USES

Subpart C—Appeal of Decisions Relating to Occupancy and Use of National Forest System Lands

5. The authority citation for Subpart C continues to read as follows:

Authority: 16 U.S.C. 472, 551.

6. Revise § 251.102 to read as follows:

§ 251.102 Applicability and effective date.

(a) Except where applicants or holders elect the decision review procedures of Part 217 of this chapter, appealable decisions arising from the issuance, approval, and administration of written instruments authorizing occupancy and use of National Forest System lands made on or after February 22, 1989, shall be subject to the procedures of this part.

(b) Decisions made before February 22, 1989, arising from the issuance, approval, and administration of written instruments authorizing occupancy and use of National Forest System lands shall be subject to appeal under the provisions of 36 CFR 211.18.

Date: Feburary 10, 1989.

George M. Leonard,

Associate Chief.

[FR Doc. 89–3573 Filed 2–14–89; 8:45 am]

BILLING CODE 3410–11–M

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36 CFR Parts 228 and 251

Minerals and Land Uses

AGENCY: Forest Service, USDA.

ACTION: Final rule; technical amendment.

SUMMARY: The Forest Service is amending its rules on Locatable Minerals at 36 CFR Part 228, Subpart A, and on Special Uses at 36 CFR Part 251, Subpart B, to display the OMB control numbers for information collection requirements in these rules. This action is necessary to comply with the rules at 5 CFR Part 1320 governing control of paperwork burdens on the public.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Marian P. Connolly, Regulatory Officer, Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090, (202) 235–1488.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) rules at 5 CFR Part 1320 implement the Paperwork Reduction Act and require Federal agencies to obtain OMB review of information requirements imposed on the public in their rules. Upon clearance of an information requirement, OMB assigns a control number. The rules at 5 CFR 1320.4(a) requires the agency to display the currently valid OMB control number and expiration date.

The Forest Service has discovered that through administrative oversight it has failed to amend its rules to display the required control numbers after it obtained OMB approval of the information requirements in its rules on Locatable Minerals and Special Uses. This rulemaking corrects that oversight.

List of Subjects

36 CFR Part 228

Administrative practice and procedure, Environmental protection, Mineral resources, National forests, Surety bonds.

36 CFR Part 251

Electric power, Mineral resources, National forests, Rights-of-way, Water resources.

Therefore, for the reasons set forth in the preamble, Chapter II of Title 36 of the Code of Federal Regulations is hereby amended as follows:

PART 228—[AMENDED]

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

Authority: 30 Stat. 35 and 36, as amended (16 U.S.C. 478, 551), and 94 Stat. 2400.

Subpart A—[Amended]

2. Revise § 228.4 by adding a new paragraph (g) to read as follows:

§ 228.4 Plan of operations—notice of intent—requirements.

* * * * *

(g) The information required to be included in a notice of intent or a plan of operations, or supplement or modification thereto, has been assigned Office of Management and Budget Control #0596–0022. The public reporting burden for this collection of information is estimated to vary from a few minutes for an activity involving little or no surface disturbance to several months for activities involving heavy capital investments and significant surface disturbance, with an average of 2 hours per individual response. This includes 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 (2800), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

PART 251—[AMENDED]

Subpart B—[Amended]

3. The authority citation for Subpart B continues to read:

Authority: 16 U.S.C. 472, 551, 1134, 3210; 30 U.S.C. 185; 43 U.S.C. 1740, 1761–1771.

4. Subpart B is amended by adding a new § 251.65 to read as follows:

§ 251.65 Information collection requirements.

(a) The rules of this subpart governing special use applications (§ 251.54) and modifications of special use authorizations (§ 251.61) specify the information that applicants for special use authorizations or holders of existing authorizations must provide in order for a Forest officer to act on a request. As such, these rules contain information requirements as defined in 5 CFR Part 1320. These information requirements are assigned control number 0596–0082.

(b) Public reporting burdens for this collection of information is estimated to vary from a 30 minutes in very simple cases to several months for extremely complex requests for authorizations, with an average of 4 hours per response. This estimate includes 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 (2700) Forest Service, USDA, P.O. Box 96090, Washington, DC 20090–6090 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Date: February 9, 1989.

George M. Leonard,

Associate Chief.

[FR Doc. 89–3511 Filed 2–14–89; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Parts 1 and 2

[Docket No. 81024–9018]

Revision of Patent and Trademark Fees

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (PTO) is amending the rules of practice in patent and trademark cases, Parts 1 and 2 of Title 37, Code of Federal Regulations, to adjust patent fee amounts and to reduce certain trademark fee amounts. The Office will be extending the comment period on the proposed amendments of the rules of practice in patent cases, which would clarify requirements in the filing of applications and provide for procedures for applicants to cure certain defects in the filing of applications. After comments are received, the PTO will issue a notice of final rulemaking addressing these proposals.

Establishment and adjustment of patent fees is provided for by section 6 and section 41 of Title 35, United States Code, and section 103(b) of Pub. L. 100–703. Establishment and adjustment of trademark fees is provided for by section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113) and section 103(a) of Pub. L. 100–703.

EFFECTIVE DATE: April 17, 1989.

FOR FURTHER INFORMATION CONTACT: Frances Michalkewicz by telephone at (703) 557–1610 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Patent fees were set on October 1, 1982, in accordance with the provisions of Title 35, United States Code (Pub. L. 97–247). Patent fees were adjusted effective October 5, 1985, in accordance with the provisions of Title 35, United States Code. Trademark fees were set on October 1, 1982, in accordance with the provisions of section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113) and adjusted on October 1, 1986, in accordance with the provisions of that Act and Title 35. On November 6, 1986, legislation modifying the way fee adjustments could be made was enacted as Pub. L. 99–607. The fee adjustment provisions of Pub. L. 99–607, section 3(a) and section 3(b) expired on September 30, 1988. On November 19, 1988, legislation extending

section 3(a) and section 3(b) of Pub. L. 99–607 was enacted as Pub. L. 100–703. Therefore, patent and trademark fee adjustments were guided by the provisions of Title 35, United States Code, and the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113), and by Pub. L. 100–703.

The Patent and Trademark Office is amending 37 CFR 2.6 to reduce the fee for filing an application for trademark registration from $200 to $175 per class. The Office also is reducing the fee for recording trademark assignments and agreements or other papers relating to the property in a registration or application from $100 to $8 for each mark in the same document.

Effective October 1, 1982, trademark operations within the Office became 100 percent user-fee funded. Experience to date has demonstrated that the fees first established in October 1982, and as later adjusted in October 1986, are more than adequate to meet total trademark function costs. At the end of fiscal year 1988, total trademark function fees exceeded total trademark function costs by approximately $10 million. Left undisturbed, it is projected that the current trademark fee structure will result in an additional $12.7 million in excess fees over the course of the next three-year fee cycle. Thus, by the end of fiscal year 1991, total trademark fees are projected to exceed total trademark costs by almost $23 million if the current fee structure remains in place.

In this light, the Office is reducing both the trademark application and assignment fees. Reducing the application fee to $175 would be consistent with the legislative history surrounding passage of Pub. L. 97–247. In its report (H. Rep. No. 97–542, May 17, 1982), the House Committee on the Judiciary stated that, "It is expected that the Commissioner will set the [trademark] fees in a way that the filing fee will be kept as low as possible to foster use of the Federal registration system." The application filing fee from October 1982 to October 1986 was $175. The filing fee was increased in 1986 to $200 in an effort to recover a greater percentage of the actual costs incurred in the processing of trademark applications. While the reduction will increase the discrepancy between the application filing fee and our projected unit cost, the size of the current "surplus," as well as the objective of encouraging filings, supports the action.

Reducing the fee for recording trademark assignments to $8 for each mark makes such fees consistent with those for the recording of patent assignments.

While the fee reductions still will leave a healthy "surplus," prudence suggests that further reductions be held in abeyance pending implementation of "The Trademark Law Revision Act of 1988" (Pub. L. 100–667). The Act, among other things, permits applicants to file applications for Federal trademark registrations based upon a bona fide "intent-to-use" the mark in commerce. Implementation of "intent-to-use" legislation will require the Office to incur additional expenditures, such as increased personnel costs and improved computer capabilities. The Office will review its trademark fee structure approximately 18 months from implementation and propose further fee adjustments if warranted, but will not propose to adjust the application and assignment fees.

Even absent "intent-to-use," the Office will probably be required to upgrade its computer capabilities within the near future. Moreover, implementation of an automated trademark assignment system, now scheduled for fiscal year 1990, and other improvements in automated searching, will result in increased demands on trademark resources.

Background

Provisions of Title 35 and Title 15, United States Code, and Pub. L. 100–703 Which Affect This Notice of Final Rulemaking

Patent and Trademark Office fees are authorized by 35 U.S.C. 41 and 35 U.S.C. 376. Section 41(a) of Title 35, United States Code, establishes a number of statutory fees. Among the more significant of these are fees for filing a patent application and issuing a patent. Certain other fees, such as appeal fees, the fee for filing a disclaimer, fees for filing petitions seeking to revive an abandoned application and for extensions of time also are set in 35 U.S.C. 41(a). Section 41(b) of Title 35, United States Code, sets forth the statutory fees for maintaining a patent in force if the application was filed on or after August 27, 1982.

The provisions of Pub. L. 96–517 also establish maintenance fees for patents other than design and plant patents issued on applications filed on or after December 12, 1980 and before August 27, 1982. These maintenance fees are to recover 25 percent of the estimated cost to the Office of processing patent applications.

Section 1 of Pub. L. 97–247 authorized the reduction by 50 percent in the fees paid under 35 U.S.C. 41(a) and 35 U.S.C. 41(b) by independent inventors, small business concerns, and nonprofit organizations, who meet the definitions established. Section 1(a)(2) of Pub. L. 99–607 makes this provision permanent in 35 U.S.C. 41(h).

Section 41(f) of Title 35, United States Code, provides that fees established in 35 U.S.C. 41(a) and 35 U.S.C. 41(b), "may be adjusted by the Commissioner on October 1, 1985, and every third year thereafter, to reflect any fluctuations occurring during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor." Section 41(f) also provides that changes of less than one percent may be ignored. Public Law 100–703 makes no modifications to 35 U.S.C. 41(f).

Sction 41(d) of Title 35, United States Code, provides that the "Commissioner will establish fees for all other processing, services, or materials related to patents" which are not covered in 35 U.S.C. 41(a) and 35 U.S.C. 41(b), "to recover the estimated average cost to the Office of such processing, services or materials."

Section 103(b) of Pub. L. 100–703 changes the way fees established under 35 U.S.C. 41(d) can be adjusted. For fiscal years 1989, 1990, and 1991, the Commissioner cannot increase fees established under 35 U.S.C. 41(d) except for the purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index.

Section 103(b) of Pub. L. 100–703 provides that the Commissioner cannot establish additional fees under 35 U.S.C. 41(d) during fiscal years 1989, 1990, and 1991.

Section 376 of Title 35, United States Code, authorizes the Commissioner to set fees for patent applications filed under the Patent Cooperation Treaty. The fees under the Patent Cooperation Treaty are keyed to full cost recovery of the processing costs under the Treaty. Public Law 100–703 makes no modifications to 35 U.S.C. 376.

Section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113) authorizes the Commissioner to establish fees for the filing and processing of an application for the registration of a trademark or other mark, and for all other services and materials relating to trademarks and other marks. No fee for the filing or processing of an application for the registration of a trademark or other mark or for the renewal or assignment of a trademark or other mark will be adjusted more than once every three years. The House Committee on the Judiciary, in a report that accompanied H.R. 6260, which ultimately was enacted as Pub. L. 97–247, recommended a

trademark fee schedule to the Commissioner which was established by a rule published in the **Federal Register** on July 30, 1982, at 47 FR 33086, effective October 1, 1982. A final rule to increase the trademark application filing fee per class and the fee for copies of trademarks was published in the **Federal Register** on August 4, 1986, at 51 FR 28052. The increased fees became effective on October 1, 1986.

Section 103(a) of Pub. L. 100–703 changes the way fees established under the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113) can be adjusted. For fiscal years 1989, 1990, and 1991, the Commissioner cannot increase fees established under the Act except for the purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index.

Section 103(a) of Pub. L. 100–703 provides that the Commissioner cannot establish additional fees under the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113) during fiscal years 1989, 1990, and 1991.

However, as described above, the Office is only reducing the fee for filing an application, per class, and the fee for recording trademark assignments and agreements or other papers relating to the property in a registration or application.

Final Rule Changes

General Procedures

Cost Calculations

The Office calculated unit costs for all fees based on OMB Circular A–25, "User Fees," and OMB Circular A–130, "Management of Federal Information Resources." Costs were determined from the best available records (for example, the 1987 end of fiscal year financial statements for the Office) and included direct and indirect costs to the Office of carrying out the activity, as directed by OMB Circular A–25. To estimate costs for the three-year fee cycle, April 1989–March 1992, the 1987 actual costs were adjusted by the inflation rates from October 1988 through March 1989, and then by a mid-cycle inflation rate for the period April 1989–March 1992. The total inflation rate was 12.644 percent derived from the Administration's inflation projection.

Workload Projections

Determination of future year workloads varies by fee code. Principal workload projection techniques are as follows:

Patent and trademark application workloads were projected from statistical regression models using recent application trends. Associated application workloads, for example, patent claims and extensions of time, grow relative to patent applications. Patent issues are projected from an in-house patent productivity model and reflect examiner production achievements and goals. Patent maintenance fee workloads utilize patents issued 3.5, 7.5 and 11.5 years prior to payment and assume payment rates of 80 percent, 50 percent and 25 percent, respectively. Trademark affidavits and renewals are based on prior year registrations and renewal trends. Service fee workloads follow linear trends from prior year activities. All workload estimates are approved by the manager responsible for the fee program.

Policy for Applying the Consumer Price Index

The Office of Management and Budget has determined that the Patent and Trademark Office should use Consumer Price Index-U (CPI) to adjust patent fees. The Department of Labor's Consumer Price Index is made public approximately twenty-one days after the end of the month being calculated. The time lag between the initiation and the completion of the rulemaking process dictates that the December 1988 through March 1989 inflation rate be projected. The Administration's projected cumulative CPI for the three-year period, April 1986–March 1989, is 10.311 percent.

The fee amounts being adopted by this rule package were adjusted by the CPI that was projected in 1988, i.e., 10.303 percent. Since this is less than the amount the Office has determined to be the actual projected rate and that applying the updated projection of 10.311 percent would have a negligible effect on the fee amounts, no changes have been made.

Rounding Procedures

After application of the 10.303 percent projected fluctuation in the CPI to fees, amounts were rounded by applying standard arithmetical rules so that the amounts rounded would be de minimis and convenient to the user. Fees of $100 or more were rounded to the nearest $10. Fees between $10 and $99 were rounded to the nearest even number so that the comparable small entity fee would be a whole number. Fees under $2 were rounded for convenience.

Since the amounts of the patent fees that went into effect on October 5, 1985 were rounded after application of the Consumer Price Index, a first step in calculating new fee amounts was to eliminate any effects of rounding prior years' fee adjustments. For example, 35 U.S.C. 41(a), sets the patent application filing fee at $300.00. Applying the 11.8 percent CPI for the period 1983–1985 resulted in an allowable increase to $335.40. This amount was rounded to $340.00. For purposes of this fee adjustment process, the base used to adjust fees for the next fee cycle was the "unrounded" fee amount, i.e., the $335.40 for patent application filing fees. Similarly, the cost for certifying Office records was $2.70. This amount was rounded to $3.00. For purposes of this fee adjustment process, the base was the unrounded amount of $2.70.

It should be noted that following routine rounding off practices can result in some fee items being adjusted by more or less than CPI. This divergence from the CPI ceiling will only exist in the short term because of the policy of applying the CPI adjustment factor to the unrounded amount from the previous fee cycle.

Rule Changes Under Title 35 and Title 15, United States Code and Pub. L. 100–703

Statutory patent fees established under 35 U.S.C. 41(a) and 35 U.S.C. 41(b) are adjusted in accordance with 35 U.S.C. 41(f) to reflect any fluctuations occurring during the previous three years in the CPI.

Non-statutory patent fees established under 35 U.S.C. 41(d) are adjusted in accordance with section 103(b) of Pub. L. 100–703 to reflect, in the aggregate, any fluctuations occurring during the previous three years (April 1986–March 1989) in the Consumer Price Index, as determined by the Secretary of Labor.

Fees established under 35 U.S.C. 376 are adjusted to recover the full cost of processing under the Patent Cooperation Treaty. International patent fees under 37 CFR 1.492 are related to patent fees established under 35 U.S.C. 41(a) and are adjusted to reflect fluctuations in the CPI.

For fees established under section 31 of the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113), the Office is reducing the fee for filing an application, per class, and the fee for recording trademark assignments and agreements or other papers relating to the property in a registration or application as fully decribed above.

Fee Adjustment Methodology

1. Projected Actual Costs

The projected actual costs for all fee items were calculated by applying the principles of OMB Circulars A–25 and A–130.

a. Statutory patent fees were derived by: (1) Identifying those operational units of the Office involved in, or contributing to, the processing of a patent application through all phases of examination; (2) identifying and certifying actual fiscal year 1987 obligations incurred by the operational units in processing an application; (3) projecting those obligations to the period of April 1989 through March 1992 in accordance with approved budgets and future year budget targets; and (4) increasing the obligations projected for the period of April 1989 through March 1992 by the Administration's estimates for Federal pay raise adjustments and projected inflation. Projected actual costs for April 1989–March 1992, $729,810,051 less projected budget authority of $265,834,000, are $463,976,051.

b. For non-statutory patent fees, projected costs for each fee item were established by (1) identifying actual costs for 1987; and (2) projecting actual costs for fiscal years 1988 through March 1992 by applying the Administration's inflation projection of 12.644 percent.

This projected actual cost was then multiplied by the projected workload for each fee item. The sum of the projected costs for all fee items is the projected actual cost of operation during the three-year fee cycle. Projected actual costs for April 1989–March 1992 are $64,661,341.

c. The same methodologies as described in paragraphs (a) and (b) above were applied to Patent Cooperation Treaty fees. Projected actual costs for April 1989–March 1992 are $16,531,990.

d. The same methodology as described in paragraph (b) above was applied to Trademark fees. Projected actual costs for April 1989–March 1992 are calculated to be $74,329,783.

2. Income Projections

a. The maximum amount of statutory fee income that the Office is authorized to recover under 35 U.S.C. 41(f) was calculated as follows:

For each statutory patent fee, the unrounded base (i.e., the 1986 adjusted fee before rounding) was multiplied by the projected CPI fluctuation of 10.303 percent for the three-year period April 1986–March 1989. This amount was then multiplied by the projected workload for April 1989–March 1992 to project the income from that fee item during the April 1989–March 1992 fee cycle. The sum of the projected incomes from all statutory patent fees is the maximum amount that the Office is authorized by 35 U.S.C. 41(f) to recover during the fee cycle and is equal to $464,676,178.

b. The maximum amount of non-statutory fee income that the Office is authorized to recover under section 103(b) of Pub. L. 100–703 was calculated as follows:

For each non-statutory patent fee, the unrounded base (i.e., the 1986 adjusted fee before rounding) was multiplied by the projected CPI fluctuation of 10.303 percent for the three-year period April 1986–March 1989. This amount was then multiplied by the projected workload for April 1989–March 1992 to project the income from that fee item during April 1989–March 1992 fee cycle. The sum of the projected incomes from all non-statutory patent fees is the maximum amount that the Office is authorized by section 103(b) of Pub. L. 100–703 to recover during the fee cycle and is equal to $62,101,874.

c. For Patent Cooperation Treaty (PCT) fees, the Office is authorized by 35 U.S.C. 376 to recover the full cost of processing under the Treaty. Thus, the projected costs identified in paragraph 1(c) for Patent Cooperation Treaty fees of $16,531,990 would be the maximum level of recovery.

d. The maximum amount of trademark fee income that the Office is authorized to recover under section 103(a) of Pub. L. 100–703 was calculated as follows.

For each trademark fee, the unrounded base (i.e., the 1986 adjusted fee before rounding) was multiplied by the projected CPI fluctuation of 10.303 percent for the three-year period April 1986–March 1989. This amount was then multiplied by the projected workload for April 1989–March 1992 to project the income from that fee item during the April 1989–March 1992 fee cycle. The sum of the projected incomes from all trademark fees is the maximum amount that the Office is authorized by section 103(a) of Pub. L. 100–703 to recover during the fee cycle and is equal to $107,704,135.

e. Each statutory patent fee amount identified in paragraph 2(a), and each PCT amount identified in paragraph 2(c) above was rounded according to the de minimis rounding rules described above.

Sections 103(a) and 103(b) of Pub. L. 100–703 allow the Office to set fees "in the aggregate." The fee amounts for non-statutory patent fees and trademark fees will recover the maximum amount of income determined in paragraphs (b) and (d) above.

Each of these fee amounts was multiplied by the projected workload during the fee cycle to project the income from that fee item. The sum of the projected income from all patent fees is $542,281,082, which is the sum of the projected incomes from statutory patent fees, $463,626,421, non-statutory patent fees, $62,047,763, and Patent Cooperation Treaty fees, $16,606,898.

f. The Office reduced two trademark fees, as described above. Each trademark fee amount was mulitplied by the projected workload during the fee cycle to project the income from that fee item. The sum of the projected income from all trademark fees is projected to be $72,972,690.

Summary:

Fee category	Projected cost: April 1989–March 1992	Maximum allowable recovery	Projected income: April 1989–March 1992
Statutory patent	$463,976,051	$464,676,178	$463,626,421
Non-statutory patent	64,661,341	62,101,874	62,047,763
PCT	16,531,990	16,531,990	16,606,898
Total—patent	545,169,382	543,310,042	542,281,082
Total—trademark	74,329,783	107,704,135	72,972,690
Total—all fees	619,499,165	651,014,177	615,253,772

The unit costs by fee item are summarized in Appendix A. The Office has detailed cost calculation worksheets for each fee item, which are available for public inspection in Suite 904 of Building 2, Crystal Park at 2121 Crystal Drive, Arlington, Virginia.

It is intended that the amount of any fee due and payable on or after April 17, 1989, is the amount set in this rulemaking. For purposes of determining the amount of the fee to be paid, the date of mailing indicated on a proper Certificate of Mailing, where authorized under 37 CFR 1.8, will be considered to be the date of receipt in the Office. A "Certificate of Mailing under Section 1.8" is not "proper" for items which are specifically excluded from the provisions of § 1.8. Section 1.8 should be consulted for those items for which a Certificate of Mailing is not "proper." Such items include, inter alia, the filing of national and international applications for patents and the filing of trademark applications. The provisions of 37 CFR 1.10, relating to filing of papers and fees by "Express Mail" with certificate, however, do apply to any paper or fee (including patent and trademark applications) to be filed in the Office. If an application or fee is filed by "Express Mail" with a certificate of express mailing dated on and after the effective date of the rules, the amount of the fee to be paid is the fee established herein if a change is being made in the fee. In order to ensure clarity in the implementation of the fee proposals, a discussion of specific sections is set forth below.

Discussion of Specific Rules

Section 1.12 Assignment records open to public inspection.

Section 1.12, paragraph (a) is amended to refer to the renumbered § 1.19(b)(4). Paragraph (c), is amended to refer to the renumbered § 1.17(i)(1).

Section 1.14 Patent applications preserved in secrecy.

Section 1.14, paragraph (e) is amended to refer to the renumbered § 1.17(i)(1).

Section 1.16 National application filing fee.

Section 1.16 is amended to adjust patent application filing fees established in 35 U.S.C. 41(a) and set forth in 37 CFR 1.16 (a)–(b), (d) and (f)–(i) to reflect fluctuations in the CPI.

Section 1.16, paragraph (e) is amended to adjust the patent application surcharge fee authorized by 35 U.S.C. 111 to reflect fluctuations in the CPI.

Section 1.17 Patent application processing fees.

Section 1.17 is amended to adjust patent application processing fees established in 35 U.S.C. 41(a) and set forth in 37 CFR 1.17 (a)–(g) and (l)–(m) to reflect fluctuations in the CPI.

Section 1.17 is amended to adjust the patent application processing fees authorized by 35 U.S.C. 41(d) and set forth in 37 CFR 1.17 (h)–(k) to reflect fluctuations in the CPI.

Section 1.17 is amended to establish one fee amount for filing a petition to the Commissioner under 37 CFR 1.12, 1.14, 1.47, 1.48, 1.55, 1.103, 1.177, 1.182, 1.183, 1.295, 1.312, 1.313, 1.314, 1.334, 1.377, 1.378(e), 1.644(e), 1.644(f), 1.666(b), 1.666(c), 5.12, 5.13, 5.14, 5.15, and 5.25. The fee will recover the estimated average cost to the Office of processing all petitions to the Commissioner mentioned above. In addition, the single fee for all petitions is expected to facilitate pre-processing of petition requests.

Section 1.17 is amended to provide in new paragraph (i)(2) an $80 fee for filing a petition to the Commissioner under 37 CFR 1.102 to make an application special.

Section 1.18 Patent issue fees.

Section 1.18 is amended to adjust patent issue fees established in 35 U.S.C. 41(a) and set forth in 37 CFR 1.18 (a)–(c) to reflect fluctuations in the CPI.

Section 1.19 Document supply fees.

Section 1.19 is revised to adjust the fees authorized by 35 U.S.C. 41(d) for services and materials as set forth in 37 CFR 1.19 to reflect fluctuations in the CPI.

Section 1.19(a)(2) is revised to adjust the fees for copies of plant patents and statutory invention registrations to reflect fluctuations in the CPI.

Section 1.19 is revised to renumber paragraph (a)(5) as (a)(3) and provide for a flat fee for a certified copy of an Office document, for each 30 pages or fraction thereof.

Section 1.19 revises paragraphs (a)(4)–(a)(6) and (b)(4) to set the fees for the purchase of color copies of color drawings identified in utility patents and for expedited service for fulfillment of orders for patent copies and orders for copies of patent applications as filed. The provision for color drawings in utility patent applications is in § 1.84(p). Although color drawings may be permitted in a utility patent application by petition, copies of printed patents will only be provided in black and white. If a copy of the printed patent with copies of the drawings in color is desired, it must be separately ordered and accompanied by the fee set forth in paragraph (a)(4). The fees set forth in paragraphs (a)(5), (a)(6) and (b)(4) are for expedited processing of copy orders.

The Public Service Window (PSW) in the Patent Public Search Room referred to in proposed new paragraph 37 CFR 1.19(a)(5) is located on the lobby level of Crystal Plaza Building 3. The Office rents numbered lock boxes (delivery boxes) to members of the public for copy order delivery purposes. Members of the public may place coupon orders at the PSW and request that the copies be delivered to their boxes at the PSW. PSW staff members receive and process the coupon orders and forward them to the copy fulfillment contractor. Upon receipt of the copies, PSW staff members place them in the appropriate delivery box for pickup by the box holder.

Section 1.19, paragraph (a) is revised to remove the charge for a microfiche copy of a microfiche.

Section 1.19 is revised to renumber paragraph (a)(3) as (b)(1) and provide for one fee for a certified copy of a patent application as filed.

Section 1.19 is revised to renumber paragraph (a)(4) as (b)(2) and provide for a flat fee for a certified copy of a patent file wrapper, and contents, with no limitation on the number of pages.

Section 1.19 is revised to renumber paragraph (a)(7) as (b)(3) and provide for one fee for a certified copy of a patent assignment record.

Section 1.19 is revised to renumber paragraph (b)(1) as (b)(5).

Section 1.19 is revised to renumber paragraph (b)(2) as (b)(6) and adjust the fee for a search of assignment records, abstract of title and certification, per patent to reflect fluctuations in CPI.

Section 1.19 is revised to remove paragraph (c) as the requirement for a special fee for providing subscription services has been eliminated. The Office will provide subscription services at no cost to the subscriber.

Section 1.19 is revised to renumber paragraph (d) as paragraph (c).

Section 1.19 is revised to renumber paragraph (e) to paragraph (d) and provide for a list of all United States patents and statutory invention registrations in a subclass, with no limit to the number at the proposed flat fee.

Section 1.19 is revised to remove paragraph (f).

Section 1.19 is revised to renumber paragraphs (g)–(j) as paragraphs (e)–(h) and adjust the fees to reflect fluctuations in the CPI.

Section 1.20 Post-issuance fees.

Section 1.20, paragraphs (a)–(c) are amended to adjust patent post-issuance fees authorized by 35 U.S.C. 41(d) to reflect fluctuations in the CPI.

Section 1.20 is amended to clarify the language in paragraph (a) that the fee charged is for a correction of an applicant's mistake.

Section 1.20, paragraphs (d) and (h)–(j) are amended to adjust patent post-issuance fees established in 35 U.S.C. 41(a) and 35 U.S.C. 41(b) to reflect fluctuations in the CPI.

Section 1.20, paragraphs (e)–(g) are amended to adjust post-issuance fees authorized by section 2 of Pub. L. 96–517, as modified by section 404 of Pub. L. 98–622. These fees must be set at a level to eventually recover 25 percent of the estimated cost to the Office of processing patent applications. In order to achieve this level of recovery, these maintenance fees are proposed to be adjusted to reflect fluctuations in the CPI.

Section 1.20, paragraph (k) is amended to adjust the patent application surcharge fee authorized by section 2 of Pub. L. 96–517.

Section 1.20, paragraph (l) is amended to adjust the post-issuance fee authorized by 35 U.S.C. 41(b).

Section 1.20, paragraph (m) is amended to adjust the post-issuance fee authorized by 35 U.S.C. 41(c)(1).

Section 1.20, paragraph (n) is amended to adjust the post-issuance fee authorized by Pub. L. 98–417 and 35 U.S.C. 156.

Section 1.21 Miscellaneous fees and charges.

Section 1.21 is amended to adjust the miscellaneous fees and charges authorized by 35 U.S.C. 41(d) and set forth in 37 CFR 1.21(a)–(b), (d)–(j) and (l)–(m) to reflect fluctuations in the CPI.

Section 1.21(f) is further amended to establish a flat fee for conducting an inventor search of Office records for a ten-year period.

The CopiShare Card referred to in 37 CFR 1.21(g) relates to the photocopiers and reader/printers for use by members of the public in the Office's search facilities. Each photocopier and reader/printer is connected to an access device which affords access to the equipment through the use of a magnetic card which has been encoded with an amount pre-paid by the customer. The access devices, encoding equipment, and magnetic cards comprise an equipment access system called the CopiShare system. The magnetic CopiShare Cards are purchased by the public and encoded with an amount of funds paid to the Office. The customer places the encoded card in the device connected to the photocopier or reader/printer, and a pre-set amount is deducted for each copy produced.

The Office is planning to authorize the public to use credit cards for the purchase of CopiShare Cards. This will be a pilot program for accepting credit cards for fees, and if feasible, may be extended to other operations of the Office.

Section 1.21(h) is further amended to establish one fee for recording each property in an assignment, agreement or other paper relating to the property in a patent or application. The fee reflects increased costs to enhance the processing of assignments.

Section 1.26 Refunds.

Section 1.26 is amended to change paragraph (c) to provide for a refund of $1,500 if the Commissioner decides not to institute reexamination proceedings. The $1,500 refund would apply to those instances where the proposed reexamination fee of $1,980 under 37 CFR 1.20(c) was paid. The current $1,300 refund will be made in those cases where the current $1,770 reexamination fee was paid.

Section 1.55 Claim for foreign priority.

Section 1.55, paragraph (a) is amended to refer to the renumbered § 1.17(i)(1).

Section 1.102 Advancement of examination.

Section 1.102, paragraph (d) is amended to refer to the petition fee set forth in new paragraph 1.17(i)(2).

Section 1.103 Suspension of action

Section 1.103, paragraph (a) is amended to refer to the renumbered § 1.17(i)(1).

Section 1.171 Application for reissue

Section 1.171 is amended to refer to the renumbered § 1.17(i)(1).

Section 1.177 Reissue in divisions

Section 1.177 is amended to refer to the renumbered § 1.17(i)(1).

Section 1.296 Withdrawal of request for publication of statutory invention registration.

Section 1.296 is amended to adjust the handling fee for withdrawal of a statutory invention registration to reflect fluctuations in the CPI.

Section 1.313 Withdrawal from issue.

Section 1.313, paragraph (a) is amended to refer to the renumbered § 1.17(i)(1).

Section 1.314 Issuance of patent.

Section 1.314 is amended to refer to the renumbered § 1.17(i)(1).

Section 1.334 Issue of patent to assignee.

Section 1.334, paragraph (c) is amended to refer to the renumbered § 1.17(i)(1).

Section 1.445 International application filing and processing fees.

Section 1.445 is amended to adjust the fees authorized by 35 U.S.C. 376 for international application processing as set forth in 37 CFR 1.445(a)(2) and (a)(3) to recover the cost to the Office of such processing, as determined by fluctuations in CPI.

Section 1.451 The priority claim and priority document in an international application.

Section 1.451, paragraph (b) is amended to refer to the renumbered §§ 1.19(b)(1) and 1.19(b)(6).

Section 1.482 International preliminary examination fees.

Section 1.482 is amended to adjust the fees authorized by 35 U.S.C. 376 for international application processing as set forth in 37 CFR 1.482(a) to recover the estimated average cost to the Office of such processing.

Section 1.492 National stage fees.

Section 1.492 is amended to adjust the fees authorized by 35 U.S.C. 376 for international application processing as set forth in 37 CFR 1.492(a)–(b) and (d)–(f) to recover the estimated average cost to the Office of such processing as determined by fluctuations in the CPI.

Section 1.666 Filing of interference settlement agreements.

Section 1.666, paragraph (b) is amended to refer to the renumbered § 1.17(i)(1).

Section 2.6 Trademark fees.

Section 2.6 (a) and (q) are amended to adjust trademark fees established pursuant to the Trademark (Lanham) Act of 1946, as amended (15 U.S.C. 1113).

Response to Comments on The Rules

A notice of proposed rulemaking to adjust patent and trademark fees was published in the **Federal Register** on November 30, 1988, at 53 FR 48402. Corrections of typographical errors were published in the **Federal Register** on December 8, 1988, at 53 FR 49637. A notice also was published on December 13, 1988 at volume 1097 of the *Official Gazette* of the United States Patent and Trademark Office, pages 16 through 29. A public hearing was conducted on January 4, 1989. Six letters submitting written comments were received and oral testimony was presented by one person at the public hearing. All of the written and oral comments were considered in adopting the changes set

forth herein. The comments submitted, along with responses, appear below.

Comment: A major patent law association requested an additional sixty (60) days to comment on proposed changes to the following rules that go beyond fees. Several other respondents also commented on the proposed changes to these rules.

37 CFR 1.53 Serial number, filing date, and completion of application.

37 CFR 1.55 Claim for foreign priority.

37 CFR 1.60 Continuation or divisional application for invention disclosed in a prior application.

37 CFR 1.62 File wrapper continuing procedure.

37 CFR 1.96 Submission of computer program listings.

Response: The Office is not amending 37 CFR 1.53, 1.60, 1.62 and 1.96 and is extending the comment period until March 3, 1989. The Office also is not adding new rule 37 CFR 1.21(n) which refers to 37 CFR 1.53, 1.60 and 1.62. The Office is amending only that portion of 37 CFR 1.55 which clarifies that the already established fee refers to the amount in the new 37 CFR 1.17(i)(1) and not the old § 1.71(i). After the extended comment period closes the Office will issue a new notice of final rulemaking addressing these proposals.

Comment: Two respondents requested that the Office provide for a comment period longer than the 30 days accorded in this rule package.

Response: Office policy is to provide a 60 day comment period whenever possible. For fee-related rules, the comment period generally is limited to 30 days because the final rule must be in place 60 days before the fees are effective. This gives the public at least 90 days notice of a fee change.

In addition, the Office alerts, as far in advance as possible, major patent and trademark associations and organizations, and its advisory committees, that it will be proposing a fee adjustment. Finally, copies of the November 30, 1988, **Federal Register** notice were mailed to 140 organizations, associations and the advisory committees only days after their publication in the **Federal Register**.

Comment: One respondent asked whether maintenance fees that are paid after the effective date of the fee increase are payable in the increased amount or the amount that was payable when due.

Response: The amount of any fee payment made on or after the effective date of this rule package is the amount set in the rulemaking.

Comment: Two respondents, representing major trademark organizations, opposed the proposed reductions to the trademark application and assignment fees. The following major points were made: (1) No reductions should be made until November 1989, when Pub. L. 100–667 (The Trademark Law Revision Act of 1988) is implemented; (2) leading accounting firms recommend that a one year's operating reserve would be prudent; (3) it was Congressional intent that revenue generated from a $100 assignment fee be used to subsidize the trademark operation.

The respondents also questioned whether the PTO could make more than one adjustment every three years under the present authorization statute, even when such adjustments would result in a reduction of certain fee amounts.

Response: After careful consideration of the comments received, the PTO has decided to implement the two fee reductions for the following reasons: (1) Careful analysis has confirmed that projected revenues will be sufficient to implement the Intent-to-Use legislation (Pub. L. 100–667) and still maintain an operating reserve within PTO's two percent fee policy. We believe it will take about 18 months' experience with intent-to-use to be able to propose other changes to trademark fee amounts, and thus a delay in implementation of the proposed fee reductions to November 1989 would not accomplish any useful purpose. (2) a one-year operating reserve for trademark programs is far too large an amount to address unforeseen expenses, would unfairly penalize users, is politically imprudent, especially given the current Federal deficit, and could be construed to constitute an unfair tax on the general user. (3) in the past, PTO has been criticized for charging $100 for a trademark assignment and $7.00 for a patent assignment. For example, refer to public comments on the 1986 trademark fee adjustments published in the **Federal Register** on August 4, 1986 at 51 FR 28055. While it is true that the trademark assignment fee was originally designed to help subsidize the trademark application fee, which is set at a level that does not recover actual costs, the PTO believes that the proposed reduction in the assignment fee will not result in subsequent increases in the application fee or jeopardize the financial health of trademark operations. Further, the Office wants to assure respondents that in proposing a reduction in the assignment fee, the costs of cleaning up the trademark assignment data base have been taken into account.

As noted above, the planning of fee adjustments has been such that we do not anticipate two adjustments within a fee cycle. The legislative history to Pub. L. 99–607 indicates that Congress intended the PTO to reduce fees whenever appropriate.

Comment: One respondent, a representative of a major patent organization, raised the following points: (1) The PTO should conduct an analysis of the impact of patent fees on independent inventors and small businesses; (2) the reduction of fees for individual inventors and small business should continue to be subsidized by taxpayer revenues; (3) the PTO should make every effort to increase its efficiency as a way of holding down the level of fees; (4) the PTO and the Administration should attempt to amend the Gramm-Rudman-Hollings Act as it relates to user fees; and (5) the Office should allow 90 days for the public to comment on proposed rules.

Response: (1) The PTO continually has monitored the level of filings by small businesses and individual inventors, which has averaged 34 percent for the years 1986–1988. The Office will conduct a study to assess the impact of patent fees on individual inventors and small businesses.

(2) For the 1989–91 fee cycle, the reduction of patent fees for individual inventors and small businesses will continue to be subsidized by taxpayer revenues. As the PTO continues to progress to total financing by user fees, two options will be explored: (a) To continue to seek general taxpayer revenue for the subsidy to domestic and foreign users alike; or (b) to establish a two tier fee system for patent statutory fees. While the first option could mean lower overall patent fees, a taxpayer subsidy would be dependent upon Congressional action. If Congress were not to appropriate the necessary funds, the subsidy would not be available, in whole or in part. Full reliance on user fees could provide the PTO with additional flexibilities to meet user needs, especially in responding to growing workloads as the workloads occur.

(3) The PTO continues to scrutinize its operating budgets to identify ways to increase efficiency, to constrain costs, and to continue to provide better services to its users. The current fee package permits patent and patent service fees to be raised only with inflation. Trademark fees are held steady or are reduced. Despite these limited adjustments, user fees in 1989–1991 will allow the PTO to continue to pursue its major goals to improve the quality and timeliness of its goods and services.

(4) The Gramm-Rudman-Hollings sequestration of 1986 did affect PTO user fees. However, the Administration's budgets for 1987, 1988 and 1989 met all deficit reduction targets and did not require automatic sequestrations. We are confident that the Administration will continue to meet all deficit reduction targets prescribed by law and thus will continue to avoid the automatic sequestrations. The PTO is supportive of all efforts to reduce the Federal deficit.

(5) This issue was addressed above.

Other Considerations

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96–354), Executive Orders 12291 and 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* There are no information collection requirements relating to patent fee rules.

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

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96–354). The principal impact of the major patent fees has already been taken into account in Pub. L. 99–607, which provided small entities with a 50 percent reduction in the major patent fees. The rule change adjusts fees to reflect the change in the CPI and cost of processing services as provided by statute (35 U.S.C. 41(d) and 41(f)).

The Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than $100 million. There will be no major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, individual industries, Federal, state, or local government agencies, or geographic regions, because most major fees are being adjusted to reflect changes in the CPI over the past three years. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects

37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

37 CFR Part 2

Administrative practice and procedure, Courts, Lawyers, Trademarks.

For the reasons set forth in the preamble, the Office is amending Title 37 of the Code of Federal Regulations, Chapter I, as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

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

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

2. Section 1.12 is amended by revising paragraphs (a) and (c) to read as follows:

§ 1.12 Assignment records open to public inspection.

(a) The assignment records, relating to original or reissue patents, including digests and indexes, and assignment records relating to pending or abandoned trademark applications and to trademark registrations, are open to public inspection, and copies of any instrument recorded may be obtained upon request and payment of the fee set forth in § 1.19(a)(3).

* * * * *

(c) Any request by a member of the public seeking copies of any assignment records of any pending or abandoned patent application preserved in secrecy under § 1.14, or any information with respect thereto, must

(1) Be in the form of a petition accompanied by the petition fee set forth in § 1.17(i)(1), or

(2) Include written authority granting access to the member of the public to the particular assignment records from the applicant or applicant's assignee or attorney or agent of record.

* * * * *

3. Section 1.14 is amended by revising paragraph (e) to read as follows:

§ 1.14 Patent applications preserved in secrecy.

* * * * *

(e) Any request by a member of the public seeking access to, or copies of, any pending or abandoned application preserved in secrecy pursuant to paragraphs (a) and (b) of this section, or any papers relating thereto, must

(1) Be in the form of a petition and be accompanied by the petition fee set forth in § 1.17(i)(1), or

(2) Include written authority granting access to the member of the public in that particular application from the applicant or the applicant's assignee or attorney or agent of record.

Note: See § 1.612(a) for access by an interference party to a pending or abandoned application.

4. Section 1.16 is amended by revising paragraphs (a), (b), (d)–(i) and the note at the end of the section to read as follows:

§ 1.16 National application filing fees.

(a) Basic fee for filing each application for an original patent, except design or plant cases:

By a small entity (§ 1.9(f)) $185.00
By other than a small entity $370.00

(b) In addition to the basic filing fee in an original application, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.9(f)) $18.00
By other than a small entity $36.00

* * * * *

(d) In addition to the basic filing fee in an original application, if the application contains, or is amended to contain, a multiple dependent claim(s) per application:

By a small entity (§ 1.9(f)) $60.00
By other than a small entity $120.00

(If the additional fees required by paragraphs (b), (c), and (d) are not paid on filing or on later presentation of the claims for which the additional fees are due, they must be paid or the claims canceled by amendment, prior to the expiration of the time period set for response by the Office in any notice of fee deficiency.)

(e) Surcharge for filing the basic filing fee or oath or declaration on a date later than the filing date of the application:

By a small entity (§ 1.9(f)) $60.00
By other than a small entity $120.00

(f) For filing each design application:

By a small entity (§ 1.9(f)) $75.00
By other than a small entity $150.00

(g) Basic fee for filing each plant application:

By a small entity (§ 1.9(f)) $125.00
By other than a small entity $250.00

(h) Basic fee for filing each reissue application:

By a small entity (§ 1.9(f)) $185.00
By other than a small entity $370.00

(i) In addition to the basic filing fee in a reissue application, for filing or later

presentation of each independent claim which is in excess of the number of independent claims in the original patent:

By a small entity (§ 1.9(f)).....$18.00
By other than a small entity.....$36.00

* * * * *

Note: See § 1.445 for international application filing and processing fees.

5. Section 1.17 is amended by revising paragraphs (a)-(h), (j)-(m), by designating existing paragraph (i) as (i)(1) and revising it, and by adding a new paragraph (i)(2), to read as follows:

§ 1.17 Patent application processing fees.

(a) Extension fee for response within first month pursuant to § 1.136(a):

By a small entity (§ 1.9(f)).....$31.00
By other than a small entity.....$62.00

(b) Extension fee for response within second month pursuant to § 1.136(a):

By a small entity (§ 1.9(f)).....$90.00
By other than a small entity.....$180.00

(c) Extension fee for response within third month pursuant to § 1.136(a):

By a small entity (§ 1.9(f)).....$215.00
By other than a small entity.....$430.00

(d) Extension fee for response within fourth month pursuant to § 1.136(a):

By a small entity (§ 1.9(f)).....$340.00
By other than a small entity.....$680.00

(e) For filing a notice of appeal from the examiner to the Board of Patent Appeals and Interferences:

By a small entity (§ 1.9(f)).....$70.00
By other than a small entity.....$140.00

(f) In addition to the fee for filing a notice of appeal, for filing a brief in support of an appeal:

By a small entity (§ 1.9(f)).....$70.00
By other than a small entity.....$140.00

(g) For filing a request for an oral hearing before the Board of Patent Appeals and Interferences in appeal under 35 U.S.C. 134:

By a small entity (§ 1.9(f)).....$60.00
By other than a small entity.....$120.00

(h) For filing a petition to the Commissioner under a section of this part listed below:

Which refers to this paragraph.....$120.00

§ 1.47—for filing by other than all the inventors or a person not the inventor.
§ 1.48—for correction of inventorship.
§ 1.182—for decision on questions not specifically provided for.
§ 1.183—to suspend the rules.
§ 1.295—for review of refusal to publish a statutory invention registration.
§ 1.377—for review of decision refusing to accept and record payment of a maintenance fee filed prior to expiration of patent.
§ 1.378(e)—for reconsideration of decision on petition refusing to accept delayed payment of maintenance fee in expired patent.
§ 1.644(e)—for petition in an interference.
§ 1.644(f)—for request for reconsideration of a decision on petition in an interference.
§ 1.666(c)—for late filing of interference settlement agreement.
§§ 5.12, 5.13, & 5.14—for expedited handling of foreign filing license.
§ 5.15—for changing the scope of a license.
§ 5.25—for retroactive license.

(i)(1) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph.....$120.00

§ 1.12—for access to an assignment record.
§ 1.14—for access to an application.
§ 1.55—for entry of late priority papers.
§ 1.103—to suspend action in application.
§ 1.177—for divisional reissues to issue separately.
§ 1.312—for amendment after payment of issue fee.
§ 1.313—to withdraw an application from issue.
§ 1.314—to defer issuance of a patent.
§ 1.334—for patent to issue to assignee, assignment recorded late.
§ 1.666(b)—for access to interference settlement agreement.

(2) For filing a petition to the Commissioner under § 1.102 of this part to make application special.....$80.00
(j) For filing a petition to institute a public use proceeding under § 1.292.....$1,200.00
(k) For processing an application filed with a specification in a non-English language (§ 1.52(d)).....$30.00

(l) For filing a petition
(1) For the revival of an abandoned application under 35 U.S.C. sections 133, or 371 or
(2) For delayed payment of the issue fee under 35 U.S.C. 151:

By a small entity (§ 1.9(f)).....$31.00
By other than a small entity.....$62.00

(m) For filing a petition
(1) For revival of an unintentionally abandoned application, or
(2) For the unintentionally delayed payment of the fee for issuing a patent:

By a small entity (§ 1.19(f)).....$310.00
By other than a small entity.....$620.00

* * * * *

6. Section 1.18 is revised to read as follows:

§ 1.18 Patent issue fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

By a small entity (§ 1.9(f)).....$310.00
By other than a small entity.....$620.00

(b) Issue fee for issuing a design patent:

By a small entity (§ 1.9(f)).....$110.00
By other than a small entity.....$220.00

(c) Issue fee for issuing a plant patent:

By a small entity (§ 1.9(f)).....$155.00
By other than a small entity.....$310.00

7. Section 1.19 is revised to read as follows:

§ 1.19 Document supply fees.

The Patent and Trademark Office will supply copies of the following documents upon payment of the fees indicated:

(a) Uncertified copies of Office documents:

(1) Printed copy of a patent, including a design patent, statutory invention registration, or defensive publication document, except color plant or color statutory invention registration.....$1.50
(2) Printed copy of a plant patent or statutory invention registration in color.....$10.00
(3) Copy of Office documents, except as otherwise provided in this section, for each 30 pages or a fraction thereof.....$10.00
(4) Copy of a utility patent with drawings in color (see § 1.84(p)).....$20.00
(5) Expedited local service for copy of a patent as in paragraph (a)(1) of this section, fulfilled within one work day for orders delivered to the Public Service Window in the Patent Public Search Room.....$3.00
(6) Expedited service for copy of a patent as in paragraph (a)(1) of this section, ordered by electronic ordering service and delivered to the customer within two work days.....$25.00

(b) Certified copies of Office documents:

(1) Certified copy of patent application as filed.....$10.00
(2) Certified copy of patent file wrapper and contents.....$170.00
(3) Certified copy of patent assignment record.....$5.00
(4) Expedited service for certified copy of patent application as filed in paragraph (a)(3) of this section, fulfilled within 5 work days, excluding mailing time.....$20.00
(5) For certifying Office records, per certificate.....$3.00
(6) For a search of assignment records, abstract of title and certification, per patent.....$15.00

(c) Library service (35 U.S.C. 13): For

providing to libraries copies of all patents issued annually, per annum.....$50.00
(d) For list of all United States patents and statutory invention registrations in a subclass.....$2.00
(e) Uncertified statement as to status of the payment of maintenance fees due on a patent or expiration of a patent.....$5.00
(f) Uncertified copy of a non-United States patent document, per document.....$10.00
(g) To compare and certify copies made from Patent and Trademark Office records but not prepared by the Patent and Trademark Office, per copy of document.....$10.00
(h) Additional filing receipts; duplicate; or corrected due to applicant error.....$15.00

8. Section 1.20 is revised to read as follows:

§ 1.20 Post issuance fees.

(a) For providing a certificate of correction for applicant's mistake (§ 1.323).....$60.00
(b) Petition for correction of inventorship in patent (§ 1.324).....$120.00
(c) For filing a request for reexamination (§ 1.510(a)).....$2,000.00

(d) For filing each statutory disclaimer (§ 1.321):

By a small entity (§ 1.9(f)).....$31.00
By other than a small entity.....$62.00

(e) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond four years; the fee is due by three years and six months after the original grant.....$245.00
(f) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond eight years; the fee is due by seven years and six months after the original grant.....$495.00
(g) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after December 12, 1980 and before August 27, 1982, in force beyond twelve years; the fee is due by eleven years and six months after the original grant.....$740.00

(h) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond four years; the fee is due by three years and six months after the original grant:

By a small entity (§ 1.9(f)).....$245.00
By other than a small entity.....$490.00

(i) For maintaining an original or reissue patent, except a design or plant patent, based on an application, filed on or after August 27, 1982, in force beyond eight years; the fee is due to seven years and six months after the original grant:

By a small entity (§ 1.9(f)).....$495.00
By other than a small entity.....$995.00

(j) For maintaining an original or reissue patent, except a design or plant patent, based on an application filed on or after August 27, 1982, in force beyond twelve years; the fee is due by eleven years and six months after the original grant:

By a small entity (§ 1.9(f)).....$740.00
By other than a small entity.....$1,480.000

(k) Surcharge for paying a maintenance fee during the six-month grace period following the expiration of three years and six months, seven years and six months, and eleven years and six months after the date of the original grant of a patent based on an application:

Filed on or after December 12, 1980, and before August 27, 1982.....$120.00

(l) Surcharge for paying a maintenance fee during the six-month grace period following the expiration of three years and six months, seven years and six months, and eleven years and six months after the date of the original grant of a patent based on an application filed on or after August 27, 1982:

By a small entity (§ 1.9(f)).....$60.00
By other than a small entity.....$120.00

(m) Surcharge for accepting a maintenance fee after expiration of a patent for non-timely payment of a maintenance fee where the delay in payment is shown to the satisfaction of the Commissioner to have been unavoidable.....$550.00
(n) For filing an application for extension of the term of a patent (§ 1.740).....$600.00

(35 U.S.C. 6; 15 U.S.C. 1113, 1123)

9. Section 1.21 is amended by revising paragraphs (a), (b)(1), (d)–(j), (l), (m), and the introductory text of the section and paragraph (b) are republished, to read as follows:

§ 1.21 Miscellaneous fees and charges.

The Patent and Trademark Office has established the following fees for the services indicated:

(a) Registration of attorneys and agents:

(1) For admission to examination for registration to practice, fee payable upon application.....$270.00
(2) On registration to practice.....$90.00
(3) For reinstatement to practice.....$10.00
(4) For certificate of good standing as an attorney or agent.....$10.00
Suitable for framing.....$100.00
(5) For review of a decision of the Director of Enrollment and Discipline under § 10.2(c).....$100.00
(6) For requesting regrading of an examination under § 10.7(c).....$100.00

(b) Deposit accounts:

(1) For establishing or reinstating a deposit account.....$10.00

* * * * *

(d) Delivery box: Local delivery box rental, per annum..... .00
(e) International type search reports: For preparing an international type search report of an international type search made at the time of the first action on the merits in an national patent application.....$30.00
(f) Search of Office records: For conducting an inventor search of Office records for a ten-year period.....$10.00
(g) CopiShare card: Cost per copy.....$15.00
(h) For recording each assignment, agreement or other paper relating to the property in a patent or application per property.....$8.00
(i) Publication in Official Gazette: For publication in the Official Gazette of a notice of the availability of an application or a patent for licensing or sale, each application or patent.....$20.00
(j) For a duplicate or replacement of a permanent Office user pass (There is no charge for the first permanent user pass).....$10.00

* * * * *

(l) For processing and retaining any application abandoned pursuant to section 1.53(d) unless the required basic filing fee has been paid.....$120.00
(m) For processing each check returned "unpaid" by a bank.....$50.00

10. Section 1.26 is amended by revising paragraph (c) to read as follows:

§ 1.26 Refunds.

* * * * *

(c) If the Commissioner decides not to institute a reexamination proceeding, a refund of $1,500 will be made to the requester of the proceeding. Reexamination requesters should indicate whether any refund should be made by check or by credit to a deposit account.

11. Section 1.55 is amended by revising paragraph (a) to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant may claim the benefit of the filing date of a prior foreign application under the conditions specified in 35 U.S.C. 119 and section 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in

the second paragraph of 35 U.S.C. 119 must be filed in the case of interference (§ 1.630); when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the issue fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the proceding sentence, in which even a sworn translation or a translation certified as accurate by a sworn or official translator must be filed. If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting their entry and the fee set forth in § 1.17(i)(1).

* * * * *

12. Section 1.102 is amended by revising paragraph (d) to read as follows:

§ 1.102 Advancement of examination.

* * * * *

(d) A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the petition fee set forth in § 1.17(i)(2).

13. Section 1.103 is amended by revising paragraph (a) to read as follows:

§ 1.103 Suspension of action.

(a) Suspension of action by the Office will be granted for good and sufficient cause and for a reasonable time specified upon petition by the applicant and, if such cause is not the fault of the Office, the payment of the fee set forth in § 1.17(i)(1). Action will not be suspended when a response by the applicant to an Office action is required.

* * * * *

14. Section 1.171 is revised to read as follows:

§ 1.171 Application for reissue.

An application for reissue must contain the same parts required for an application for an original patent, complying with all the rules relating thereto except as otherwise provided, and, in addition, must comply with the requirements of the rules relating to reissue applications. The application must be accompanied by a certified copy of an abstract of title or an order for a title report accompanied by the fee set further in § 1.19(b)(6), to be placed in the file, and by an offer to surrender the original patent (§ 1.178).

15. Section 1.177 is revised to read as follows:

§ 1.177 Reissue in divisions.

The Commissioner may , in his or her discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for each division. Each division of a reissue constitutes the subject of a separate specification descriptive of the part or parts of the invention claimed in such division; and the drawing may represent only such part of parts, subject to the provisions of §§ 1.83 and 1.84. On filing divisional reissue applications, they shall be referred to the Commissioner. Unless otherwise ordered by the Commissioner upon petition and payment of the fee set forth in § 1.17(i)(1), all the divisions of a reissue will issue simultaneously; if there be any controversy as to one division, the other will be withheld from issue until the controversy is ended, unless the Commissioner shall otherwise order.

16. Section 1.296 is revised to read as follows:

§ 1.296 Withdrawal of request for publication of statutory invention registration.

A request for a statutory invention registration, which has been filed, may be withdrawn prior to the date of the notice of the intent to publish a statutory invention registration issued pursuant to § 1.294(c) by filing a request to withdraw the request for publication of a statutory invention registration. The request to withdraw may also include a request for a refund of any amount paid in excess of the application filing fee and a handling fee of $120.00 which will be retained. Any request to withdraw the request for publication of a statutory invention registration filed on or after the date of the notice of intent to publish issued pursuant to §1.294(c) must be in the form of a petition pursuant to § 1.183 accompanied by the fee set forth in § 1.17(h).

17. Section 1.313 is amended by revising paragraph (a) to read as follows:

§ 1.313 Withdrawal from issue.

(a) Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. Any such petition by the applicant must include a showing of good and sufficient reasons why withdrawal of the application is necessary and, if the reason for the withdrawal is not the fault of the Office, must be accompanied by the fee set further in § 1.17(i)(1). If the application is withdrawn from issue, a new notice of allowance will be sent if the application is again allowed. Any amendment accompanying a petition to withdraw an application from issue must comply with the requirements of § 1.312.

* * * * *

18. Section 1.314 is revised to read as follows:

§ 1.314 Issuance of patent.

If payment of the issue fee is timely made, the patent will issue in regular course unless—

(a) The application is withdrawn from issue (§ 1.313), or

(b) Issuance of the patent is deferred.

Any petition by the applicant requesting deferral of the issuance of a patent must be accompanied by the fee set forth in § 1.17(i)(1) and must include a showing of good and sufficient reasons why it is necessary to defer issuance of the patent.

19. Section 1.334 is amended by revising paragraph (c) to read as follows:

§ 1.334 Issue of patent to assignee.

* * * * *

(c) If the assignment is recorded after the date of payment of the issue fee, the assignee may petition that the patent issue to the assignee as recorded. Any such petition must be accompanied by the fee set forth in § 1.17(i)(1).

20. Section 1.445 is amended by revising paragraphs (a) (2), (3) and the introductory text of paragraph (a) is republished, to read as follows:

§ 1.445 International application filing and processing fees.

(a) The following fees and charges are established by the Commissioner under the authority of 35 U.S.C. 376:

* * * * *

(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16) where:

(i) No corresponding prior United States national application with basic filing fee has been filed.....$550.00

(ii) A corresponding prior United States national application with basic filing fee has been filed.....$380.00

(iii) A supplemental search fee when required per additional invention...$150.00

* * * * *

21. Section 1.451 is amended by revising paragraph (b) to read as follows:

§ 1.451 The priority claim and priority document in an international application.

* * * * *

(b) Whenever the priority of an earlier United States national application is claimed in an international application, the applicant may request in a letter of transmittal accompanying the international application upon filing

with the United States Receiving Office or in a separate letter filed in the Receiving Office not later than 16 months after the priority date, that the Patent and Trademark Office prepare a certified copy of the national application for transmittal to the International Bureau (PCT Article 8 and PCT Rule 17). The fee for preparing a certified copy is stated in § 1.19 (b)(1).

* * * * *

22. Section 1.482 is amended by revising paragraph (a) to read as follows:

§ 1.482 International preliminary examination fees.

(a) The following fees and charges for international preliminary examination are established by the Commissioner unde the authority of 35 U.S.C. 376:

(1) A preliminary examination fee is due on filing the Demand:

(i) Where an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority, a preliminary examination fee of....$400.00

(ii) Where the International Searching Authority for the international application was an authority other than the United States Patent and Trademark Office, a preliminary examination fee of.....$600.00

(2) An additional preliminary examination fee when required, per additional invention:

(i) Where a supplemental search fee as set forth in § 1.445(a)(3) has been paid on the international application to the United States Patent and Trademark Office as an international Searching Authority $130.00

(ii) Where the International Searching Authority for the international application was an authority other than the United States Patent and Trademark Office.....$200.00

* * * * *

23. Section 1.492 is amended by revising paragraphs (a) (1)–(3), (b), (d)–(f), and the introductory text of the section and paragraph (a) are republished to read as follows:

§ 1.492 National stage fees.

The following fees and charges for international applications entering the national stage under 35 U.S.C. 371 are established by the Commissioner under 35 U.S.C. 376:

(a) The basic national fee:

(1) Where an international preliminary examination fee as set forth in § 1.482 has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.9(f)).....$165.00
By other than a small entity.....$330.00

(2) Where no international preliminary examination fee as set forth in § 1.482 has been paid to the United States Patent and Trademark Office, but an international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office as an International Searching Authority:

By a small entity (§ 1.9(f)).....$185.00
By other than a small entity.....$370.00

(3) Where no international preliminary examination fee as set forth in § 1.482 has been paid and no international search fee as set forth in § 1.445(a)(2) has been paid on the international application to the United States Patent and Trademark Office:

By a small entity (§ 1.9(f)).....$250.00
By other than a small entity.....$500.00

* * * * *

(b) In addition to the basic national fee, for filing or later presentation of each independent claim in excess of 3:

By a small entity (§ 1.9(f)).....$18.00
By other than a small entity.....$36.00

* * * * *

(d) In addition to the basic national fee, if the application contains, or is amended to contain, a multiple dependent claim(s), per application:

By a small entity (§ 1.9(f)).....$60.00
By other than a small entity.....$120.00

(If the additional fees required by paragraphs (b), (c), and (d) are not paid on presentation of the claims for which the additional fees are due, they must be paid or the claims cancelled by amendment, prior to the expiration of the time period set for response by the Office in any notice of fee deficiency.)

(e) Surcharge for filing the basic national fee or oath or declaration later than 20 months from the priority date pursuant to § 1.494(c) or later than 30 months from the priority date pursuant to § 1.495(c):

By a small entity (§ 1.9(f)).....$60.00
By other than a small entity.....$120.00

(f) For filing an English translation of an international application later than 20 months after the priority date (§ 1.494(c)) or filing an English translation of the international application or of any annexes to the international preliminary examination report later than 30 months after the priority date (§ 1.495 (c) and (e)).....$30.00

24. Section 1.666 is amended by revising paragraph (b) to read as follows:

§ 1.666 Filing of interference settlement agreements.

* * * * *

(b) If any party filing the agreement or understanding under paragraph (a) of this section so requests, the copy will be kept separate from the file of the interference, and made available only to Government agencies on written request, or to any person upon petition accompanied by the fee set forth in § 1.17(i)(1) and on a showing of good cause.

* * * * *

PART 2—RULES OF PRACTICE IN TRADEMARK CASES

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

Authority: 15 U.S.C. 1123; 35 U.S.C. 6, unless otherwise noted.

2. Section 2.6 is amended by revising paragraphs (a), (q), and the introductory text of the section is republished to read as follows:

§ 2.6 Trademark fees.

The following fees and charges are established by the Patent and Trademark Office for trademark cases:

(a) For filing an application, per class $175.00

* * * * *

(q) For recording trademark assignments and agreements or other papers relating to the property in a registration or application, per mark.....$8.00

* * * * *

Editorial Note: The following appendix will not appear in the Code of Federal Regulations.

Date: January 18, 1989.

Donald J. Quigg,

Assistant Secretary and Commissioner of Patents and Trademarks.

BILLING CODE 3510-16-M

APPENDIX A
Page 1

STATUTORY PATENT FEES - LARGE ENTITY

CFR	PTO FEE CODE	DESCRIPTION	PRESENT FEE	PROJECTED COST	PRESENT FEE ADJ. BY C.P.I. *	PROPOSED FEE
1.16(a)	101	BASIC FILING FEE	340.00	**	369.96	370.00
1.16(b)	102	INDEPENDENT CLAIMS	34.00	**	37.00	36.00
1.16(c)	103	CLAIMS IN EXCESS OF 20	12.00	**	12.33	12.00
1.16(d)	104	MULTIPLE DEPENDENT CLAIMS	110.00	**	123.32	120.00
1.16(f)	106	DESIGN FILING FEE	140.00	**	154.15	150.00
1.16(g)	107	PLANT FILING FEE	220.00	**	246.64	250.00
1.16(h)	108	REISSUE FILING FEE	340.00	**	369.96	370.00
1.16(i)	109	REISSUE INDEPENDENT CLAIMS	34.00	**	37.00	36.00
1.16(j)	110	REISSUE CLAIMS IN EXCESS OF 20	12.00	**	12.33	12.00
1.17(a)	115	EXTENSION - FIRST MONTH	56.00	**	61.66	62.00
1.17(b)	116	EXTENSION - SECOND MONTH	170.00	**	184.98	180.00
1.17(c)	117	EXTENSION - THIRD MONTH	390.00	**	431.62	430.00
1.17(d)	118	EXTENSION - FOURTH MONTH	610.00	**	678.25	680.00
1.17(e)	119	NOTICE OF APPEAL	130.00	**	141.82	140.00
1.17(f)	120	FILING A BRIEF	130.00	**	141.82	140.00
1.17(g)	121	REQUEST FOR ORAL HEARING	110.00	**	123.32	120.00
1.17(l)	140	PETITION-REVIVE ABANDONED APPL	56.00	**	61.66	62.00
1.17(m)	141	PETITION-REVIVE UNINTEN ABAND APP	560.00	**	616.59	620.00
1.18(a)	142	ISSUE FEE	560.00	**	616.59	620.00
1.18(b)	143	DESIGN ISSUE FEE	200.00	**	215.81	220.00
1.18(c)	144	PLANT ISSUE FEE	280.00	**	308.30	310.00
1.20(d)	148	STATUTORY DISCLAIMER	56.00	**	61.66	62.00
1.20(h)	173	MAINTENANCE FEE - 3.5 - 97-247	450.00	**	493.28	490.00
1.20(i)	174	MAINTENANCE FEE - 7.5 - 97-247	890.00	**	986.55	990.00
1.20(j)	175	MAINTENANCE FEE - 11.5 - 97-247	1,340.00	**	1,479.83	1,480.00

** The 1986 unrounded base fee increased by projected C.P.I. - see explanation under Background, Fee Adjustment Methodology, paragraph 2(a).*

*** See Background, Fee Adjustment Methodology, paragraph 1(a) for an explanation of cost calculations for statutory patent fees.*

STATUTORY PATENT FEES - SMALL ENTITY

CFR	PTO FEE CODE	DESCRIPTION	PRESENT FEE	PROJECTED COST	PRESENT FEE ADJ. BY C.P.I. *	PROPOSED FEE
1.16(a)	201	BASIC FILING FEE	170.00	**	186.08	185.00
1.16(b)	202	INDEPENDENT CLAIMS	17.00	**	18.50	18.00
1.16(c)	203	CLAIMS IN EXCESS OF 20	6.00	**	6.17	6.00
1.16(d)	204	MULTIPLE DEPENDENT CLAIMS	55.00	**	61.66	60.00
1.16(f)	206	DESIGN FILING FEE	70.00	**	77.08	75.00
1.16(g)	207	PLANT FILING FEE	110.00	**	123.32	125.00
1.16(h)	208	REISSUE FILING FEE	170.00	**	184.98	185.00
1.16(i)	209	REISSUE INDEPENDENT CLAIMS	17.00	**	18.50	18.00
1.16(j)	210	REISSUE CLAIMS IN EXCESS OF 20	6.00	**	6.17	6.00
1.17(a)	215	EXTENSION - FIRST MONTH	28.00	**	30.83	31.00
1.17(b)	216	EXTENSION - SECOND MONTH	85.00	**	92.49	90.00
1.17(c)	217	EXTENSION - THIRD MONTH	195.00	**	215.81	215.00
1.17(d)	218	EXTENSION - FOURTH MONTH	305.00	**	339.13	340.00
1.17(e)	219	NOTICE OF APPEAL	65.00	**	70.91	70.00
1.17(f)	220	FILING A BRIEF	65.00	**	70.91	70.00
1.17(g)	221	REQUEST FOR ORAL HEARING	55.00	**	61.66	60.00
1.17(l)	240	PETITION-REVIVE ABANDONED APPL	28.00	**	30.83	31.00
1.17(m)	241	PETITION-REVIVE UNINTEN ABAND APP	280.00	**	308.30	310.00
1.18(a)	242	ISSUE FEE	280.00	**	308.30	310.00
1.18(b)	243	DESIGN ISSUE FEE	100.00	**	107.91	110.00
1.18(c)	244	PLANT ISSUE FEE	140.00	**	154.15	155.00
1.20(d)	248	STATUTORY DISCLAIMER	28.00	**	30.83	31.00
1.20(h)	273	MAINTENANCE FEE - 3.5 - 97-247	225.00	**	246.64	245.00
1.20(i)	274	MAINTENANCE FEE - 7.5 - 97-247	445.00	**	493.28	495.00
1.20(j)	275	MAINTENANCE FEE - 11.5 - 97-247	670.00	**	739.91	740.00

** The 1986 unrounded base fee increased by projected C.P.I. - see explanation under Background, Fee Adjustment Methodology, paragraph 2(a).*

*** See Background, Fee Adjustment Methodology, paragraph 1(a) for an explanation of cost calculations for statutory patent fees.*

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NON-STATUTORY PATENT FEES

CFR	PTO FEE CODE	DESCRIPTION	PRESENT FEE	PROJECTED COST	PRESENT FEE ADJ. BY C.P.I.	PROPOSED FEE
1.16(e)	105	SURCHARGE - LATE FILING FEE	110.00	120.00	121.33	120.00
1.16(e)	205	SURCHARGE - LATE FILING FEE	55.00	60.00	60.67	60.00
1.17(h)	122	PETITION - NOT ALL INVENTORS	140.00	119.11	151.08	120.00
1.17(h)	123	PETITION - CORRECTION OF INVENTORSHIP	140.00	119.11	151.08	120.00
1.17(h)	124	PETITION - DECISION ON QUESTIONS	140.00	119.11	151.08	120.00
1.17(h)	125	PETITION - SUSPEND RULES	140.00	119.11	151.08	120.00
1.17(h)	160	PETITION - EXPEDITED LICENSE	140.00	119.11	151.08	120.00
1.17(h)	161	PETITION - SCOPE OF LICENSE	140.00	119.11	151.08	120.00
1.17(h)	162	PETITION - RETROACTIVE LICENSE	140.00	119.11	151.08	120.00
1.17(h)	163	PETITION - REFUSING MAINT. FEE	140.00	119.11	151.08	120.00
1.17(h)	164	PETITION - REFUSING MAINT. FEE - EXPIRED PATENT	140.00	119.11	151.08	120.00
1.17(h)	165	PETITION - INTERFERENCE	140.00	119.11	151.08	120.00
1.17(h)	166	PETITION - RECONSIDER INTERFERENCE	140.00	119.11	151.08	120.00
1.17(h)	167	PETITION - LATE FILING OF INTERF.	140.00	119.11	151.08	120.00
1.17(h)	168	PETITION - REFUSAL TO PUB SIR	140.00	119.11	151.08	120.00
1.17(i)	127	PETITION - FOR ASSIGNMENT RECORD	72.00	119.11	78.91	120.00
1.17(i)	128	PETITION - FOR APPLICATION	72.00	119.11	78.91	120.00
1.17(i)	129	PETITION - LATE PRIORITY PAPERS	72.00	119.11	78.91	120.00
1.17(i)	130	PETITION - MAKE APPL SPECIAL	72.00	78.72	78.91	80.00
1.17(i)	131	PETITION - SUSPEND ACTION	72.00	119.11	78.91	120.00
1.17(i)	132	PETITION - DIVISIONAL REISSUES	72.00	119.11	78.91	120.00
1.17(i)	133	PETITION - FOR INTERFERENCE AGREE	72.00	119.11	78.91	120.00
1.17(i)	134	PETITION - AMENDMENT AFTER ISSUE	72.00	119.11	78.91	120.00
1.17(i)	135	PETITION - WITHDRAWAL FROM ISSUE	72.00	119.11	78.91	120.00
1.17(i)	136	PETITION - DEFER ISSUE	72.00	119.11	78.91	120.00
1.17(i)	137	PETITION - ISSUE TO ASSIGNEE	72.00	119.11	78.91	120.00
1.17(j)	138	PETITION - PUBLIC USE PROCEEDING	860.00	1,224.44	941.91	1,200.00
1.17(k)	139	NON-ENGLISH SPECIFICATION	26.00	28.16	28.45	30.00
1.17(n)	112	SIR - PRIOR TO EXAMINER'S ACTION *	400.00	400.00	448.23	400.00
1.17(n)	113	SIR - AFTER EXAMINER'S ACTION *	800.00	800.00	931.89	800.00
1.20(a)	145	CERTIFICATE OF CORRECTION	29.00	61.42	31.78	60.00
1.20(b)	146	PETITION - CORRECTION OF INVENTORSHIP	140.00	119.11	151.08	120.00
1.20(c)	147	REEXAMINATION	1,770.00	1,967.73	1,950.01	2,000.00
1.20(e)	170	MAINTENANCE FEE - 3.5 - 96-517	225.00	245.00	248.18	245.00
1.20(f)	171	MAINTENANCE FEE - 7.5 - 96-517	445.00	495.00	490.85	495.00
1.20(g)	172	MAINTENANCE FEE - 11.5 - 96-517	670.00	740.00	739.03	740.00
1.20(k)	176	SURCHARGE - 6 MONTHS - 96-517	110.00	120.00	121.33	120.00
1.20(l)	177	SURCHARGE - 6 MONTHS - 97-247	110.00	120.00	121.33	120.00
1.20(l)	277	SURCHARGE - 6 MONTHS - 97-247	55.00	60.00	60.67	60.00
1.20(m)	178	SURCHARGE AFTER EXPIRATION	500.00	550.00	551.52	550.00
1 20(n)	111	EXTENSION OF TERM OF PATENT	550.00	610.33	606.67	600.00

* Reduced by filing fee.

NON-STATUTORY PATENT FEES - SERVICES

CFR	PTO FEE CODE	DESCRIPTION	PRESENT FEE	PROJECTED COST	PRESENT FEE ADJ. BY C.P.I.	PROPOSED FEE
1.19(a-1)	501	COPY OF PATENT	1.50	2.03	1.53	1.50
1.19(a-2)	503	COPY OF PLANT PATENT	6.00	11.17	6.21	10.00
1.19(a-3)	506	COPY OF OFFICE REC'S, (30 PGS/DOC)	0.50	0.30	8.82	10.00
1.19(a-4)	NFC*	COPY OF UTILITY PATENT IN COLOR	0.00	20.00	20.00	20.00
1.19(a-5)	NFC	PATENT COPY - EXPEDITED SERVICE	0.00	3.00	3.00	3.00
1.19(a-6)	NFC	PATENT COPY EXPEDITED SERVICE VIA EOS	0.00	25.00	25.00	25.00
1.19(b-1)	504	COPY OF APPLICATION AS FILED, CERT.	9.00	9.71	9.75	10.00
1.19(b-2)	505	COPY OF FILE WRAPPER, CERT.	75.00	174.17	94.89	170.00
1.19(b-3)	533	COPY OF PATENT ASSIGNMENT, CERT	1.50	4.56	1.52	5.00
1.19(b-4)	NFC	CERT. COPY OF PATENT APPL. EXPIDITED	0.00	20.00	20.00	20.00
1.19(b-5)	508	CERTIFYING OFFICE RECORDS	3.00	2.61	2.98	3.00
1.19(b-6)	509	SEARCH OF RECORDS	12.00	12.99	13.50	15.00
1.19(c)	513	LIBRARY SERVICE	50.00	4,470.00	55.15	50.00
1.19(d)	514	LIST OF PATENTS IN SUBCLASS	1.00	2.13	1.47	2.00
1.19(e)	528	UNCERTIFIED STATEMENT	3.00	3.67	3.47	5.00
1.19(f)	532	COPY OF NON-US DOCUMENT	10.00	5.64	11.48	10.00
1.19(g)	510	COMPARING COPIES PER DOC	5.00	6.96	5.96	10.00
1.19(n)	534	DUPLICATE OR CORRECTED FILING RECEIPT	14.00	12.95	15.98	15.00
1.21(a-1)	609	ADMISSION TO EXAMINATION	250.00	273.23	273.89	270.00
1.21(a-2)	610	REGISTRATION TO PRACTICE	81.00	89.32	89.04	90.00
1.21(a-3)	611	REINSTATEMENT TO PRACTICE	9.00	9.97	9.92	10.00
1.21(a-4)	612	COPY OF CERTIFICATE OF GOOD STANDING	10.00	9.98	10.90	10.00
1.21(a-4)	613	CERTIFICATE OF GOOD STAND - FRAMING	88.00	99.69	96.65	100.00
1.21(a-5)	615	REVIEW OF DECISION OF DIRECTOR, OED	92.00	99.80	101.53	100.00
1.21(a-6)	616	REGRADING OF EXAMINATION	92.00	99.32	101.53	100.00
1.21(b-1)	607	ESTABLISH DEPOSIT ACCOUNT	8.00	9.00	8.98	10.00
1.21(b-2/3)	608	SERVICE CHARGE FOR BELOW MIN. BALANCE	20.00	22.00	22.06	20.00
1.21(c)	516	FILING A DISCLOSURE DOC	6.00	6.00	6.99	6.00
1.21(e)	526	INTERNATIONAL TYPE SEARCH REPORT	28.00	13.89	30.88	30.00
1.21(f)	517	SEARCHING, 10 YEARS	14.00	10.03	15.82	10.00
1.21(g)	524	COPISHARE CARD PER PAGE	0.20	0.11	0.17	0.15
1.21(h)	518	RECORDING PATENT PROPERTY	7.00	7.51	7.50	8.00
1.21(i)	520	PUBLICATION IN OG	7.00	16.51	7.67	20.00
1.21(j)	521	DUPLICATE USER PASS	5.00	9.02	5.53	10.00
1.21(k)	522	BOX RENTAL	43.00	49.44	47.07	50.00
1.21(k)	523	LOCKER RENTALS	0.25	0.25	0.28	0.25
1.21(l)	529	RETAINING ABANDONED APPL.	100.00	112.64	110.30	120.00
1.21(m)	617	PROCESSING RETURNED CHECKS	20.00	22.00	22.06	50.00
1.21(n)	530	HANDLING FEE	15.00	16.90	16.80	20.00
1.296	531	HANDLING FEE FOR WITHDRAWAL	100.00	112.64	110.30	120.00

** NFC - New fee code to be established.*

PATENT COOPERATION TREATY FEES

CFR	PTO FEE CODE	DESCRIPTION	PRESENT FEE	PROJECTED COST	PRESENT FEE ADJ. BY C.P.I.	PROPOSED FEE
1.445(a-1)	150	TRANSMITTAL FEE	170.00	168.36	*	170.00
1.445(a-2)	151	PCT SEARCH FEE - NO U.S. APPL.	520.00	554.33	*	550.00
1.445(a-2)	153	PCT SEARCH - PRIOR U.S. APPL.	350.00	379.04	*	380.00
1.445(a-3)	152	SUPPLEMENTAL SEARCH	140.00	149.85	*	150.00
1.482(a-1)	190	PRELIMINARY EXAM FEE	370.00	400.85	*	400.00
1.482(a-1)	191	PRELIMINARY EXAM FEE	570.00	600.80	*	600.00
1.482(a-2)	192	ADD'L INVENTION	125.00	129.81	*	130.00
1.482(a-2)	193	ADD'L INVENTION	190.00	199.75	*	200.00
1.492(a-1)	956	IPEA	300.00	* *	330.99	330.00
1.492(a-1)	957	IPEA	150.00	* *	165.50	165.00
1.492(a-2)	958	SEARCHING AUTHORITY	340.00	* *	370.05	370.00
1.492(a-2)	959	SEARCHING AUTHORITY	170.00	* *	185.02	185.00
1.492(a-3)	960	PTO NOT SA OR IPEA	450.00	* *	496.49	500.00
1.492(a-3)	961	PTO NOT SA OR IPEA	225.00	* *	248.24	250.00
1.492(a-4)	962	CLAIMS - IPEA	50.00	* *	55.17	50.00
1.492(a-4)	963	CLAIMS - IPEA	25.00	* *	27.58	25.00
1.492(b)	964	CLAIMS - EXTRA INDIVIDUAL (OVER 3)	34.00	* *	37.00	36.00
1.492(b)	965	CLAIMS - EXTRA INDIVIDUAL (OVER 3)	17.00	* *	18.50	18.00
1.492(c)	966	CLAIMS - EXTRA TOTAL (OVER 20)	12.00	* *	12.33	12.00
1.492(c)	967	CLAIMS - EXTRA TOTAL (OVER 20)	6.00	* *	6.17	6.00
1.492(d)	968	CLAIMS - MULTIPLE DEPENDENTS	110.00	* *	123.35	120.00
1.492(d)	969	CLAIMS - MULTIPLE DEPENDENTS	55.00	* *	61.67	60.00
1.492(e)	154	SURCHARGE	110.00	120.00	121.36	120.00
1.492(e)	254	SURCHARGE	55.00	60.00	60.00	60.00
1.492(f)	156	ENGLISH TRANSLATION - AFTER 20 MOS.	26.00	28.08	28.08	30.00

** Adjustment by C.P.I. is not applicable to these fees.*

*** These fees are set to recover the cost of processing under the Treaty. The cost calculation methodology for statutory patent fees, under Background, Fee Adjustment Methodology, paragraph 1(a), applies to these fees.*

APPENDIX A
Page 6

TRADEMARK FEES

CFR	PTO FEE CODE	DESCRIPTION	PRESENT FEE	PROJECTED COST	PRESENT FEE ADJ. BY C.P.I.	PROPOSED FEE
TRADEMARK PROCESS FEES						
2.6(a)	301	APPLICATION FOR REGISTRATION	200.00	242.87	220.66	175.00
2.6(b)	302	APPLICATION FOR RENEWAL	300.00	42.34	330.99	300.00
2.6(s)	303	SURCHARGE FOR LATE RENEWAL	100.00	100.00	110.33	100.00
2.6(c)	304	PUBLICATION OF MARK UNDER SEC 12c	100.00	131.93	110.33	100.00
2.6(d)	305	ISSUING NEW CERTIFICATE OF REGISTRATION	100.00	61.32	110.33	100.00
2.6(e)	306	CERT OF CORRECTION OF APPLICANT ERROR	100.00	106.21	110.33	100.00
2.6(f)	307	FILING DISCLAIMER TO REGISTRATION	100.00	133.39	110.33	100.00
2.6(g)	308	FILING AMENDMENT TO REGISTRATION	100.00	67.64	110.33	100.00
2.6(h)	309	FILING AFFIDAVIT UNDER SECTION 8	100.00	19.70	110.33	100.00
2.6(i)	310	FILING AFFIDAVIT UNDER SECTION 15	100.00	19.77	110.33	100.00
2.6(j)	311	FILING AFFIDAVIT UNDER SECTION 8 & 15	200.00	19.77	220.66	200.00
2.6(k)	312	PETITIONS TO THE COMMISSIONER	100.00	114.06	110.33	100.00
2.6(l)	313	PETITION TO CANCEL	200.00	393.96	220.66	200.00
2.6(l)	314	NOTICE OF OPPOSITION	200.00	498.49	220.66	200.00
2.6(m)	315	EX PARTE APPEAL TO THE TTAB	100.00	478.62	110.33	100.00
TRADEMARK SERVICE FEES						
2.6(n)	401	PRINTED COPY OF EACH REGISTERED MARK	1.50	1.84	1.65	1.50
2.6(o)	403	CERTIFY TM RECORDS, PER CERTIFICATE	3.50	4.06	3.86	3.50
2.6(p)	404	PHOTOCOPIES OF TM RECORDS, PER PAGE	0.30	0.39	0.33	0.30
2.6(q)	405	RECORDING TM ASSIGNMENT DOCUMENTS	100.00	7.51	110.33	8.00
2.6(r)	407	ABSTRACTS OF TITLE, PER REGISTRATION	12.00	8.19	13.24	12.00
2.6(n)	408	COPY OF REG MARK WITH TITLE OR STATUS	6.50	5.97	7.17	6.50
2.6(o)	410	MAKE CERTIFICATION SPECIAL	25.00	5.00	27.58	25.00
1.21(g)	424	FARECARDS FOR COPY MACHINES	0.20	0.11	0.22	0.15

[FR Doc. 89–3486 Filed 2–10–89; 11:50 am]
BILLING CODE 3510–16–C

POSTAL SERVICE

39 CFR Part 111

Business Reply Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends existing postal regulations on paper stock requirements for business reply cards processed under the automated Business Reply Mail Accounting System. The rule establishes a minimum paper basis weight for such cards, permits the inclusion of unbleached pulp in the paper, and also permits the inclusion of groundwood if the paper is coated.

EFFECTIVE DATE: June 18, 1989.

FOR FURTHER INFORMATION CONTACT: Nicholas S. Stankosky, (202) 268–5311.

SUPPLEMENTARY INFORMATION: On September 23, 1988, the Postal Service published for comment in the **Federal Register** proposed amendments to Part 917 of the Domestic Mail Manual (DMM) to amend paper stock specifications for business reply mail (BRM) cards prepared under the Business Reply Mail Accounting System (BRMAS), 53 FR 37003–05. The Postal Service proposed a five percent tolerance to the minimum basis weight specifications in the existing regulations. A full explanation of the background and reasons for the changes was published at that time and is not repeated here. Interested persons were invited to submit written comments concerning the proposed regulation changes by October 24, 1988.

The Postal Service received twenty-five comments from paper companies, paper suppliers and mailers regarding these requirements. Twenty-three of the comments received were in general agreement with the proposal, with minor suggested changes or modifications. The other two commenters objected to the proposal on the grounds that the requirements were too restrictive and costly.

The following is a summary of the comments received.

Eight comments addressed the proposed five percent tolerance to the minimum 75 pound standard industry basis weight. All agreed with this change, but four commenters stated that the proposed wording was confusing because it could also be read as establishing a maximum basis weight of 75 pounds plus five percent. To avoid any confusion, the Postal Service has changed the language of DMM 917.622 to state the five percent tolerance in terms of actual weight and apply it only as minimum weight.

Six commenters addressed the proposed prohibition on the inclusion of groundwood and unbleached pulp in BRMAS card paper. Three of the six opposed the prohibition on groundwood, and all six disagreed with the prohibition on unbleached pulp. One commenter indicated that neither groundwood nor unbleached pulp pose a problem when the paper stock is also coated. Another stated that a prohibition on groundwood and unbleached pulp would considerably limit the opportunity for paper mills to use recycled fiber. One commenter urged the Postal Service to define paper stock characteristics in terms of stiffness and caliper and not to restrict the method of manufacture, or the raw materials and chemical formulations used. Three commenters expressed the opinion that unbleached fibers are stronger and stiffer than bleached fibers. The Postal Service has re-evaluated both prohibitions based upon the helpful comments of these paper manufacturers, and has determined not to adopt the prohibition against unbleached pulp. The Postal Service has also decided to permit the use of groundwood when the paper stock is coated with a substance that increases its ability to resist deformation under stress.

One commenter suggested that the Postal Service adopt minimum reflectance, or brightness, and stiffness requirements as a way to prevent false data readings on automated scanning equipment. Current specifications for all business reply mail already require a 30-percent reflectance difference throughout the red spectral range of 550 to 775 nanometers(nm) between the paper and the ink. The stiffness proposal will not be adopted because it is not practical for the Postal Service to measure and enforce stiffness specifications on a national basis.

The Postal Service believes that these requirements, as amended, will ensure that BRMAS cards can be processed on automated equipment while providing flexibility in the manufacture of the paper stock. After full consideration of all comments, effective June 18, 1989 the Postal Service will adopt the following changes to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1. BRMAS mailers will be permitted to use existing paper stock which meets the minimum and maximum thickness requirements, but does not meet the minimum basis weight requirements until June 18, 1989.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a): 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 5001.

In Part 917, amend 917.622 to read as follows:

PART 917—BUSINESS REPLY MAIL (BRM)

* * * * *

917.6 BRMAS Automation Requirements

* * * * *

917.62 Additional Physical Requirements

* * * * *

917.622 Business reply cards prepared under the BRMAS system must (1) be printed on paper stock meeting a standard industry basis weight of 75 pounds, with none less than 71.25 pounds, for 500 sheets measuring 25 inches by 38 inches, and (2) have a thickness of at least 0.007 inch and not more than 0.0095 inch. The paper must be free from groundwood except when coated with a substance which adds to the paper's ability to resist an applied bending force.

Note: BRMAS cards exceeding 4¼ inches in height, 6 inches in length, or 0.0095 inch in thickness, are subject to postage at the regular single-piece First-Class Mail rate for matter other than cards in Exhibit 310 (see 322.2 and 322.4), and must comply with 917.611.

* * * * *

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89–3495 Filed 2–14–89; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3516-6]

Approval and Promulgation of State Implementation Plans; Visibility Protection; Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: In this action, EPA is approving the general plan requirements monitoring strategy, and long-term strategy (LTS) for visibility protection in mandatory Class I Federal areas and in State-designated Class I areas in a revision to the Wyoming State Implementation Plan (SIP). This action is a result of rulemakings on May 12, 1986 (51 FR 17334), and on November 24, 1987 (52 FR 45132), at which EPA disapproved Wyoming's SIP for failing to comply with the provisions of 40 CFR 51.302 (visibility general plan requirements), 51.305 (visibility monitoring) and 51.306 (visibility LTS). EPA also incorporated these federal plans and regulations into Wyoming's SIP.

The Administrator of the Wyoming Air Quality Division submitted a SIP revision for visibility protection on September 6, 1988. Review of the submittal indicates that Wyoming has met the criteria of 40 CFR 51.302, 51.305, and 51.306, and that these revisions will replace the federal visibility plans and regulations in the Wyoming SIP.

DATES: This action will be effective on April 17, 1989 unless notice is received by March 17, 1989 that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the State submittal are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at the following locations:

Environmental Protection Agency, Region VIII, Air Programs Branch, 999 18th Street, Suite 500 Denver, Colorado 80202-2405

Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Michael Silverstein, Air Programs Branch, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202-2405 (303) 293-1769 (FTS) 564-1769.

SUPPLEMENTARY INFORMATION:

Background

Section 169A of the Clean Air Act, 42 U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined that visibility is an important value. ("Mandatory Class I Federal areas" are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400—81.437.) Section 169A specifically requires EPA to promulgate regulations requiring certain states to amend their State Implementation Plans (SIPs) to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations in 45 FR 80084, codified at 40 CFR 51.300 *et seq.* It required the states to submit their revised SIPs to satisfy those provisions by September 2, 1981. (See 45 FR 80091, codified in 40 CFR 51.302(a)(1).) That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, the court stayed the litigation, pending EPA action on related administrative petitions for reconsideration of the visibility regulations filed with the Agency.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. District Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under section 110(c) of the Act to promulgate Visibility SIPs. A negotiated Settlement Agreement between EPA and EDF required EPA to propose to incorporate Federal regulations in states where SIPs were deficient with respect to visibility monitoring regulations (40 CFR 51.305). However, the Settlement Agreement allowed each State an opportunity to avoid Federal promulgation if it submitted a SIP by May 6, 1985. Wyoming submitted a SIP revision on April 12, 1985, that included provisions for visibility monitoring. EPA disapproved the State's visibility monitoring strategy on May 12, 1986 (51 FR 17334), and incorporated the federal visibility monitoring regulations into Wyoming's SIP.

The Settlement Agreement between EPA and EDF also required EPA to determine the adequacy of State Visibility SIPs to meet the general plan requirements including implementation control strategies (40 CFR 51.302), integral vista protection (40 CFR 51.302-307), and long-term strategies (LTS) (40 CFR 51.306). The Settlement Agreement required EPA to propose and promulgate Federal Visibility SIPs (hereinafter Federal Implementation Plans (FIPs)) to remedy any deficiencies on a specified schedule. On January 23, 1986 (51 FR 3046), EPA preliminarily determined that the SIPs of 32 states (including Wyoming) were deficient with respect to the above mentioned visibility provisions.

The EPA and the plaintiffs negotiated revisions to the Settlement Agreement which extended the deadlines for proposing FIPs to remedy the deficiencies. Under this revised Agreement, EPA must propose and promulgate FIPs to address the deficiencies relating to the general plan requirements and LTS, and can defer proposing and promulgating FIPs to remedy deficiencies related to impairment which the Federal Land Managers (FLMs) have certified to EPA.

In March 12, 1987 (52 FR 7802), EPA proposed to disapprove the SIPs of 32 states (including Wyoming) for failing to meet the general plan and LTS requirements of 40 CFR 51.302 and 51.306, and to incorporate these Federal regulations into each state's SIP. The states were given the opportunity to avoid promulgation if they submitted SIP revisions to EPA by August 31, 1987.

On November 24, 1987, EPA disapproved SIPs for states (including Wyoming) which failed to meet the requirements of 40 CFR 51.302 and 51.306. EPA also incorporated these federal regulations into the SIPs of these states.

On September 6, 1988, Wyoming submitted a SIP revision that includes a new "Section 28 *Visibility*" of the Wyoming Air Quality Standards and Regulations (WAQSR), and the "Wyoming State Implementation Plan for Class I Visibility Protection" to comply with the federal provisions for visibility general plan requirements (40 CFR 51.302), monitoring (40 CFR 51.305), and LTS (40 CFR 51.306).

Wyoming has chosen not to protect integral vistas from visibility impairment at this time. Wyoming's submittal meets the requirements of 40 CFR 51.304.

Affected Areas

The following areas in Wyoming are mandatory Class I Federal areas where visibility is an important value:
Bridger Wilderness,
Fitzpatrick Wilderness,
Grand Teton National Park,
North Absaroka Wilderness,
Teton Wilderness,
Washakie Wilderness, and
Yellowstone National Park.

The areas in Wyoming listed below are also provided visibility protection by the State under the Visibility SIP. These are areas the State has redesignated to

"Class I" and that do not appear in 40 CFR 81.436 as "mandatory Class I Federal areas." (Hereinafter, these State-designated Class I areas and the above mandatory Class I Federal areas will be referred to as "Class I areas".)
Savage Run Wilderness
Any area redesignated to Class I in accordance with applicable Wyoming State regulations

General Plan Requirements

A. Requirements

The visibility regulations provide general plan requirements for Visibility SIPs. The general plan requirements of 40 CFR 51.302(c) require that the SIPs include: (1) An assessment of visibility impairment and a discussion of how each element of the plan relates to the national goal; (2) emission limitations, or other control measures, representing best available retrofit technology (BART) for certain sources; (3) provisions to protect integral vistas; (4) provisions to address any existing impairment certified by the FLM; and (5) an LTS (10 to 15 years) for making reasonable progress toward the national goal.

The Wyoming Visibility SIP reiterates these general plan requirements throughout the Wyoming SIP for Class I Visibility Protection and section 28 of the WAQSR, with the exception of "(3) provisions to protect integral vistas." Since the State nor the FLM has identified integral vistas in Wyoming, the State need not address the mechanisms necessary to protect integral vistas from impairment.

B. Control Strategies

The regulations establish the following process for developing control strategies to remedy existing impairment. First, the State or the FLM identifies the Class I areas where visibility impairment exists. The regulations require the States to address in the SIP any impairment which has been certified at least six months prior to submittal. (See 40 CFR 51.302(c)(4).)

In identifying existing facilities which cause or contribute to the visibility impairment, the regulations require the State to adopt control strategies only to remedy impairment which has been reasonably attributed to a specific source or group of sources. Although the FLMs may provide the State with a list of sources suspected of causing any existing impairment in the certification, the responsibility of identifying sources is the State's. (See 45 FR 80086, col. 3 and 40 CFR 51.302(c)(4)(i).)

The State is required to perform a BART analysis for any existing stationary facility which has been identified as causing impairment in a Class I area. The State determines BART on a case-by-case basis taking into account the technology available, the costs of compliance, the energy and non-air quality environmental impacts of compliance, the remaining useful life of the source, and the degree of improvement that can be anticipated to result from the use of the controls. The State must adopt emission limitations representing BART which must be installed as expeditiously as practical, but no later than five years from SIP approval. (See 40 CFR 51.302(c)(4).)

The State is not required to adopt emission limitations representing BART if, for example, retrofit controls do not exist or are not anticipated to result in improvements in visibility. (See 45 FR 80087, col. 1.) However, if a source has not been subject to BART because control technologies do not exist, and, if the Administrator determines that new technologies are available which would more effectively control that pollutant, the State must re-analyze for BART at that time. (See 40 CFR 51.302(c)(4)(v).)

The regulations do not specify methods other than visual observation for characterizing visibility impairment. However, if a State is to adequately and timely address existing visibility impairment, a thorough characterization may be necessary. The EPA is aware that it, or the State, may find that the impairment cannot be attributed to specific sources and therefore cannot be addressed under the existing visibility regulations. (See 52 FR 7804, col. 1.) A thorough characterization is important when a BART analysis is conducted so that the anticipated improvements in visibility may be estimated. The State or EPA may find that the impairment is attributable to minor stationary sources or to emissions from prescription fires. In these cases, the need for a control strategy to remedy the impairment is assessed as part of the LTS rather than BART. (See 52 FR 7804, col. 1.)

The Wyoming Visibility SIP contains provisions which address the above control strategies in section 28 of the WAQSR. (A significant amount of detail on the development of Federal control strategies is contained in 52 FR 7802 (March 12, 1987).)

Wyoming's Visibility SIP does not provide sources the opportunity to apply for exemptions from BART, as discussed in 40 CFR 51.303. Wyoming's SIP, in this respect, is more stringent than the federal requirements.

C. Assessment of Visibility Impairment

The EPA reviewed the information provided by the Department of Interior (DOI) to determine if impairment (1) appeared to occur in Wyoming's Class I areas, and (2) if impairment was a type which may be traceable to specific sources. The information provided by the FLMs indicated that no Class I area in Wyoming is experiencing visibility impairment which may be traceable to specific sources.

The EPA is aware that the FLMs may in the future provide additional information on this impairment which would allow EPAs or a state to attribute it to a specific source. In such cases, the SIP commits the State to review the information under the procedures described above and in the periodic review of the LTS discussed below.

Monitoring Strategy

Under 40 CFR 51.305, all states with visibility protection areas are required to have a monitoring strategy for evaluating visibility in any Class I area by visual observation or other appropriate monitoring techniques. The purposes of this requirement are to generate data for evaluating visibility impairment trends, determine potential impacts of new sources, assess the effectiveness of the visibility protection program, and identify major contributing sources. These purposes can be adequately addressed by determining the background visibility protection areas and documenting the extent of any visibility impairment that can be attributed by a source or small group of sources.

Visibility impairment is the human perception of the effects of natural or man-made conditions which reduce visual range or contrast, or coloration change. Thus, a visibility monitoring program should identify these effects, as well as differentiate man-made effects from natural conditions. The program could generate various types of data such as reports from human observers, photographs, and/or automated instruments. The minimum data collection technique that 40 CFR 51.305 requires is visual observation. However, other more objective techniques, are available. (See "Interim Guidance for Visibility Monitoring", Office of Air Quality Planning and Standards, November 1980 (EPA 450/2–80–082).)

The goal of the monitoring strategy in Wyoming's SIP for Class I visibility protection is "* * * to assemble an adequate visibility data base to determine existing impairment * * * that is occurring in Wyoming and, in particular, Class I areas, and to maintain an ongoing monitoring program to evaluate the impacts of new or modified sources from within and outside the

State." Wyoming will assemble any visibility data supplied by the FLMs and collected by the State through the New Source Review program in order to (1) establish baseline conditions, (2) develop visibility trends, and (3) identify visibility impairment attributable to a source or small group of sources. Wyoming's visibility monitoring strategy meets EPA criteria as outlined in 40 CFR 51.305.

Long-term Strategy

A. Requirements

The regulations require that the LTS be a 10 to 15 year plan for making reasonable progress toward the national goal. The LTS must cover an existing impairment that the FLM certified at least six months before plan submission. A LTS must be developed which covers each Class I area within the State and each Class I area in another state that may be affected by sources within the State. The strategy must be coordinated with existing plans and goals for a Class I area including those of the FLMs. The strategy must state with reasonable specificity why it is adequate for making reasonable progress toward the national goal. The LTS and SIP must provide for the review of the impact of new sources as required by 40 CFR 51.307. The State must consider at a minimum the following six factors in the LTS:

1. Emission reductions due to ongoing air pollution control programs;
2. Additional emission limitations and schedules for compliance;
3. Measures to mitigate the impacts of construction activities;
4. Source retirement and replacement schedules;
5. Smoke management (techniques for agricultural and forestry management purposes including such plans as currently exist within the State for these purposes); and
6. Enforcement of emission limitations and control measures.

The State must commit to periodic review of the SIP on a schedule not less frequent than every three years. A periodic report must be developed in consultation with the FLMs and must contain the following:

1. Progress achieved in remedying existing impairment;
2. The ability of the LTS to achieve reasonable progress toward the national goal;
3. Any change in visibility conditions since the last report or since plan approval;
4. Additional measures, including the need for SIP revisions, that may be necessary to achieve progress toward the national goal;
5. The progress achieved in implementing BART and meeting other schedules laid out in the LTS; and
6. The impact of any exemption granted.

The Wyoming Visibility SIP includes provisions which address federal LTS requirements in "*Long Term Strategy*" of the Wyoming State Implementation Plan for Class I Visibility Protection, and "(f) Long Term Strategy" in Section 28 of the WAQSR. Additional information concerning the federal LTS requirements is contained in 52 FR 7802 (March 12, 1987).

B. Remedies

The existing visibility regulations are designed to address impairment which can be traced to specific sources. Although visibility impairment which is reasonable attributable to a source or small group of sources has not been identified by the EPA, State, or FLMs in Wyoming, the federal LTS establishes a mechanism to address any additional impairment which may be certified in the future. Although EPA intends for these discussions to be the federal remedy, each of the states must develop their own LTS when developing their Visibility SIPs.

1. Ongoing Air Pollution Control Programs

The regulations require that each LTS provide for the review of the potential impact on visibility of new major stationary sources or major modifications in accordance with 40 CFR 51.307. The regulations further require that each SIP contain a discussion of the effect of ongoing air pollution control programs on remedying existing and preventing future impairment of visibility.

The Wyoming Visibility SIP has met these requirements. EPA approved the Wyoming NSR program for visibility protection on May 12, 1986 (51 FR 17334), and Wyoming discusses its ongoing programs in "*Long Term Strategy*" of the Visibility SIP.

2. Smoke Management Practices

The FLMs have not specifically identified smoke from prescribed fires as a cause of visibility impairment in the Class I areas. Wyoming currently requires that a permit be obtained from the Air Quality Division for controlled burning. Wyoming will coordinate with the FLMs to ensure that the best smoke management techniques and practices are employed, and Wyoming will continue to work with the FLMs and State agencies to develop state-of-the-art smoke management plans. These plans will be reviewed during the periodic LTS review process to ensure that the impacts due to smoke from prescribed burning on visibility in Class I areas are minimized.

3. Future Certifications of Impairment

Under the revised Settlement Agreement, EPA must address existing deficiencies in Visibility SIPs. Thus, EPA has only addressed the certifications of impairment in Class I areas made by the FLMs prior to June 1, 1988. The EPA is aware, however, that information may become available which indicates the existence of additional visibility impairment within the Class I areas or which may allow EPA or the State to attribute impairment to a specific source which could not be addressed at this time. A discussion of how any future impairment will be addressed may be found in 40 CFR 51.302(c). Wyoming has committed in the Visibility SIP to adequately address any future visibility impairment certified by a FLM or the State.

4. Existing Visibility Impairment

Because the FLMs have not identified existing visibility impairment in any of Wyoming's Class I areas, discussions related to source impact (such as additional emission limitations, source retirement and replacement, construction activities, and enforceability of emission limitations) are not required in the SIP at this time. Wyoming has, however, chosen to establish the mechanism for addressing existing visibility impairment and implementing BART one an existing source(s) has been identified as causing visibility impairment in a Class I area.

5. Periodic Review

EPA regulations require that the LTS be reviewed, and revised if necessary every three years. During this review, the results of any monitoring program will be considered, the FLMs will be consulted, and a report will be prepared which discusses the progress toward the national goal. Wyoming has committed to this periodic review of the LTS.

Final Action

The September 6, 1988, submittal by the Administrator of the Wyoming Air Quality Division includes a visibility plan to meet the general plan requirements, monitoring strategy, and LTS of 40 CFR 51.302, 51.305, and 51.306 and the criteria discussed in 50 FR 28544 and 52 FR 45132. (See October 23, 1984 (49 FR 42670), and March 12, 1987 (52 FR 7802), for additional information.) The State commits to a review of the Visibility SIP every three years, making

any changes deemed necessary. The SIP, therefore, has established the commitment to review the visibility requirements listed in 40 CFR Part 51 Subpart P—Protection of Visibility. The approval will replace the federal plans and regulations of 40 CER 52.26 (visibility monitoring strategy), 52.27 (protection of visibility from sources in attainment areas), and 52.29 (visibility long-term strategies) in the Wyoming SIP.

EPA hereby approves the revisions to the Wyoming Visibility SIP for general plan requirements, monitoring strategy, and LTS.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of the **Federal Register** notice unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective April 17, 1989.

EPA finds good cause exists for making the action taken in this notice immediately effective because the implementation plan revisions are already in effect under State law or regulation, and EPA's approval poses no additional regulatory burden.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the U.S. Court of Appeals for the appropriate circuit by April 17, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Particulate matter, Incorporation by reference.

Note: Incorporation by reference of the State Implementation Plan for the State of Wyoming was approved by the Director of the Federal Register on July 1, 1982.

Date: February 1, 1989.

Jack Moore,

Acting Administrator.

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

PART 52—[AMENDED]

Subpart ZZ—Wyoming

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

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2620 is amended by adding paragraph (c)(17) to read as follows:

§ 52.2620 Identification of plan.

* * * * *

(c) * * *

(17) A revision to the SIP was submitted by the Administrator of the Wyoming Air Quality Division on September 6, 1988, for visibility general plan requirements, monitoring, and long-term strategies.

(i) Incorporation by reference

(A) Letter dated September 6, 1988, Charles A. Collins, Administrator of the Wyoming Air Quality Division, submitting a SIP revision for visibility protection.

(B) The SIP revision for visibility protection, "Section 28 *Visibility*" of the Wyoming Air Quality Standards and Regulations, and "Wyoming State Implementation Plan for Class I Visibility Protection" was adopted by the Wyoming Environmental Quality Council on March 23, 1988, and became effective on May 10, 1988.

§ 52.2632 [Amended]

3. Section 52.2632 (a), (b), and (c) are removed.

[FR Doc. 89–3070 Filed 2–14–89; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 180

[PP 8E3644/R1002; FRL–3518–5]

Pesticide Tolerance for Fluorine Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on the raw agricultural commodity kiwifruit. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: February 15, 1989.

ADDRESS: Written objections, identified by the document control number, [PP 8E3644/R1002], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (TS–767C), Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 14, 1988 (53 FR 50258), in which it was announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 8E3644 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station of California.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on the raw agricultural commodity kiwifruit at 11.0 parts per million (ppm). The petition was revised to propose 15.0 ppm. The petitioner proposed that this use of cryolite on kiwifruit be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

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

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public

health. Therefore, the tolerance is established as set forth below.

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: January 27, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.145 is revised to read as follows:

§ 180.145 Fluorine compounds; tolerances for residues.

(a) Tolerances are established for combined residues of the insecticidal fluorine compounds cryolite and synthetic cryolite (sodium aluminum fluoride) in or on the following agricultural commodities:

Commodities	Parts per million
Apples	7
Apricots	7
Beans	7
Beets, roots	7
Beets, tops	7
Blackberries	7
Blueberries (huckleberries)	7
Boysenberries	7
Broccoli	7
Brussels sprouts	7
Cabbage	7
Carrots	7
Cauliflower	7
Citrus fruits	7
Collards	7
Corn	7
Cranberries	7
Cucumbers	7
Dewberries	7
Eggplant	7
Grapes	7
Kale	7
Kohlrabi	7
Lettuce	7
Loganberries	7
Melons	7
Mustard greens	7
Nectarines	7
Okra	7
Peaches	7
Peanuts	7
Pears	7
Peas	7
Peppers	7
Plums (fresh prunes)	7
Pumpkins	7
Quinces	7
Radish, roots	7
Radish, tops	7
Raspberries	7
Rutabaga, roots	7
Rutabaga, tops	7
Squash (winter)	7
Squash (summer)	7
Strawberries	7
Tomatoes	7
Turnip, roots	7
Turnip, tops	7
Youngberries	7

(b) Tolerances with regional registration, as defined by § 180.1(n), are established for the combined residues of the insecticidal fluorine compounds, cryolite and synthetic cryolite (sodium aluminum fluoride), in or on the following raw agricultural commodities:

Commodities	Parts per million
Kiwifruit	15

[FR Doc. 89–3190 Filed 2–14–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 8E3648/R1003; FRL–3518–9]

Pesticide Tolerance for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide glyphosate and its metabolite in or on the raw agricultural commodity asparagus. This regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: February 15, 1989.

ADDRESS: Written objections, identified by the document control number [PP 8E3648/R1003], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (TS–767C), Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 14, 1989 (53 FR 50259), in which it was announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 8E3648 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Stations of California, Florida, Michigan, and New York.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine), and its metabolite aminomethylphosphonic acid (AMPA) in or on the raw agricultural commodity asparagus at 0.5 part per million (ppm). This would require raising the already established tolerance for residues on asparagus from 0.2 ppm to 0.5 ppm.

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

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

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: January 27, 1989.

Douglas O. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.364(a), in the entry for asparagus by revising the residue level of 0.2 ppm to 0.5 ppm, as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Asparagus	0.5
* * * * *	

[FR Doc. 89–3191 Filed 2–14–89; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 8E3637/R1004; FRL–3518–8]

Pesticide Tolerance for Metolachlor

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide metolachlor in or on the raw agricultural commodity cabbage. The Interregional Research Project No. 4 (IR–4) petitioned for this tolerance.

EFFECTIVE DATE: February 15, 1989.

ADDRESS: Written objections, identified by the document control number [PP 8E3637/R1004], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (TS–767C), Registration Division (TS–767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of December 14, 1988 (53 FR 50261), in which it was announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 8E3637 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Stations of Florida, Hawaii, Massachusetts, New York, North Carolina, Oklahoma, Oregon, Virginia, and Wisconsin. The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the herbicide metolachlor (2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl)acetamide) and its metabolites, determined as the derivatives, 2-[(2-ethyl-6-methylphenyl)aminol-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on the raw agricultural commodity cabbage at 1.0 part per million (ppm).

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

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

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: January 27, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.368(a) is amended by adding and alphabetically inserting in the listing the raw agricultural commodity cabbage, to read as follows:

§ 180.368 Metolachlor; tolerances for residues.

* * * * *

(a) * * *

Commodities	Parts per million
* * * * *	
Cabbage	1.0
* * * * *	

[FR Doc. 89-3192 Filed 2-14-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR PART 180

[PP 7E3464/R1005; FRL-3518-7]

Pesticide Tolerance for Prometryn

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide prometryn in or on the raw agricultural commodity dill. The Interregional Research Project No. 4 (IR-4) petitioned for this tolerance.

EFFECTIVE DATE: February 15, 1989.

ADDRESS: Written objections, identified by the document control number, [PP 7E3464/R1005], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Hoyt Jamerson, Emergency Response and Minor Use Section (TS-767C), Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-2310.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of December 12, 1988 (53 FR 50262), in which it was announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 7E3464 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project, and the Agricultural Experiment Station of California.

The petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the residues of the herbicide prometryn (2,4-bis(isopropylamino)-6-methylthio-*s*-triazine) in or on the raw agricultural commodity dill at 0.25 part per million (ppm). The petition was later amended to propose a tolerance of 0.3 ppm.

The petitioner proposed that this use of prometryn on dill be limited to use in California base on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

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

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

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

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: January 27, 1989.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

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

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

2. Section 180.222 is amended by designating the current paragraph and list of tolerances as paragraph (a) and by adding new paragraph (b), to read as follows:

§ 180.222 Prometryn; tolerances for residues.

* * * * *

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the herbicide prometryn (2,4-bis(isopropylamino-6-methylthio-*s*-triazine) in or on the following raw agricultural commodity:

Commodity	Parts per million
Dill	0.3

[FR Doc. 89-3193 Filed 2-14-89; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 704

[OPTS-82013D; FRL-3520-5]

Comprehensive Assessment Information Rule; Extension of Notification and Reporting Deadlines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; extension of notification and reporting deadlines.

SUMMARY: EPA has received two requests for a 60-day extension of either the effective date of the Comprehensive Assessment Information Rule (CAIR), or, in the alternative, an extension of all notification and reporting deadlines for the CAIR. EPA has evaluated these requests, and has decided to grant a 30-day extension for all CAIR notification and reporting deadlines for the 19 substances to the CAIR.

DATES: The notification and reporting deadlines are extended to the following dates:

1. Submission of a CAIR reporting form by manufacturers, importers, and processors under § 704.223(a) is extended to June 7, 1989.

2. Submission of a CAIR reporting form by persons who process a CAIR listed substance under a tradename under § 704.223(b) is extended to July 6, 1989.

3. Notification of customers who process a CAIR listed substance under a tradename under § 704.208(a)(3) is extended to April 7, 1989.

4. Submission to EPA of a list of tradenames under which a person

distributes a CAIR listed substance under § 704.208(a)(1) is extended to March 20, 1989.

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, Telephone: (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: EPA issued the CAIR (40 CFR Part 704) in the Federal Register of December 22, 1988 (53 FR 51698), under section 8(a) of the Toxic Substances Control Act (TSCA). EPA received two requests for a 60-day extension of either the effective date of the CAIR, or, in the alternative, an extension of all notification and reporting deadlines for the CAIR. These requests were received from the National Paint and Coatings Association (NPCA) and The Society of the Plastics Industry (SPI). EPA has evaluated these requests, and has decided to grant a 30-day extension for all CAIR notification and reporting deadlines for the 19 substances subject to the CAIR to the above dates.

EPA realizes that the extension granted for the submission of tradenames under which a person distributes a CAIR listed substance under § 704.208(a)(1) is extended to a date that is more than 30 days after the original notification deadline of February 7, 1989. This was necessary because the extension requests submitted by NPCA and SPI were granted on February 7, 1989, and the publication of the Federal Register document announcing these extensions was not possible until after February 7. Therefore, EPA extended this deadline to 30 days after EPA's expected publication date of this Federal Register document. Note that the new notification deadline will be March 20, 1989, even if this date is more than 30 days after the publication date of this Federal Register document.

Individual companies may request a reasonable extension beyond these new deadlines on a substance-by-substance basis through the mechanisms set forth in the CAIR. Failure to comply with the new extension deadlines, or any further extension deadlines granted by EPA to individual companies, will constitute a violation of TSCA section 15(3), and may subject the violator to the penalties described in TSCA section 16.

List of Subjects in 40 CFR Part 704

Chemicals, Environmental protection, Hazardous materials, Reporting and recordkeeping requirements.

Dated: February 8, 1989.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division, Office of Toxic Substances.

[FR Doc. 89-3530 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6708

[OR-943-09-4214-10; GP9-064; OR-19673(WASH), OR-19854(WASH)]

Partial Revocation of Powersite Classifications No. 349 and No. 400; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order revokes one Secretarial order and one U.S. Geological Survey order insofar as they affect 153.40 acres of lands withdrawn for Bureau of Land Management's powersite purposes. This action will remove restrictions or open the lands to surface entry on 145 acres. Of the balance which is within Power Project No. 2145, 3.40 acres remain open subject to section 24 of the Federal Power Act and 5 acres remain closed to surface entry and mining. All the lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: March 10, 1989.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

By virtue of the authority vested in the Secretary of the Interior it is ordered as follows:

1. The Secretarial Order dated June 22, 1944, which established Powersite Classification No. 349, is hereby revoked insofar as it affects the following described lands:

Willamette Meridian

T. 28 N., R. 23 E.;
Sec. 26, lots 7 and 8, and NW¼SE¼.

The areas described aggregate 113.40 acres in Chelan and Douglas Counties.

2. The U.S. Geological Survey Order dated February 15, 1949, which established Powersite Classification No. 400, is hereby revoked insofar as it affects the following described land:

Willamette Meridian

T. 28 N., R. 23 E.;
Sec. 26, SW¼NE¼.

The area described contains 40 acres in Douglas County.

3. The State of Washington has waived its preference right for public highway rights-of-way or material sites as provided by the Federal Power Act of June 10, 1920, as amended, 16 U.S.C. 818.

4. That portion of lot 7 inside the boundary of Power Project No. 2145 remains closed to operation of the public land laws, including the mining laws.

5. That portion of lot 8 inside the boundary of Power Project No. 2145 has been and continues to be open to operation of the public land laws, including the mining laws, subject to the provisions of section 24 of the Federal Power Act of June 10, 1920.

6. That portion of Lot 8 outside the boundary of Power Project No. 2145 has been open to operation of the public land laws, including the mining laws, subject to the provisions of section 24 of the Federal Power Act of June 10, 1920, and will be relieved of the section 24 restriction at 8:30 a.m., on March 10, 1989.

7. At 8:30 a.m., on March 10, 1989, the land described in paragraphs 1 and 2, except as provided in paragraphs 4, 5, and 6, will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals and reservations, and to requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on March 10, 1989, shall be considered as simultaneously filed at that time. The land has been and continues to be open to the mining and mineral leasing laws.

Rick Ventura,

Assistant Secretary of the Interior.

February 3, 1989.

[FR Doc. 89-3469 Filed 2-24-89; 8:45 am]

BILLING CODE 4310-33-M

43 CFR Public Land Order 6709

[AK-932-09-4214-10; F-025943]

Modification of Public Land Order No. 3708; Transfer of Administrative Jurisdiction From the National Aeronautics and Space Administration to the National Oceanic and Atmospheric Administration; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order modifies Public Land Order No. 3708 to transfer jurisdiction of 8,500 acres of land withdrawn for a tracking station near Fairbanks, Alaska, from the National Aeronautics and Space Administration to the National Oceanic and

Atmospheric Administration and establishes a 20-year term. The land remains closed to the operation of mining laws, but has been and remains open to mineral leasing.

EFFECTIVE DATE: February 15, 1989.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM State Office, 701 C Street, Box 13, Anchorage, Alaska 99513, 907–271–3342.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Public Land Order No. 3708 is hereby modified to transfer administrative jurisdiction of the land to the National Oceanic and Atmospheric Administration and to expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended. The land is described as follows:

Fairbanks Meridian

T. 2 N., R. 1 E.,
Sec. 13, S½NE¼, SE¼NW¼, and S½;
Sec. 14, E½SE¼ and SW¼SE¼;
Sec. 17, SE¼NE¼, SE¼SW¼, and SE¼;
Sec. 20, E½, E½W½, and SW¼SW¼;
Sec. 21, SW¼NE¼, W½, NW¼SE¼, and S½SE¼;
Secs. 22 to 27, inclusive;
Sec. 28, N½N½ and SW¼NW¼;
Sec. 29, N½ and N½SW¼;
Sec. 30, SE¼NE¼ and NE¼SE¼;
Sec. 34, N½;
Sec. 35, E½NE¼ and W½NW¼.
T. 2 N., R. 2 E.,
Sec. 7, SE¼SE¼;
Sec. 8, SW¼SW¼;
Sec. 17, W½;
Secs. 18 and 19;
Sec. 20, W½E½ and W½.

The area described contains approximately 8,500 acres.

2. The land described above continues to be withdrawn from all forms of appropriation under the public land laws, including the mining laws (30 U.S.C., Ch. 2), but not from leasing under the mineral leasing laws and is subject to all other terms and conditions of Public Land Order No. 3708.

Rick Ventura,

Assistant Secretary of the Interior.

February 3, 1989.

[FR Doc. 89–3487 Filed 2–14–89; 8:45 am]

BILLING CODE 4310–JA–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations; Colorado et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

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

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

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base (100-year) flood elevations, for the community. This date may be obtained by contacting the office where the maps are available for inspection indicated on the table below.

ADDRESSES: See table below.

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

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

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

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

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies for reasons set out in the proposed rule that the final flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. Also, this rule is not a major rule under terms of Executive Order 12291, so no regulatory analyses have been prepared. It does not involve any collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

PART 67—[AMENDED]

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

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

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

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. No appeal was made during the ninety-day period and the proposed base flood elevations have not been changed.

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
COLORADO	
Georgetown (town), Clear Creek County (FEMA Docket No. 6932)	
Clear Creek:	
Entire shoreline of Georgetown Lake	*8,445
At 15th Street	*8,465
Approximately 70 feet downstream of footbridge	*8,480
Approximately 90 feet upstream of 7th Street	*8,508
Approximately 600 feet upstream of 6th Street	*8,539
Approximately 730 feet upstream of 3rd Street extended	*8,597
South Clear Creek:	
At confluence with Clear Creek	*8,490
Approximately 150 feet upstream of Main Street	*8,526
Approximately 300 feet upstream of Main Street	*8,536
Approximately 80 feet upstream of 3rd Street	*8,662
Maps are available for review at Town Hall, 404 Sixth Street, Georgetown, Colorado.	
Montezuma County (unincorporated areas) (FEMA Docket No. 6932)	
Dolores River:	
Approximately 1,200 feet upstream of State Highway 145	*6,924
Approximately 12,400 feet upstream of State Highway 145	*6,985
Approximately 7,900 feet downstream of confluence of Carver Canyon Creek	*7,044
Approximately 3,000 feet upstream of confluence of Carver Canyon Creek	*7,107
Approximately 4,300 feet upstream of County Road 36	*7,169
Approximately 8,550 feet upstream of confluence of Spruce Water Canyon Creek	*7,232
Approximately 2,700 feet downstream of Four Corners Bridge	*7,293
Approximately 7,150 feet upstream of Four Corners Bridge	*7,350
Approximately 1,690 feet upstream of Private Road	*7,403

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
West Dolores River:	
Approximately 550 feet downstream of State Highway 145	*7,361
Approximately 715 feet upstream of State Highway 145	*7,372
Approximately 2,850 feet upstream of State Highway 145	*7,391
Mancos River:	
Approximately 3,350 feet downstream of Spruce Street	*6,911
Approximately 140 feet downstream of Spruce Street	*6,966
Approximately 1,225 feet upstream of Town of Mancos eastern corporate limits	*7,068
Lost Canyon Creek:	
Approximately 1,400 feet downstream of County Road 30	*6,925
Approximately 75 feet upstream of County Road 30	*6,932
Approximately 2,250 feet upstream of County Road 30	*6,943
Chicken Creek:	
Approximately 6,650 feet downstream of Driveway Bridge	*6,928
Approximately 2,610 feet downstream of Driveway Bridge	*6,970
Approximately 1,250 feet upstream of Driveway Bridge	*7,004
Maps are available for review at the Montezuma County Courthouse, County Administrator's Office, 109 West Main Street, Cortez, Colorado.	

FLORIDA

Indian River County (unincorporated areas) (FEMA Docket No. 6932)

Main Relief Canal:	
About 300 feet downstream of Country Club Drive	*6
Just downstream of spillway	*10
Just upstream of spillway	*17
About 1.9 miles upstream of King's Highway	*24
North Relief Canal:	
About 0.8 mile downstream of U.S. Route 1	*7
About 1 mile upstream of 66th Avenue	*23
Lateral G:	
At mouth	*15
About 2,100 feet upstream of King's Highway	*23
Lateral H:	
At mouth	*15
Just downstream of 41st Street	*21
South Relief Canal:	
At mouth	*5
Just downstream of 43rd Avenue	*21
Sebastian Creek/South Prong Creek:	
At mouth	*6
About 100 feet downstream of Wabasso Road	*17
Atlantic Ocean:	
Just west of A1A about 6,000 feet south of North County Boundary	*7
About 300 feet east of the intersection of Live Oak Road and 46th Place	*17
Lateral J:	
At mouth	*15
About 3,000 feet upstream of Highland Drive	*21
Indian River:	
About 1,600 feet west of A1A, about 2,000 feet south of North County Boundary	*5
On Wabasso Island	*10
Vero Lakes Channel A:	
About 100 feet upstream of mouth	*11
At confluence of Vero Lakes Channel D	*23
Vero Lakes Channel B:	
At mouth	*20
About .9 mile upstream of 101st Avenue	*24
Vero Lakes Channel C:	
At mouth	*22
About .5 mile upstream of 106th Avenue	*24
Vero Lakes Channel D:	
At mouth	*23
About 2,700 feet upstream of 102nd Avenue	*25
St. John's Marsh:	
At the intersection of State Road 60 and County Road 512	*22
Just downstream of State Road 60	*29
Maps available for inspection at the County Administration Building, 1840 25th Street, Vero Beach, Florida.	

Indian River Shores (town), Indian River County (FEMA Docket No. 6932)

Atlantic Ocean: Along shoreline	*17
Indian River:	
At the intersection of Hidden Oak Lane	*7
Barker Island	*9
Maps available for inspection at the Town Hall, 6001 North AIA, Vero Beach, Florida.	

Orchid (town), Indian River County (FEMA Docket No. 6932)

Indian River:	
On Horseshoe Island	*8
At mouth of East Channel	*10
Maps available for inspection at the Mayor's Home, 1 Dearfield Drive, Vero Beach, Florida.	

Sebastian (city), Indian River County (FEMA Docket No. 6932)

Indian River:	
At intersection of Indian River Drive and Davis Street	*6
About 100 feet east of intersection of Indian River Drive and Harrison Street	*9
South Prong Creek/Sebastian Creek:	
About 800 feet west of intersection of Robin Lane and Roseland Road	*6
About 400 feet upstream of confluence of Elkcam Waterway	*13
Collier Creek:	
About 200 feet downstream of Roseland Road	*6
Just downstream of spillway	*10
Just upstream of spillway	*18
About 250 feet downstream of Fellsmere Road	*18
Collier Waterway/Elkcam Waterway:	
About 200 feet upstream of mouth	*12
Just downstream of dam	*13
Just upstream of dam	*18
About 200 feet downstream of Fellsmere Road	*19
Maps available for inspection at the City Hall, 1225 Main Street, Sebastian, Florida.	

Vero Beach (city), Indian River County (FEMA Docket No. 6932)

Main Relief Canal:	
About 700 feet downstream of U.S. Route 1	*9
Just downstream of spillway	*10
Just upstream of spillway	*17
Just upstream of control structure	*20
Indian River:	
At the intersection of Beachland Boulevard and Mockingbird Drive	*6
Farely Island	*8
Atlantic Ocean:	
About 300 feet east of the intersection of Easter Lilly Lane and Ocean Drive	*17
About 1,000 feet east of intersection of Tulip Lane and Ocean Drive	*13
Maps available for inspection at the Planning Department, City Hall, Vero Beach, Florida.	

GEORGIA

Dade County (unincorporated areas) (FEMA Docket No. 6938)

Lookout Creek:	
Just downstream of the confluence of Tributary No. 1	*696
Just downstream of State Route 143	*713
Tributary No. 1:	
At mouth	*696
About 0.4 mile downstream of Norfolk Southern Railway	*699
Pope Creek:	
About 300 feet downstream of Pope Creek Road	*670
At state boundary	*915
Nickajack Lake: Within community	*635
Maps available for inspection at the Dade County Property and Record's Office, County Courthouse, Trenton, Georgia.	

Eatonton (city), Putnam County (FEMA Docket No. 6938)

Rooty Creek:	
Just upstream of Concorde Avenue	*433
About 2,000 feet upstream of Sumter Street	*479
Maps available for inspection at the City Clerk's Office, City Hall, Eatonton, Georgia.	

Sylvester (city), Worth County (FEMA Docket No. 6938)

Town Creek:	
Just upstream of Town Creek Drive	*342
Just downstream of Franklin Street	*360
Just upstream of Franklin Street	*365
About 600 feet upstream of Wallace Street	*374
Town Creek Tributary No. 1:	
At mouth	*346
At Franklin Street	*372
Town Creek Tributary No. 2:	
At mouth	*354
About 1,400 feet upstream of Franklin Street	*369
Town Creek Tributary No. 3:	
At mouth	*359
At North Street	*383
Maps available for inspection at the City Clerk's Office, City Hall, Sylvester, Georgia.	

Thomaston (city), Upson County (FEMA Docket No. 6938)

Drake Branch:	
At mouth	*652
Just upstream of North Bethel Street	*670
Town Branch:	
About 3,200 feet upstream of Davis Lake Road	*634
Just upstream of State Route 36	*660
Bell Creek:	
About 1,600 feet downstream of U.S. Route 19	*624
Just upstream of U.S. Route 19	*642
Potato Creek:	
About 3,800 feet upstream of Hannahs Mill Road	*648
About 1,400 feet upstream of U.S. Route 19	*652
Smokey Hollow Lake: Entire shoreline	*685
City Reservoir: Entire shoreline	*726
Maps available for inspection at the City Manager's Office, City Hall, Thomaston, Georgia.	

Trenton (city), Dade County (FEMA Docket No. 6938)

Town Creek:	
At mouth	*702
About 900 feet upstream of Pace Drive	*745
Lookout Creek:	
About 0.5 mile upstream of confluence of Tributary No. 1	*698
Just downstream of State Route 143	*713
Tributary No. 1:	
About 0.4 mile downstream of Norfolk Southern Railway	*699
About 900 feet upstream of Barton Avenue	*753
Maps available for inspection at the City Clerk's Office, City Hall, Trenton, Georgia.	

Upson County (unincorporated areas) (FEMA Docket No. 6938)

Drake Branch:	
At mouth	*652
About 1,000 feet downstream of North Bethel Street	*654
Norris Creek:	
At mouth	*682
Just upstream of Atwater Road	*723
Potato Creek:	
Just upstream of State Route 36	*527
About 3,500 feet downstream of State Route 74	*550
About 600 feet upstream of State Route 74	*619
About 300 feet upstream of Delray Road	*671
Potato Creek Tributary:	
At mouth	*644
Just downstream of Moore Crossing Road	*659
Just upstream of Moore Crossing Road	*665
Just upstream of Jeff Davis Road	*713

Source of flooding and location	# Depth in feet above ground. ^ Elevation in feet (NGVD)
Tenmile Creek:	
At mouth	*637
Just downstream of Jeff Davis Road	*670
About 350 feet upstream of Jeff Davis Road	*676
Just upstream of Willingham Road	*737
Town Branch:	
At mouth	*568
Just downstream of Davis Lake Road	*621
Just upstream of Davis Lake Road	*626
Just downstream of State Route 36	*659
Bell Creek:	
Just upstream of the confluence of Town Branch	*568
Just downstream of Old Talbotton Road	*591
Just upstream of Old Talbotton Road	*596
About 1,300 feet downstream of U.S. Route 19	*627
Raines Branch:	
About 4,100 feet upstream of mouth	*392
Just downstream of U.S. Route 80	*410
Just upstream of U.S. Route 80	*415
About 3,300 feet upstream of U.S. Route 80	*433
Maps available for inspection at the County Clerk's Office, County Courthouse, Thomaston, Georgia.	
IDAHO	
Elmore County (unincorporated areas) (FEMA Docket No. 6938)	
Little Canyon Creek:	
Approximately 450 feet above confluence with Snake River	*2,488
Approximately 2,860 feet downstream of Boise Street	*2,533
Approximately 1,200 feet upstream of Highway 30	*2,562
Approximately 3,400 feet downstream of County Road located between sections 18 and 19	*2,572
At upstream side of County Road located between sections 18 and 19 in Township 5S Range 10E	*2,589
Rattlesnake Creek:	
Just upstream of 18th South Street	*3,115
Approximately 1,300 feet upstream of 12th South Street	*3,125
Approximately 3,500 feet upstream of 6th South Street	*3,144
Approximately 1,100 feet downstream of Interstate Highway 84	*3,171
Approximately 2,900 feet upstream of Interstate Highway 84	*3,217
South Fork Boise River:	
Just upstream of Pine Bridge	*4,209
Approximately 1,050 feet downstream of confluence of Dare Gulch	*4,264
Approximately 100 feet downstream of confluence of Green Creek	*4,342
Approximately 3,900 feet downstream of confluence of Fairview Creek	*4,420
Approximately 100 feet upstream of Featherville Bridge	*4,487
Summerwind Drainage:	
Approximately 1,130 feet downstream of Summerwind Drive	*3,232
Approximately 20 feet downstream of Summerwind Drive	*3,237
Approximately 20 feet downstream of Beaman Road	*3,240
Just upstream of Beaman Road	*3,241
Maps are available for review at the Elmore County Planning and Zoning Department, 190 South Fourth East Street, Mountain Home, Idaho.	
ILLINOIS	
Hanover (village), Jo Daviess County (FEMA Docket No. 6932)	
Apple River:	
About 1.5 miles downstream of Hanover Dam	*618
About 0.8 mile upstream of Hanover Dam	*622
Maps available for inspection at the Clerk's Office, Village Hall, Hanover, Illinois.	

Source of flooding and location	# Depth in feet above ground. ^ Elevation in feet (NGVD)
IOWA	
Elliott (city), Montgomery County (FEMA Docket No. 6927)	
East Nishnabotna River:	
Just upstream of State Highway 48	*1,070
About 2,900 feet upstream from State Highway 48	*1,071
Coe Creek:	
About 0.38 mile upstream of mouth	*1,070
About 0.27 mile upstream of Burlington Northern railroad	*1,084
Tributary A:	
Just upstream of mouth	*1,070
Just upstream of Burlington Northern railroad	*1,075
Coe Creek Divergence:	
At convergence	*1,073
At divergence	*1,082
Maps available for inspection at the City Hall, 210 Main Street, Elliott, Iowa.	
KANSAS	
Ellsworth (city), Ellsworth County (FEMA Docket No. 6932)	
Smoky Hill River:	
About 250 feet upstream of U.S. Highway 156	*1,533
Just downstream of Burlington Northern railroad	*1,539
K-14 Tributary:	
Just upstream of 8th Street	*1,546
Just downstream of Douglas Avenue (upstream crossing)	*1,562
Shallow Flooding (overflow from K-14 Tributary): Within community	#2
Maps available for inspection at the City Offices, Ellsworth, Kansas.	
KENTUCKY	
Butler County (unincorporated areas) (FEMA Docket No. 6938)	
Green River:	
At confluence of Mud River	*403
About 0.2 mile upstream of Lock No. 5	*437
Maps available for inspection at the County Fiscal Courtroom, County Courthouse, Morgantown, Kentucky.	
Knox County (unincorporated areas) (FEMA Docket No. 6927)	
East Fork Lynn Camp Creek:	
At mouth	*1,071
Just downstream of Private Road (About 2,100 feet upstream of Indian Creek Road)	*1,100
Lynn Camp Creek:	
At county boundary	*1,066
About 0.5 mile upstream of Back Street	*1,069
Cumberland River:	
About 2 miles downstream of confluence of Swanpond	*978
About 2 miles upstream of confluence of Ledger Branch	*995
Cumberland River High Flow Diversion Channel:	
At confluence with Cumberland River	*980
At divergence with Cumberland River	*983
Richland Creek:	
Just downstream of School Street	*986
About 2,100 feet upstream of Old Railroad Grade Road	*986
Maps available for inspection at the County Courthouse, Barbourville, Kentucky.	
MAINE	
Bristol (town), Lincoln County (FEMA Docket No. 6938)	
Muscongus Bay:	
At Back Shore Road extended	*13
Approximately 2,000 feet north of Pumpkin Cove	*43
Eastern Branch Johns River: Entire shoreline	*10
Pemaquid River: Entire shoreline	*10
Johns Bay:	
Approximately .6 mile west along shoreline from Pemaquid Harbor Road extended	*13

Source of flooding and location	# Depth in feet above ground. ^ Elevation in feet (NGVD)
Approximately .6 mile north of Pemaquid Point along shoreline	*25
Maps available for inspection at the Town Assessor's Office, Bristol, Maine.	
China (town), Kennebec County (FEMA Docket No. 6932)	
West Branch Sheepscot River:	
Approximately .6 mile upstream of corporate limits	*209
Approximately 540 feet upstream of Weeks Mills Road	*217
Meadow Brook:	
Approximately 1,000 feet downstream of Tobey Road	*300
Approximately 100 feet upstream of Dirigo Road	*320
Maps available for inspection at the Town Manager's Vault, South China, Maine.	
Eliot (town), York County (FEMA Docket No. 6938)	
Spinney Creek:	
At confluence with Piscataqua River	*9
Approximately 340 feet upstream of State Road	*30
Piscataqua River: Entire length within community	*9
Maps available for inspection at the Town Hall, Eliot, Maine.	
Kingfield (town), Franklin County (FEMA Docket No. 6932)	
Carrabassett River:	
At downstream corporate limits	*536
Approximately 1.8 miles upstream of confluence of West Branch Carrabassett River	*601
West Branch Carrabassett River:	
At confluence with the Carrabassett River	*569
Approximately 2 miles upstream of confluence with Carrabassett River	*574
Maps available for inspection at the Town Clerk's Safe, Kingfield, Maine.	
Owls Head (town), Knox County (FEMA Docket No. 6932)	
Rockland Harbor:	
At Broad Cove	*13
At Coopers Beach	*15
At Ocean Avenue	*16
At Battery Point	*16
Owls Head Bay:	
At Main Street	*13
At Ginn Point	*12
Shoreline at Lighthouse Road extended	*18
Muscle Ridge Channel:	
At Ash Point Drive extended	*14
At Otter Point	*14
At Ash Point	*17
Ballyhac Cove: At Dublin Road	*10
Maps available for inspection at the Municipal Building, Star Route 32, Owls Head, Maine.	
Rockport (town), Knox County (FEMA Docket No. 6926)	
Atlantic Ocean:	
Shoreline of West Penobscot Bay at Beauchamp Point	*15
At Goose Rock	*19
Shoreline of West Penobscot Bay approximately 1,700 feet east of intersection of Russell Avenue and Calderwood Lane	*23
Shoreline approximately 6,500 feet north of Babcocks Point	*37
Goose River:	
At Pascal Avenue	*10
Downstream side of Commercial Street	*45
Downstream side of Main Street (downstream crossing)	*55
Approximately 30 feet upstream of Park Street	*90
Maps available for inspection at the Planning Office, Rockport, Maine.	

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
South Thomaston (town), Knox County (FEMA Docket No. 6932)	
Atlantic Ocean:	
Shoreline along Seal Harbor	*11
Shoreline along Waterman Point	*13
Southeastern shoreline of Burnt Island	*28
Weskeag River: Entire length within corporate limits	*10
St. George River: Entire length within corporate limits	*11
Maps available for inspection at the Town Office, South Thomaston, Maine.	
MARYLAND	
Brookeville (town), Montgomery County (FEMA Docket No. 6938)	
Reddy Branch:	
Approximately 550 feet downstream of downstream corporate limits	*351
At confluence of Tributary No. 209 (Spring Branch)	*382
Tributary No. 209 (Spring Branch):	
At confluence with Reddy Branch	*382
At upstream corporate limits	*388
Maps available for inspection at 205 Market Street, Brookeville, Maryland.	
Send comments to The Honorable Richard S. Allan, Chairman of the Town of Brookeville Board of Supervisors, Montgomery County, 205 Market Street, Brookeville, Maryland 20833.	
MASSACHUSETTS	
Andover (town), Essex County (FEMA Docket No. 6932)	
Merrimack River:	
Approximately 7,800 feet downstream of Interstate Route 93	*50
At upstream corporate limits	*59
Shawsheen River:	
Upstream side of Boston and Maine Railroad	*35
Downstream side of Interstate Route 93	*75
Fish Brook:	
At confluence with Merrimack River	*55
Approximately 30 feet upstream of Greenwood Road	*123
Hussey Brook:	
At confluence with Shawsheen River	*37
Approximately 0.7 mile upstream of Beacon Street	*137
Hussey Brook Tributary:	
At confluence with Hussey Brook	*61
Approximately 250 feet upstream of Beacon Street	*94
Maps available for inspection at the Engineering Department, Town Offices, Andover, Massachusetts.	
Dracut (town), Middlesex County (FEMA Docket No. 6932)	
Merrimack River:	
At downstream corporate limits	*57
At upstream corporate limits	*63
Beaver Brook:	
At downstream corporate limits	*76
Approximately 700 feet upstream of Parker Avenue	*87
Approximately 1,400 feet upstream of Parker Avenue	*87
Approximately 1,000 feet upstream of Phineas Street	*91
At confluence of Gumpas Pond Brook	*123
Richardson Brook:	
At confluence with Merrimack River	*60
Upstream side of Methuen Street	*85
Upstream side of Cranberry Road	*107
Upstream side of State Route 113 (Broadway Street)	*168
Trout Brook:	
At confluence with Richardson Brook	*86
Upstream side of Parker Road	*143
Tributary to Beaver Brook:	
At confluence with Beaver Brook	*91
Approximately 880 feet upstream of Lakeview Avenue	*106
Peppermint Brook:	
At confluence with Beaver Brook	*76
Approximately 100 feet downstream of Hildreth Street	*81
Gumpas Pond: At upstream corporate limits (State Boundary)	*123
Maps available for inspection at the Town Hall, Town Clerk's Vault, Dracut, Massachusetts.	
Needham (town), Norfolk County (FEMA Docket No. 6932)	
Charles River:	
At downstream corporate limits	*75
At upstream corporate limits	*109
Fuller Brook:	
Entire reach from corporate limits upstream to a point approximately 630 feet downstream of S.R. 135	*134
Maps available for inspection at the Planning Department, Town Hall, Needham, Massachusetts 02192.	
Wenham (town), Essex County (FEMA Docket No. 6938)	
Miles River:	
At downstream corporate limits	*32
Just upstream of Dodge Row	*44
Maps available for inspection at the Town Clerk's Vault, Town Hall, 138 Main Street, Wenham, Massachusetts.	
Weymouth (town), Norfolk County (FEMA Docket No. 6927)	
Hingham Bay:	
At Lower Neck Cove	*13
At Parnell Street and Fort Point Road	*13
At east side of Slate Island	*15
At southwest side of Slate Island	*15
At north side of Slate Island	*17
At Rose Cliff	*17
At north side of Grape Island	*18
At Lower Neck	*18
At Upper Neck	*18
Weymouth Fore River:	
At approximately 300 feet south of Paomet Road and Wessagusett Road intersection	*14
At approximately 120 feet inland of shoreline by the intersection of Shore Drive and Ocean Avenue	*15
Entire shoreline along Regatta Road from approximately 100 feet east of Bradmere Way extended to approximately 100 feet northeast of North Street extended	*17
Weymouth Back River: At approximately 1,050 feet downstream of the end of Broad Reach Road	*15
Maps available for inspection at the Planning Department, Town Hall, 75 Middle Street, Weymouth, Massachusetts.	
Worthington (town), Hampshire County (FEMA Docket No. 6938)	
Middle Branch Westfield River:	
At downstream corporate limits	*775
Approximately 200 feet downstream of second crossing of Parish Road	*1,566
Bronson Brook:	
At downstream corporate limits	*1,014
Approximately 20 feet upstream of second crossing of Dingle Road	*1,365
Maps available for inspection at the Town Clerk's Vault, Town Hall, Huntington Road, Worthington, Massachusetts.	
MICHIGAN	
Allegan (city), Allegan County (FEMA Docket No. 6938)	
Kalamazoo River:	
About 2.0 miles downstream of abandoned railroad	*617
Just downstream of Allegan city dam	*627
Just upstream of Allegan city dam	*633
About 1.6 miles upstream of State Highway 89	*636
Maps available for inspection at the City Hall, 112 Locust Street, Allegan, Michigan.	
Ashland (township), Newaygo County (FEMA Docket No. 6938)	
Muskegon River:	
At downstream corporate limit	*622
At upstream corporate limit	*629
Maps available for inspection at the Township Hall, 2019 West 120th Street, Grant, Michigan.	
Au Gres (city), Arenac County (FEMA Docket No. 6938)	
Au Gres River:	
About 3,600 feet downstream of confluence of Sager Creek	*584
About 4,200 feet upstream of U.S. Highway 23	*587
Sager Creek:	
At mouth	*584
About 1,300 feet upstream of Court Street	*586
Saginaw Bay: Within community	*584
Maps available for inspection at the City Hall, 124 West Huron, Au Gres, Michigan.	
Au Gres (township), Arenac County (FEMA Docket No. 6938)	
Au Gres River:	
About 4,600 feet downstream of confluence of Chief Creek Drain	*587
About 1,200 feet upstream of confluence of Burnt Drain	*593
Sagar Creek:	
About 1,800 feet downstream of Santiago Road	*586
About 500 feet downstream of Santiago Road	*586
Saginaw Bay: Along shoreline	*584
Maps available for inspection at the Supervisor's Home, 2300 Manor Road, Au Gres, Michigan.	
Bangor (city), Van Buren County (FEMA Docket No. 6938)	
South Branch Black River:	
About 0.90 mile downstream of Hamilton Road	*630
About 0.60 mile upstream of Center Street	*640
Maple Creek:	
At mouth	*631
Just downstream of 34th Avenue	*650
Boyer Drain:	
At mouth	*645
About 0.55 mile upstream of Center Street	*653
Maps available for inspection at the City Hall, 257 West Monroe, Bangor, Michigan.	
Garfield (township), Newaygo County (FEMA Docket No. 6932)	
Muskegon River:	
At downstream corporate limit	*627
About 800 feet downstream of Bridge Street	*642
Maps available for inspection at the Township Hall, 6333 Bingham Avenue, Newaygo, Michigan.	
MINNESOTA	
Sebeka (city), Wadena County (FEMA Docket No. 6938)	
Redeye River:	
About 1.4 miles downstream of Jefferson Avenue	*1372
About 1425 feet upstream of Minnesota Street	*1380

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
Maps available for inspection at the City Hall, 207 Jefferson Avenue, South, Sebeka, Minnesota.	
MISSISSIPPI	
Iuka (city), Tishomingo County (FEMA Docket No. 6938)	
Tributary A:	
At mouth	*534
About 1,050 feet upstream of Graham Road	*538
Indian Creek:	
Just upstream of corporate limits	*514
Just downstream of Lee Highway	*550
Maps available for inspection at the City Clerk's Office, City Hall, 118 South Pearl, Iuka, Mississippi.	
Lowndes County (unincorporated areas) (FEMA Docket No. 6932)	
Black Creek:	
At confluence with Luxapalila Creek	*185
Just downstream of Gilmer Road	*218
Ellis Creek:	
At confluence with Tombigbee River	*162
About 2.6 miles upstream of State Highway 69	*228
Greens Creek:	
At confluence with Ellis Creek	*163
Just downstream of Lake Lowndes Road	*273
Luxapalila Creek:	
At mouth	*169
At state boundary	*214
Luxapalila Creek Tributary:	
At confluence with Luxapalila Creek	*199
About 2,000 feet upstream of State Highway 50	*228
McCrary Creek:	
Just downstream of Sewage Treatment Plant Access Road	*172
At state boundary	*275
Oak Slush Creek:	
At confluence with Tombigbee River	*173
Just upstream of Younger Road	*207
Oak Slush Tributary:	
At confluence with Oak Slush Creek	*175
About 2,500 feet upstream of West Point Road	*188
Ellis Creek Tributary:	
At confluence with Ellis Creek	*179
About 3,900 feet upstream of Hildreth Road	*266
Tombigbee River:	
At state boundary	*153
At confluence of Buttahatchie River	*186
Tombigbee River Tributary No. 1:	
At confluence with Tombigbee River	*166
About 3,600 feet upstream of Burlington Northern railroad	*166
Tombigbee River Tributary No. 2:	
At mouth	*176
About 1,100 feet upstream of New Bell Road	*198
Yellow Creek:	
At confluence with Luxapalila Creek	*196
About 2.3 miles upstream of Caledonia-Steens Road	*204
Tibbee Creek:	
At mouth	*176
At confluence of Catalpa Creek	*181
Magby Creek:	
Just upstream of Lehmberg Road	*188
Just downstream of Lee Stokes Road	*230
Just upstream of Lee Stokes Road	*235
At state boundary	*236
Maps available for inspection at the County Courthouse, Columbus, Mississippi.	
Oktibbeha County (unincorporated areas) (FEMA Docket No. 6938)	
Talking Warrior Creek:	
About 1,400 feet downstream of State Highway 25	*254
About 1,600 feet upstream of State Highway 25	*257
Tobacco Juice Creek:	
About 0.83 mile downstream of Southgate Drive	*259
About 2,800 feet upstream of State Highway 25	*281
Hollis Creek:	
About 2,900 feet upstream of Poor-house Road	*295
About 2.2 miles upstream of Poor-house Road	*315
Sand Creek:	
About 3,000 feet downstream of County Road	*221
About 2,500 feet upstream of County Road	*313
Sand Creek Tributary I: At Patrick Road	*283
Maps available for inspection at the Chancery Clerk's Office, County Courthouse, Starkville, Mississippi.	
NEW HAMPSHIRE	
Colebrook (town), Coos County (FEMA Docket No. 6923)	
Connecticut River:	
At downstream corporate limits	*1,006
Confluence of Mohawk River	*1,010
Upstream corporate limits	*1,019
Maps available for inspection at the Town Clerk's Vault, Colebrook, New Hampshire.	
Gilford (town), Belknap County (FEMA Docket No. 6941)	
Gunstock Brook:	
At upstream side of State Route 11B	*506
Approximately 2,050 feet upstream of Alvah Wilson Road	*749
Gunstock Brook Tributary:	
At confluence with Gunstock Brook	*516
Approximately 175 feet upstream of State Route 11B	*537
Lake Winnipesaukee: Entire shoreline within community	*506
Maps available for inspection at the Town Office, 88 Belknap Mountain Road, Gilford, New Hampshire.	
Greenland (town), Rockingham County (FEMA Docket No. 6932)	
Pickering Brook:	
Approximately 1,260 feet downstream of State Route 151	*7
At upstream corporate limits	*27
Great Bay: Entire shoreline within community including Winnicut River up to dam near State Route 101	*7
Maps available for inspection at the Town Office, 575 Portsmouth Avenue, Greenland, New Hampshire.	
Littleton (town), Grafton County (FEMA Docket No. 6926)	
Ammonoosuc River:	
Downstream corporate limits	*689
Downstream side of Northbound Interstate 93 Bridge	*725
Upstream side of Bridge Street Bridge	*756
Downstream side of Cottage Street Bridge	*769
Downstream side of Chiswick Avenue Bridge	*822
Upstream corporate limits	*878
Baker Brook:	
Confluence with Ammonoosuc River	*834
Upstream corporate limits	*853
Dells Brook:	
Confluence with Ammonoosuc River	*712
Upstream side of Northbound Interstate Route 93 Bridge	*766
Upstream side of State Route 18 Bridge	*805
Approximately 0.6 mile upstream of State Route 18 Bridge	*831
Farr Brook:	
Confluence with Dells Brook	*787
Upstream side of State Route 18 Bridge	*835
Palmer Brook:	
Confluence with Ammonoosuc River	*826
At State Route 116 Bridge	*847
Upstream side of Pleasant Street Bridge	*900
Approximately 1,125 feet upstream of Gary Drive Bridge	*925
Maps available for inspection at the Town Clerk's Vault, Littleton, New Hampshire.	
Newfields (town), Rockingham County (FEMA Docket No. 6938)	
Great Bay: Entire shoreline of Squamscott River within Newfields	*8
Piscassic River:	
At Ice Pond dam	*92
Approximately 1,000 feet upstream of upstream corporate limits	*108
Maps available for inspection at Town Hall, Newfields, New Hampshire.	
Stratham (town), Rockingham County (FEMA Docket No. 6932)	
Squamscott River: Entire reach of stream within corporate limits	*8
Maps available for inspection at the Stratham Town Office, Route 101, Stratham, New Hampshire.	
Tuftonboro (town), Carroll County (FEMA Docket No. 6926)	
Lake Winnipesaukee: Entire shoreline within community	*506
Maps available for inspection at the Town Clerk's Vault, Tuftonboro, New Hampshire.	
Wolfeboro (town), Carroll County (FEMA Docket No. 6932)	
Lake Wentworth: Entire shoreline within corporate limits	*536
Rust Pond: Entire shoreline within corporate limits	*580
Lake Winnipesaukee: Entire shoreline within corporate limits	*506
Crescent Lake: Entire shoreline within corporate limits	*536
Maps available for inspection at the Town Office, Maine Street, Wolfeboro, New Hampshire.	
NEW YORK	
Verona (town), Oneida County (FEMA Docket No. 6932)	
Fish Creek (flooding affecting Wood Creek):	
At Cove Road along Wood Creek	*375
At County Road 50A along Wood Creek	*378
At Kilts Road along Wood Creek	*380
Approximately 0.9 mile north of the intersection of Wood Creek Road and Lock Road (extended)	*387
Oneida Creek:	
Confluence with Oneida Lake	*373
Approximately 1.07 miles upstream of State Route 13	*377
Approximately .60 mile downstream of State Route 31	*379
At State Route 31	*381
Approximately 350 feet upstream of State Route 31	*382
Approximately .50 mile upstream of State Route 31	*384
Downstream side of Swallow Road	*395
Upstream side of Swallow Road	*397
Approximately 1.4 miles upstream of Swallow Road	*399
Approximately 1.7 miles upstream of Swallow Road	*402
Approximately 2.2 miles upstream of Swallow Road	*403
Approximately 1.9 miles downstream of New York State Barge Canal	*409
Downstream side of New York State Barge Canal	*415
Upstream of New York State Barge Canal	*418
Upstream side of County Road 89 (Oneida Street)	*419
Approximately 0.2 mile upstream of Oneida Street	*419
Approximately .60 mile downstream of interstate Route 90	*420
At downstream side of CONRAIL track	*422
Approximately 400 feet upstream of CONRAIL track	*423
Approximately 0.3 mile downstream of Sconondoa Street	*425
At downstream side of Sconondoa Street	*426
Approximately 800 feet upstream of Sconondoa Street	*426

Source of flooding and location	# Depth in feet above ground. ^ Elevation in feet (NGVD)
Sconondoa Creek:	
Approximately 500 feet upstream of confluence with Oneida Creek	*426
Approximately 1,100 feet downstream of upstream corporate limits	*428
At upstream corporate limits	*433
Maps available for inspection at the Town Office Building, Durhamville, New York.	
NEW YORK	
Western (town), Oneida County (FEMA Docket No. 6932)	
Mohawk River:	
At confluence of Delta Reservoir	*555
Approximately 1,440 feet upstream of Hillside Road	*662
Lansing Kill:	
At confluence with the Mohawk River	*649
At upstream corporate limits	*750
Wells Creek:	
At confluence with the Mohawk River	*579
At confluence of Gifford Creek	*615
Big Brook:	
At confluence of Gifford Creek	*615
At upstream corporate limits	*747
Beaver Meadow Brook:	
At confluence with Big Brook	*685
Approximately 680 feet downstream of Gilett Road	*702
Dunn Brook:	
At confluence with Lansing Kill	*714
Approximately 1,225 feet upstream of State Route 46	*787
Maps available for inspection at the Town Supervisor's residence, 9201 Mullen Hill Road, Ava, New York.	
NORTH CAROLINA	
Eastern Band of Cherokee Indians, Swain, Jackson, Graham, Cherokee and Haywood Counties (FEMA Docket No. 6938)	
Raven Fork:	
About 1.6 miles upstream of mouth	*2,088
About 2,100 feet downstream of upstream crossing of Big Cove Road	*2,554
About 2,000 feet downstream of upstream crossing of Big Cove Road	*2,562
About 1,600 feet upstream of upstream crossing of Big Cove Road	*2,638
Soco Creek:	
At mouth	*1,914
Just downstream of downstream crossing of U.S. Route 19	*1,984
Just upstream of downstream crossing of U.S. Route 19	*1,989
Just downstream of upstream crossing of U.S. Route 19	*2,319
Oconaluftee River:	
About 2.0 miles downstream of Birdtown Bridge	*1,840
About 0.9 mile upstream from Acquoni Road	*2,005
Maps available for inspection at the Tribal Council Chambers, Cherokee, North Carolina.	
Jackson County (unincorporated areas) (FEMA Docket No. 6938)	
Tuckasegee River:	
About 1.6 miles downstream from State Road 116	*2,008
Just upstream from the confluence of Caney Fork	*2,123
Cullowhee Creek:	
At mouth	*2,070
About 1,050 feet upstream from confluence of Long Branch	*2,096
Long Branch:	
At mouth	*2,093
Just downstream from SR 1367	*2,199
Just upstream from SR 1367	*2,206
About 900 feet upstream from SR 1367	*2,235
Oconaluftee River:	
About 2,860 feet downstream of U.S. Route 441	*1,906
About 2,070 feet downstream of U.S. Route 441	*1,908
Soco Creek:	
About 1,000 feet downstream of Old U.S. Route 441	*1,926
About 1,100 feet upstream of U.S. Route 441-19 connector	*1,976
Scott Creek:	
Just downstream of SR 1381	*1,984
Just upstream of Lee Bumgardner Road	*2,104
Maps available for inspection at the County Administration Building, 8 Ridgeway Street, Sylva, North Carolina.	
OHIO	
Apple Creek (village), Wayne County (FEMA Docket No. 6938)	
Apple Creek:	
Just downstream of U.S. Route 250	*1,000
Just upstream of U.S. Route 250	*1,001
About 300 feet downstream of Apple Creek Road	*1,006
At confluence of Little Apple Creek 2	*1,019
Little Apple Creek 2: Within community	*1,019
Maps available for inspection at the Village Hall, Apple Creek, Ohio.	
Burbank (village) Wayne County (FEMA Docket No. 6938)	
Killbuck Creek:	
About 1,800 feet downstream of West Salem Road	*931
About 1,850 feet upstream of Burbank Road	*945
Maps available for inspection at the Village Hall, 32 South Front Street, Burbank, Ohio.	
Creston (village) Wayne County (FEMA Docket No. 6938)	
Killbuck Creek:	
Just upstream of West Salem Road	*972
About 1,400 feet downstream of Britton Road	*974
Maps available for inspection at the Village Hall, Creston, Ohio.	
Scioto County (unincorporated areas) (FEMA Docket No. 6938)	
Ohio River:	
At western county boundary	*529
About 0.7 mile upstream of eastern county boundary	*543
Scioto River:	
At mouth	*535
At northern county boundary	*549
Rarden Creek: Within community	*615
Maps available for inspection at the Planning Department, County Courthouse, 602 Seventh Street, Portsmouth, Ohio.	
Wayne County (unincorporated areas) (FEMA Docket No. 6938)	
Chippewa Creek:	
About 2,100 feet downstream of State Route 57	*957
About 1,700 feet upstream of confluence of Tommy Run	*958
Cedar Run:	
At mouth	*874
About 2,300 feet upstream of Cedar Valley Road	*985
Little Apple Creek 1:	
About 2,600 feet downstream of Milltown Road	*990
Just downstream of Schellin Road	*1,098
Just upstream of Schellin Road	*1,105
About 3,700 feet upstream of Schellin Road	*1,115
Little Killbuck Creek:	
At mouth	*863
Just upstream of Overton Road	*872
Just upstream of Township Road 36	*1,058
Clear Creek:	
At mouth	*862
Just downstream of Mechanicsburg Road	*981
Just downstream of Smithville Western Road	*1,036
Rathburn Run:	
At mouth	*897
Just upstream of Township Road 35	*902
About 3,000 feet upstream of Township Road 35	*929
Killbuck Creek:	
Just upstream of Valley Road	*847
Just downstream of upstream crossing of Sterling Road	*1,002
Apple Creek:	
At mouth	*856
Just downstream of Pittsburgh Avenue	*880
Just upstream of Pittsburgh Avenue	*887
At confluence of Little Apple Creek	*1,019
Little Apple Creek 2:	
At confluence with Apple Creek	*1,019
About 850 feet downstream of Hackett Road	*1,036
Maps available for inspection at the Planning Department, County Administration Building, 428 West Liberty Street, Wooster, Ohio.	
Wooster (city), Wayne County (FEMA Docket No. 6938)	
Little Apple Creek 1:	
About 0.8 mile downstream of Milltown Road	*974
About 2,000 feet downstream of Milltown Road	*998
Apple Creek:	
At mouth	*856
Just downstream of Pittsburgh Avenue	*880
Just upstream of Pittsburgh Avenue	*887
About 600 feet downstream of State Route 83	*888
Killbuck Creek:	
About 3,500 feet downstream of Old Columbus Road	*854
Just downstream of Old Mansfield Road	*862
Snyders Ditch:	
At mouth	*861
About 300 feet upstream of Branstetter Road	*872
Christmas Run:	
At mouth	*857
About 700 feet upstream of Saybolt Avenue	*892
Clear Creek:	
About 1,100 feet upstream of Township Road 192	*870
About 1,500 feet downstream of Township Road 4	*882
Maps available for inspection at the City Hall, 538 North Market Street, Wooster, Ohio.	
OKLAHOMA	
Wright City (town), McCurtain County (FEMA Docket No. 6932)	
Choctaw Creek:	
Approximately 360 feet downstream of the downstream corporate limits	*387
Approximately 180 feet upstream of the corporate limits	*392
Cypress Creek: For the entire distance within the community	*387
Maps available for inspection at the Town Hall, West 10th Street, Wright City, Oklahoma.	
OREGON	
Fossil (city), Wheeler County (FEMA Docket No. 6932)	
Butte Creek:	
Approximately 850 feet downstream of West 1st Street	*2,619
At confluence with Cottonwood Creek	*2,635
Approximately 75 feet downstream of the west side crossing	*2,650
At John Day Highway (State Highway 19)	*2,672
Approximately 2,250 feet upstream of John Day Highway (State Highway 19)	*2,693
Along John Day Highway (State Highway 19) between Main Street and Jay Street; and just east of Main Street	#1
Cottonwood Creek:	
At confluence with Butte Creek	*2,635
At John Day Highway (State Highway 19)	*2,664
Approximately 1,300 feet upstream of West 7th Street (at south corporate limits)	*2,687
Along Adams Street, between West 6th and West 3rd Streets, westerly toward confluence between Butte and Cottonwood Creeks	#1

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Maps are available for review at City Hall, 175 North Main Street, Fossil, Oregon.	
PENNSYLVANIA	
Albion (borough), Erie County (FEMA Docket No. 6938)	
East Branch Conneaut Creek:	
At downstream corporate limits	*842
At upstream corporate limits	*855
South Branch Conneaut Creek:	
At confluence with East Branch Conneaut Creek	*847
At upstream corporate limits	*960
Maps available for inspection at the Albion Borough Office, 15 Franklin Street, Albion, Pennsylvania.	
Auburn (borough), Schuylkill County (FEMA Docket No. 6932)	
Bear Creek:	
At confluence with the Schuylkill River	*449
At upstream corporate limits	*472
Maps available for inspection at Ms. Brenda Fessler's residence, 112 Orchard Street, Auburn, Pennsylvania.	
Benner (township), Centre County (FEMA Docket No. 6938)	
Spring Creek:	
At downstream corporate limits	*757
Approximately 1,300 feet upstream of Fish Hatchery Road	*832
Maps available for inspection at the Township Building, R.D. 4, Box 128-B, Bellefonte, Pennsylvania 16823.	
Briar Creek (township), Columbia County (FEMA Docket No. 6938)	
East Branch Briar Creek:	
Approximately 540 feet downstream of the downstream corporate limits	*510
Approximately 180 feet upstream of the confluence of Glen Brook	*544
Glen Brook:	
At confluence with East Branch Briar Creek	*543
Approximately 240 feet upstream of T-746	*665
Maps available for inspection at Kepner & Kepner, Third and Pine Street, Berwick, Pennsylvania.	
Carbon (township), Huntingdon County (FEMA Docket No. 6938)	
Shoup Run:	
Approximately 0.4 mile downstream of confluence of Sugarcamp Run	*956
Approximately 0.4 mile upstream of confluence of Sugarcamp Run	*1,028
At downstream corporate limits of Borough of Coalmont	*1,069
At upstream corporate limits of Borough of Coalmont	*1,076
Sugarcamp Run:	
At confluence with Shoup Run	*990
Approximately 550 feet upstream of State Route 913	*1,041
Maps available for inspection at Penny Brode's residence, R.D. #1, Box 222-C, Saxton, Pennsylvania.	
Cass (township), Schuylkill County (FEMA Docket No. 6932)	
West Branch Schuylkill River:	
At downstream corporate limits	*702
Approximately 1,200 feet upstream side of T-606	*966
Maps available for inspection at the Cass Township Office, Minersville, Pennsylvania.	
Center (township), Butler County (FEMA Docket No. 6938)	
Connoquenessing Creek:	
At most downstream corporate limits	*614
At upstream corporate limits	*633
Maps available for inspection at the Municipal Building, 419 Sunset Drive, Butler, Pennsylvania.	
Send comments to The Honorable L. Gary Faust, Chairman of the Township of Center Board of Supervisors, Butler County, 419 Sunset Drive, Butler, Pennsylvania 16001.	
Cranesville (borough), Erie County (FEMA Docket No. 6938)	
Temple Creek:	
At downstream corporate limits	*869
At upstream corporate limits	*891
Crane Creek:	
At downstream corporate limits	*878
At upstream corporate limits	*1,013
Maps available for inspection at the Cranesville Borough Office, Cranesville, Pennsylvania, Monday, Tuesday, and Thursday.	
Curtin (township), Centre County (FEMA Docket No. 6938)	
Beech Creek:	
Approximately 1,900 feet downstream of T-489	*844
Approximately 1,900 feet upstream of T-489	*862
Marsh Creek:	
At corporate limits	*719
At L.R. 14012	*756
Maps available for inspection at the Township Secretary's residence, Box 221, R.D. 1, Howard, Pennsylvania.	
Dean (township), Cambria County (FEMA Docket No. 6938)	
Clearfield Creek:	
Approximately 300 feet downstream of L.R. 11088	*1,503
Approximately 1,000 feet upstream of L.R. 11088	*1,507
Laurel Run:	
Approximately 360 feet downstream of T-719	*1,567
Approximately 300 feet upstream of State Route 53	*1,590
Maps available for inspection at the Dean Township Building, Dean, Pennsylvania.	
East Providence (township), Bedford County (FEMA Docket No. 6938)	
Raystown Branch Juniata River:	
Approximately 0.7 mile upstream of downstream corporate limits	*956
At upstream corporate limits	*960
Brush Creek:	
Approximately 6.1 miles upstream of confluence with Shaffer Creek	*1,132
At upstream corporate limits	*1,146
Maps available for inspection at the Breezewood Fire Hall, Breezewood, Pennsylvania.	
East St. Clair (township), Bedford County (FEMA Docket No. 6938)	
Dunning Creek:	
At downstream corporate limits	*1,079
Approximately 250 feet upstream of the upstream corporate limits	*1,137
Adams Run:	
At confluence with Dunning Creek	*1,094
Approximately 800 feet upstream of State Route 56	*1,099
Bobs Creek:	
At confluence with Dunning Creek	*1,103
Approximately 0.7 mile upstream of L.R. 05060	*1,126
Maps available for inspection at the Township Building, in c/o Herbert Graham, Permit Officer, New Paris, Pennsylvania.	
Elder (township), Cambria County (FEMA Docket No. 6938)	
Chest Creek:	
Downstream corporate limits	*1,732
Upstream corporate limits	*1,734
Brubaker Run:	
Approximately 1,800 feet downstream of L.R. 11089 crossing	*1,680
Approximately 150 feet above upstream corporate limits	*1,706
Maps available for inspection at the Township Building, Elder, Pennsylvania, in c/o Ms. Robin Quist.	
Elk Creek (township), Erie County (FEMA Docket No. 6938)	
Temple Creek:	
At downstream corporate limits	*891
Approximately 1.6 miles upstream of corporate limits	*957
Maps available for inspection at the Township Municipal Building, 10405 High Street, Wellington, Pennsylvania.	
Evans City (borough), Butler County (FEMA Docket No. 6932)	
Breakneck Creek:	
Approximately 160 feet downstream of the downstream corporate limits	*927
Approximately 0.5 mile upstream of the upstream corporate limits	*948
Maps available for inspection at the Borough Building, 220 Wahl Avenue, Evans City, Pennsylvania.	
Forward (township), Butler County (FEMA Docket No. 6938)	
Connoquenessing Creek:	
At downstream corporate limits	*921
At upstream corporate limits	*969
Breakneck Creek:	
At downstream corporate limits	*946
At upstream corporate limits	*959
Maps available for inspection at the Township Municipal Building, R.D. #2, Box 242 A, Ash Stop Road, Evans City, Pennsylvania.	
Franklin (township), Susquehanna County (FEMA Docket No. 6932)	
Snake Creek:	
At downstream corporate limits	*1,068
Approximately 0.4 mile upstream of T-683	*1,118
Maps available for inspection at the Township Building, Franklin, Pennsylvania.	
Harmony (borough), Butler County (FEMA Docket No. 6932)	
Connoquenessing Creek:	
Approximately .6 mile downstream of downstream corporate limits	*906
Approximately .12 mile upstream of upstream corporate limits	*909
Maps available for inspection at 217 Mercer Street, Harmony, Pennsylvania.	
Harris (township), Centre County (FEMA Docket No. 6938)	
Spring Creek:	
At downstream corporate limits	*1,054
Approximately 1,820 feet upstream of confluence of Galbraith Gap Run	*1,156
Galbraith Gap Run:	
At confluence with Spring Creek	*1,145
Approximately 1,850 feet upstream of U.S. Route 322	*1,192

Source of flooding and location	# Depth in feet above ground. ^ Elevation in feet (NGVD)
Maps available for inspection at the Harris Township Municipal Building, 224 E. Main Street, Boalsburg, Pennsylvania.	
Hop Bottom (borough), Susquehanna County (FEMA Docket No. 6932)	
Martins Creek:	
At downstream corporate limits	*840
At upstream corporate limits	*870
Maps available for inspection at the Hop Bottom Borough Building, Forrest Street, Hop Bottom, Pennsylvania 18824.	
Huston (township), Centre County (FEMA Docket No. 6938)	
Bald Eagle Creek:	
Approximately 0.5 mile downstream of Township Route 568	*834
Approximately 2,400 feet upstream of Township Route 568	*847
Laurel Run:	
At confluence with Bald Eagle Creek	*840
Approximately 575 feet upstream of U.S. Route 220	*861
Maps available for inspection at the residence of Carol E. Alexander, along Route 220 in Julian, across from Post Office.	
Jessup (township), Susquehanna County (FEMA Docket No. 6932)	
East Branch Wyalusing Creek:	
Approximately 1.6 miles downstream of T-318	*1,005
Downstream side of State Route 706	*1,080
Approximately 1.2 miles upstream of LR 57009	*1,150
Approximately 0.7 mile upstream of T-684	*1,186
Send comments to the home of the Township Secretary, Ralph Bunnell, R.D. 5, Box 234, Montrose, Pennsylvania.	
Lehman (township), Pike County (FEMA Docket No. 6932)	
Saw Creek:	
Approximately 160 feet downstream of Winona Falls Road (T-301)	*435
At upstream side of dam	*475
Approximately 720 feet upstream of Stoney Hollow Drive	*482
Maps available for inspection at the Township Municipal Building, Lehman, Pennsylvania.	
Liberty (township), Susquehanna County (FEMA Docket No. 6932)	
Snake Creek:	
Approximately .35 mile downstream from T-798	*989
Upstream corporate limits	*1,068
Maps available for inspection at the Chairman of the Board of Supervisors' home, Box 149, R.D. 1, Hallstead, Pennsylvania.	
Liberty (township), Centre County (FEMA Docket No. 6938)	
Beech Creek:	
Approximately 150 feet downstream side of S.R. 150	*605
Approximately 1.7 miles upstream side of State Route 364	*691
Marsh Creek:	
Approximately 40 feet downstream side of State Route 150	*605
At upstream corporate limits	*719
Maps available for inspection at the Township Building, P.O. Box 192, Route 50, Blanchard, Pennsylvania.	
Marianna (borough), Washington County (FEMA Docket No. 6935)	
Tenmile Creek:	
Upstream side of Jefferson Avenue	*877
Approximately .04 mile upstream of Shielder Road	*896
Maps available for inspection at the Borough Building, Marianna, Pennsylvania.	
Mars (borough), Butler County (FEMA Docket No. 6932)	
Breakneck Creek:	
Approximately 40 feet downstream of the downstream corporate limits	*1,007
At the upstream corporate limits	*1,021
Maps available for inspection at the Borough Building, Spring Street, Mars, Pennsylvania.	
Millheim (borough), Centre County (FEMA Docket No. 6938)	
Elk Creek:	
At L.R. 873	*1,076
Approximately .3 mile upstream of Park Street	*1,140
Maps available for inspection at 214 East Main Street, Millheim, Pennsylvania.	
Millville (borough), Columbia County (FEMA Docket No. 6927)	
Little Fishing Creek:	
At downstream corporate limits	*612
At upstream corporate limits	*645
Maps available for inspection at the Borough Building, State Street, Millville, Pennsylvania.	
Snow Shoe (township), Centre County (FEMA Docket No. 6938)	
North Fork Beech Creek:	
Approximately .5 mile downstream of L.R. 14003	*1,381
Approximately 1,000 feet upstream of confluence of Cherry Run	*1,403
Piney Run:	
At confluence with North Fork Beech Creek	*1,392
Approximately 2,075 feet upstream of No. Ten Road	*1,428
Little Sandy Run:	
At confluence with North Fork Beech Creek	*1,392
Approximately 975 feet upstream of L.R. 14003	*1,396
Maps available for inspection at Box 65, Clarence, Pennsylvania.	
South Manheim (township), Schuylkill County (FEMA Docket No. 6927)	
Bear Creek:	
At downstream corporate limits	*473
At upstream corporate limits	*628
Maps available for inspection with Ms. Dawn Hoffman, Township Secretary, R.D. 1, Box 207 A, Auburn, Pennsylvania.	
Valencia (borough), Butler County (FEMA Docket No. 6932)	
Breakneck Creek:	
At downstream corporate limits	*1,057
Approximately 230 feet upstream of the upstream corporate limits	*1,069
Maps available for inspection at the Borough Building, Almira Street, Valencia, Pennsylvania.	
York (township), York County (FEMA Docket No. 6932)	
South Branch Codorus Creek:	
At downstream corporate limits	*390
At confluence of East Branch Codorus Creek (Lower Reach)	*417
East Branch Codorus Creek (Lower Reach):	
At confluence with South Branch Codorus Creek	*417
Approximately 0.93 mile upstream of the confluence with South Branch Codorus Creek	*420
East Branch Codorus Creek (Upper Reach):	
At confluence with Lake Redman	*495
At the confluence of Barshinger Creek	*518
Barshinger Creek:	
At the confluence of East Branch Codorus Creek (Upper Reach)	*518
Approximately 70 feet upstream of Arbor Drive	*680
Inners Creek:	
Approximately 250 feet upstream of the confluence with East Branch Codorus Creek	*495
Approximately .34 mile upstream of Lioners Creek Road	*632
Tributary #1:	
At the confluence with Barshinger Creek	*587
Approximately 130 feet upstream of Stine Hill Road	*661
Tyler Run:	
At corporate limits	*478
Approximately 0.23 mile upstream of Kirch Road	*608
Mill Creek:	
At downstream corporate limits	*457
Approximately 0.27 mile upstream of Locust Street	*754
Tributary #2:	
At confluence with Mill Creek	*475
Approximately 75 feet upstream of Oak Road	*623
Tributary #3:	
At confluence with Tributary #2	*495
Approximately .50 mile upstream of Springwood Road	*589
Maps available for inspection at the Township Building, 76 Revere Road, York, Pennsylvania.	
TEXAS	
Angleton (city), Brazoria County (FEMA Docket No. 6938)	
Oyster Creek: Old State Route 35 at west corporate limits	*29
Maps available for inspection at the City Hall, 121 South Velasco, Angleton, Texas.	
Bailey's Prairie (village), Brazoria County (FEMA Docket No. 6938)	
Oyster Creek:	
At downstream corporate limits	*28
At upstream corporate limits	*31
Maps available for inspection at the Village Hall, State Highway 35 and 521, Angleton, Texas.	
Bonney (village), Brazoria County (FEMA Docket No. 6938)	
Oyster Creek:	
FM 655 at west corporate limits	*43
Approximately 0.5 mile south along corporate limits from FM 655 at west corporate limits	*42
Maps available for inspection at the Village Hall, Rosharon, Texas.	
Brazoria (city), Brazoria County (FEMA Docket No. 6938)	
Brazos River:	
Intersection of Bernard Street and Magnolia Street	*26
Intersection of Pearl Street and Cedar Street	*25
Approximately 1,300 feet east of intersection of Mulberry Lane and I Avenue (at extreme southeast corporate limits)	#1
Maps available for inspection at 114 E. Texas Street, Brazoria, Texas.	
Brazoria County (unincorporated areas) (FEMA Docket No. 6926)	
Brazos River:	
Upstream side of State Route 36	*8
At Route 933 (extended)	*11
Approximately 1,000 feet downstream of River Mile 13.0	*16
Approximately 2.0 miles east of intersection of FM 521 & County Route 508	*24
Approximately 3.9 miles upstream of FM 1462	*56
Oyster Creek:	
Upstream side of County Route 226	*10
Approximately 500 feet north of Missouri-Pacific Railroad, east of the City of Clute	*10
Approximately 1,500 feet east of River Mile 14	*12
Upstream side of County Route 290	*27
200 feet north of County Route 290 crossing of Oyster Creek	*27

Source of flooding and location	# Depth in feet above ground. * Elevation in feet (NGVD)
Intersection of County Routes 28 & 893B	*30
300 feet west of intersection FM 521 and County Route 30	*35
Upstream county boundary	*54
Brushy Bayou:	
Approximately 0.5 mile downstream of King Road	*9
Downstream side of County Route 212	*13
Cocklebur Slough: Approximately 0.8 mile upstream of County Route 306	*11
San Bernard River:	
At the City of Freeport most western corporate limit	*8
Approximately 2.0 miles downstream of FM 521	*16
Downstream side of State Route 35	*26
Upstream side of FM 1301	*43
Approximately 1.9 miles downstream of county boundary	*58
Mound Creek:	
Confluence with San Bernard River	*31
Approximately 2.0 miles upstream of County Route 450	*31
Varner Creek:	
Confluence with Brazos River	*28
Approximately 2.5 miles upstream of confluence with Brazos River	*31
Bell Creek:	
Confluence with San Bernard River	*26
Approximately 0.76 mile upstream of State Route 35	*26
Mustang Bayou:	
North side of intersection of County Route 58 and County Route 48	*64
Old Mustang Bayou channel 400 feet west of the terminus of County Route 95	*52
Cow Creek:	
Approximately 1,300 feet upstream of County Route 25	*36
Approximately 200 feet upstream of County Route 17	*52
Sheet Flow:	
Intersection of Davis Bend Road and Bennett Road	#2
Parker Road 2,000 feet northeast of Briscoe Canal	#3
Parker Road 5,000 feet northeast of Briscoe Canal	#1
At Topeka and Santa Fe Railway south of American Canal	#1
At the intersection of FM 528 and Friendswood Road	#2
Approximately 4,100 feet northwest along County Route 135, 400 feet from intersection of County Route 400 and State Route 36	#1
Approximately 1 mile north of Darrington State Prison Farm on Brazoria County boundary	#2
Approximately 4,000 feet north of Darrington State Prison Farm, west of Oyster Creek River Mile 82.0	#2
Approximately 2,000 feet north of terminus of County Route 570	#2
Approximately 1 mile west of the intersection of County Routes 42 and 570	#2
Approximately 1,000 feet south of Brazos River River Mile 62	#1
At County Route 42 approximately 1.2 miles north of intersection of County Route 42 and FM 1462	#1
Approximately 2,700 feet southeast of Brazos River River Mile 53.0	#1
Approximately 3,000 feet southeast of Brazos River River Mile 53.0	#2
Approximately 4,800 feet east-southeast of Brazos River River Mile 52.0	#2
Approximately 2,200 feet east-southeast of Brazos River River Mile 52.0	#1
Approximately 1.1 miles west of the terminus of County Route 34	#1
Approximately 2,000 feet north of Senna Bean Lake	#1
Approximately 1,500 feet south of Senna Bean Lake	#1
Approximately 1.7 miles southeast along County Route 400 from the intersection of County Route 400 and County Route 912	#1
Approximately 1.2 miles southeast of Brazos River River Mile 19.0	#1
Approximately 600 feet south of Brazos River River Mile 18.0	#2
Approximately 1.6 miles south of Brazos River River Mile 18.0	#2
Approximately 2,600 feet southeast of Brazos River River Mile 18.0	#1
Approximately 1.6 miles south of Brazos River River Mile 16.0	#1
Approximately 2,000 feet southwest of Brazos River River Mile 15.0	#2
Approximately 1.5 miles south of Brazos River River Mile 15.0	#2
Approximately 1.7 miles northwest along County Route 400 from intersection of County Route 400 and Perry Landing Lane	#1
Approximately 1,500 feet northwest along County Route 400 from intersection of County Route 400 and Perry Landing Lane	#1
Approximately 3,600 feet southeast along County Route 400 from intersection of County Route 400 and Perry Landing Lane	#1
Approximately 2.4 miles southeast along County Route 400 from intersection of County Route 400 and Perry Landing Lane	#1
Approximately 100 feet west of the intersection of County Route 306 and FM 2918	#1
Maps available for inspection at the County Courthouse, Angleton, Texas.	
Freeport (city), Brazoria County (FEMA Docket No. 6938)	
Brazos River:	
Upstream side of State Route 36 (Second Street)	*8
Upstream corporate limits	*11
San Bernard River: Approximately 1.4 miles northwest of Jones Creek and approximately 1.8 miles south of State Route 36	*8
Maps available for inspection at 128 East Fourth, Freeport, Texas.	
Holiday Lakes (town), Brazoria County (FEMA Docket No. 6938)	
Oyster Creek:	
At downstream corporate limits	*35
At upstream corporate limits	*35
Intersection of Trail Drive and Penguin Avenue	*35
Maps available for inspection at the City Hall, Holiday Lakes, Texas, Monday through Friday 8:00 am – 11:00 am and Tuesday 4:00 pm – 8:00 pm.	
Lake Jackson (city), Brazoria County (FEMA Docket No. 6938)	
Brazos River:	
At downstream side of corporate limits	*10
Approximately 1 mile southeast of intersection of County Routes 304 and 400	*15
At crossing of County Route 400 through corporate limits	#2
Oyster Creek:	
At most downstream corporate limits	*14
At must upstream side of corporate limits	*19
Gulf of Mexico: At State Route 288 Bridge over Dow Barge Canal	*12
Maps available for inspection at 25 Oak Drive, Lake Jackson, Texas.	
Oyster Creek (village), Brazoria County (FEMA Docket No. 6938)	
Oyster Creek:	
FM 523 bridge	*10
At downstream corporate limits	*11
Maps available for inspection at Route 3, 3210 F.M. 523, Oyster Creek, Texas.	
Sweeny (city), Brazoria County (FEMA Docket No. 6938)	
San Bernard River: Sweeny Sanitary Landfill southeast of FM 1459 (eastern portion of Sweeny)	*23
Maps available for inspection at the City Hall, 1111 W. 3rd Street, Sweeny, Texas.	
West Columbia (city), Brazoria County (FEMA Docket No. 6938)	
Bell Creek: From downstream corporate limits to Sinclair Street	*26
Brazos River: Approximately 100 feet southeast of the intersection of Greenfield Drive and Marion Lane	*28
Maps available for inspection at 300 E. Clay Street, West Columbia, Texas.	
VERMONT	
Brighton (town), Essex County (FEMA Docket No. 6927)	
Island Pond Brook:	
At confluence with Pherrins River	*1,173
Downstream side of Island Pond Road	*1,179
Island Pond: For its entire shoreline	*1,175
Pherrins River:	
At confluence with Island Pond Brook	*1,173
Upstream side of second crossing of State Route 114	*1,181
Maps available for inspection at the Town Manager's Office Vault, Town Hall, Island Pond, Vermont.	
Newfane (town), Windham County (FEMA Docket No. 6926)	
West River:	
Approximately 1.2 miles downstream from confluence of Smith Brook	*356
U.S. Geological Survey gage 01156000	*395
Smith Brook:	
At River Road	*406
Approximately 120 feet upstream from South Wardsboro Road	*608
Rock River:	
At Sunset Lake Road	*496
At confluence of Marlboro Branch	*634
Approximately 230 feet upstream from Dover Road	*822
Maps available for inspection at the Town Clerk's Vault, Newfane, Vermont.	
Plymouth (town), Windsor County (FEMA Docket No. 6938)	
Black River:	
At downstream corporate limits	*1,065
Approximately 425 feet upstream of Black Pond Dam	*1,334
Maps available for inspection at the Town Hall, Plymouth, Vermont.	
Reading (town), Windsor County (FEMA Docket No. 6926)	
Knapp Brook:	
At confluence with North Branch Black River	*688
At upstream corporate limits	*731
North Branch Black River:	
At downstream corporate limits	*678
Approximately 350 feet upstream of State Route 106	*735
Approximately 0.3 mile upstream of State Route 106	*804
Maps available for inspection at the Town Clerk's Vault, Reading, Vermont.	
Royalton (town), Windsor County (FEMA Docket No. 6932)	
White River:	
At downstream corporate limits	*457
At upstream corporate limits	*532
First Branch White River:	
At confluence with White River	*475
At corporate limits	*511
Second Branch White River:	
At confluence with White River	*506
At upstream corporate limits	*528

Source of flooding and location	# Depth in feet above ground. *Elevation in feet (NGVD)
Maps available for inspection at the Town Clerk's Office, South Royalton, Vermont.	
Winhall (town), Bennington County (FEMA Docket No. 6938)	
Winhall River:	
At downstream corporate limits	*1,250
Approximately 100 feet upstream of Dirt Road	*1,358
Maps available for inspection at Town Clerk's Office and Zoning Administrator's Office, Winhall, Vermont.	
WASHINGTON	
Chelan County (unincorporated areas) (FEMA Docket No. 6938)	
Wenatchee River:	
Approximately 20,430 feet downstream of the Burlington Northern Railroad	*1,700
Approximately 9,550 feet downstream of the Burlington Northern Railroad	*1,734
Approximately 730 feet upstream of the Burlington Northern Railroad	*1,765
Nason Creek:	
Approximately 500 feet downstream of Logging Road	*1,958
Just upstream of Old U.S. Highway 2	*2,139
Just upstream of the Burlington Northern Railroad	*2,230
Dry Gulch:	
Approximately 850 feet upstream from High Line Canal	None
At the intersection of South Miller Street and Circle Street	#1
Approximately 800 feet upstream from Circle Street	None
Approximately 1,700 feet upstream from Circle Street	None
Maps are available for review at the Chelan County Planning Department, 411 Washington Street, Wenatchee, Washington.	
WEST VIRGINIA	
Ceredo (town), Wayne County (FEMA Docket No. 6932)	
Ohio River:	
Downstream corporate limits	*551
At confluence of Twelvepole Creek	*552
Twelvepole Creek: Entire length within community	*552
Jordan's Branch: Entire length within community	*542
Maps available for inspection at the Town Hall, Ceredo, West Virginia.	
Kenova (city), Wayne County, West Virginia (FEMA Docket No. 6932)	
Ohio River:	
Approximately 550 feet downstream of confluence of Big Sandy River	*550
Approximately 528 feet upstream of Norfolk and Western Railway Bridge	*551
Big Sandy River:	
At confluence with Ohio River	*550
Approximately 1,500 feet upstream of CSX Transportation Bridge	*550
Maps available for inspection at the City Building, 15th and Pine Street, Kenova, West Virginia.	
WISCONSIN	
Augusta (city), Eau Claire County (FEMA Docket No. 6932)	
Bridge Creek:	
About 150 feet downstream of State Road 27	*946
About 1 mile upstream of Stone Street	*963
Maps available for inspection at the City Clerk's Office, City Hall, 106 East Lincoln, Augusta, Wisconsin.	
Ellsworth (village), Pierce County (FEMA Docket No. 6932)	
Isabelle Creek:	
About 850 feet downstream of Main Street	*1,029
About 350 feet upstream of Railroad Street	*1,062
Isabelle Creek Tributary:	
At mouth	*1,044
Just upstream of Pleasant Avenue	*1,092
Maps available for inspection at the Village Hall, West Main Street, Ellsworth, Wisconsin.	
Knapp (village), Dunn County (FEMA Docket No. 6932)	
Wilson Creek: Within community	*907
Maps available for inspection at the Village Hall, Knapp, Wisconsin.	
Sussex (village), Waukesha County (FEMA Docket No. 6938)	
Pewaukee River:	
About 500 feet downstream of Sussex Dam	*890
About 1,500 feet upstream of Sussex Dam	*894
Sussex Creek:	
About 1,400 feet downstream of Clover Drive	*888
Just downstream of Old Mill Lane	*923
Just upstream of Old Mill Lane	*931
Just downstream of Chicago and North Western Railroad	*939
East Branch Sussex Creek:	
At mouth	*897
About 100 feet downstream of Chicago and Northwestern Railroad	*907
Just upstream of Chicago and North Western Railroad	*912
Just downstream of Waukesha County Trail	*915
South Branch Sussex Creek:	
At mouth	*938
Just downstream of Main Street	*939
Willow Springs Creek:	
About 1,300 feet downstream of Good Hope Road	*913
About 700 feet upstream of Soo Line Railroad	*940
Maps available for inspection at the Village Hall, N63W23626 Silver Spring Drive, Sussex, Wisconsin.	
Woodville (village), St. Croix County (FEMA Docket No. 6932)	
Carr Creek:	
Just upstream of South Side Drive	*1,123
Just downstream of Chicago and North Western railroad	*1,141
Maps available for inspection at the Village Hall, 102 South Main Street, Woodville, Wisconsin.	

The base (100-year) flood elevations are finalized in the communities listed below. Elevations at selected locations in each community are shown. Any appeals of the proposed base flood elevations which were received have been resolved by the Agency.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
NEW HAMPSHIRE	
Northumberland (town), Coos County (FEMA Docket No. 6923)	
Connecticut River:	
Approximately 150 feet downstream of downstream corporate limits	*854
At confluence of Upper Ammonoosuc River	*863
At upstream corporate limits	*865
Maps available for inspection at the Town Manager's Safe, Northumberland, New Hampshire.	
WYOMING	
Jackson (town), Teton County (FEMA Docket No. 6914)	
Flat Creek:	
Upstream face of U.S. Routes 26, 89, 187, and 189 (southern corporate limits)	*6,122
Approximately 20 feet upstream of the end of Virginian Lane	*6,162
Downstream face of U.S. Routes 26, 84, and 187 (northern corporate limits)	*6,214
Cache Creek:	
Upstream face of Norwood Avenue	*6,322
Approximately 2,400 feet downstream of confluence with Woods Canyon Creek (at corporate limits)	*6,383
Maps are available for review at the Town Planner's Office, 155 Pearl Street, Jackson, Wyoming.	
Teton County (unincorporated areas) (FEMA Docket No. 6914)	
Snake River:	
Upstream face of U.S. Routes 26, 89, 187, and 189	*5,949
At confluence with Mosquito Creek	*6,068
Approximately 100 feet upstream from State Highway 22	*6,159
Approximately 600 feet upstream of confluence with Gros Ventre River	*6,242
Approximately 3.3 miles upstream of confluence with Gros Ventre River	*6,310
Approximately 1,600 feet upstream of confluence with Stewart Draw	*6,400
Flat Creek:	
Upstream face of U.S. Routes 26, 89, 187, and 189	*5,949
Downstream face of Big Trail Drive	*6,071
Downstream face of U.S. Routes 26, 89, 187, and 189 (southern corporate limits of town of Jackson)	*6,121
Spring Creek:	
At confluence with Snake River	*5,988
Approximately 3.6 miles downstream of U.S. Highway 22	*6,077
Approximately 400 feet upstream of U.S. Highway 22	*6,158
Gros Ventre River:	
Confluence with Snake River	*6,240
At Golf Course Bridge	*6,310
Approximately 3,000 feet downstream of U.S. Routes 26, 89, and 187	*6,357
Fish Creek:	
Approximately 1,700 feet downstream of Pine Meadow Road	*6,109
At Main Street Bridge	*6,146
At upstream face of Fish Creek Road (upstream crossing)	*6,173
At confluence with Jenson Canyon Creek	*6,220
At confluence with Rock Springs Canyon Creek	*6,267
Approximately 12,200 feet upstream of confluence with Rock Springs Canyon Creek	*6,320
Lake Creek:	
At confluence with Fish Creek	*6,191
Approximately 100 feet upstream of Moose Wilson Road	*6,233
At confluence with Granite Creek	*6,287
Approximately 10,500 feet upstream of confluence with Granite Creek	*6,318
Cache Creek:	
Approximately 2,400 feet downstream of confluence with Woods Canyon Creek (at town of Jackson corporate limits)	*6,383
Approximately 2,100 feet downstream of confluence with Woods Canyon Creek (approximately 250 feet upstream of town of Jackson corporate limits)	*6,388
Teton Creek:	
At County Line Road	*6373
Approximately 1.6 miles upstream of County Line Road	*6,480
Approximately 900 feet upstream of confluence with Mill Creek	*6,602
Buffalo Fork:	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
Approximately 600 feet downstream of U.S. Routes 26, 89, and 187	*6,720
Approximately 800 feet downstream of U.S. Routes 26 and 287	*6,781
Approximately 3,500 feet downstream of confluence with Blackrock Creek	*6,813
Maps are available for review at the Teton County Planner's Office, County Courthouse, 181 South King Street, Jackson, Wyoming.	

Issued: February 7, 1989.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc 89-3277 Filed 2-14-89; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-414; RM-6231]

Radio Broadcasting Services; Helen, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 286A to Helen, Georgia, as that community's first local FM service, at the request of Helen Broadcasters. Channel 286A can be allotted to Helen in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.5 kilometers (1 mile) east to avoid a short spacing to Station WQSB-FM, Channel 286C, Albertville, Alabama. The coordinates for this allotment are North Latitude 34-42-00 and West Longitude 83-42-54. With this action, this proceeding is terminated.

DATES: Effective March 27, 1989; The window period for filing applications will open on March 28, 1989, and close on April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-414, adopted January 19, 1989, and released February 8, 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 by adding Helen, Georgia, Channel 286A.

Steve Kaminer,

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

[FR Doc. 89-3506 Filed 2-14-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-223; RM-5918]

Radio Broadcasting Services; Waynesboro, GA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 296A to Waynesboro, Georgia, as that community's second local FM service, at the request of Clifford Jones ("petitioner"). The channel can be allotted in compliance with the Commission's minimum distance separation requirement with a site restriction. The restricted site coordinates are 33-06-41 and 82-01-04. With this action, this proceeding is terminated.

DATES: Effective March 27, 1989; The window period for filing applications will open on March 28, 1989, and close on April 27, 1989.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 88-223, adopted January 19, 1989, and released February 8, 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 by adding Waynesboro, Georgia, Channel 296A.

Steve Kaminer,

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

[FR Doc. 89-3507 Filed 2-14-89; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 88-333; RM-6325]

Radio Broadcasting Services; Sartell, MN

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes FM Channel 244C2 for Channel 241A at Sartell, Minnesota, and modifies the construction permit for Channel 241A to specify Channel 244C2, in response to a petition filed by Sartell FM, Inc. Canadian concurrence has been obtained for this allotment. The coordinates for Channel 244C2 at Sartell are 45-44-47 and 94-03-48. With this action, this proceeding is terminated.

EFFECTIVE DATE: March 27, 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. 88-333, adopted January 19, 1989 and released February 8, 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 under Minnesota is amended by deleting Channel 241A and adding Channel 244C2 at Sartell.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 89-3505 Filed 2-14-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

[Federal Acquisition Circular 84-43]

Federal Acquisition Regulation (FAR); Drug-Free Workplace Act of 1988; Correction

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

ACTION: Interim rule with request for comments; correction.

SUMMARY: This document corrects a clause and a provision in an interim rule in Federal Acquisition Circular (FAC) 84-43 published in the **Federal Register** on Tuesday, January 31, 1989 (54 FR 4967).

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

SUPPLEMENTARY INFORMATION: In FR Doc. 2086 beginning on page 4967, make the following correction:

52.223-5 [Corrected]

1. On page 4970, in the second column, in 52.223-5, in paragraph (b)(6) of the clause, remove the reference "subparagraph (a)(4)" and insert in its place "subdivision (b)(4)(ii)".

52.223-6 [Corrected]

2. On page 4971, in the first column, in 52.223-6, in the clause, in paragraph (b)(5) remove the reference "subdivision (a)(4)(ii)" and in the second column, in paragraph (b)(6) remove the reference "subparagraph (a)(4)" and insert in each place "subdivision (b)(4)(ii)".

Dated: February 9, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 89-3510 Filed 2-14-89; 8:45 am]

BILLING CODE 6820-61-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 552

[APD 2800.12 CHGE 61]

General Services Administration Acquisition Regulation; Economic Price Adjustment Clause for Multiple Award Schedule Contracts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5 (APD 2800.12), is revised to amend Alternate I of the clause entitled "Economic Price Adjustment-FSS Multiple Award Schedule Contracts" at section 552.216-71 to provide for price adjustments in multiyear contracts that are for periods of more than 3 years. This change is made as a result of the recent policy decision by the Federal Supply Service permitting the award of Multiple Award Schedule (MAS) contracts for periods of up to 5 years.

EFFECTIVE DATE: February 23, 1989.

FOR FURTHER INFORMATION CONTACT: Ida M. Ustad, Office of GSA Acquisition Policy and Regulations, (202) 566-1224.

SUPPLEMENTARY INFORMATION: a. *Public comments.* A notice of proposed rulemaking was published in the **Federal Register** on November 9, 1988. Comments were received from the Association for Information and Image Management and the Computer and Business Equipment Manufacturers Association. Both commenters were concerned that the words "may request increases after the first 12 months" could be construed to mean that the application for an increase could not be made until after 12 months and requested the language be revised to indicate that contractors may request price increases to be effective on or after the first 12 months. The suggestion was adopted. Both commenters also recommended that the term "contract period" be clarified. The commenters indicated that the present wording could be interpreted to mean either the initial date covered by the solicitation or the award date. No change was made in response to this comment. Other contract clauses, which are used in MAS contracts, define the contract period. The Economic Price Adjustment clause will be read in conjunction with the period of performance clause in the contract.

The Association for Information and Image Management suggested the footnote to the clause which instructs contracting officers on how to establish the percent to be inserted in the clause as a ceiling on price increases, be deleted because the Producers Price Index frequently lags behind actual price trends.

The Association contends that the present wording could force contractors to absorb severe losses, especially in times of economic uncertainty. No change was made in response to this comment. Deleting the instructions to the contracting officer would not eliminate the problem of establishing a ceiling which may not turn out to be adequate in times of economic uncertainty. The clause reserves for the Government, the right to raise the ceiling when market conditions during the contract support such a change. This provision is included in the clause to deal with such situations. (See also section 516.203-7(b)).

The Computer and Business Equipment Manufacturers Association also recommended the Alternate clause be stated in its entirety rather than referring to the basic clause and that the basic and Alternate clauses be retitled "Economic Price Adjustment clause Applicable to Single Year Contracts" and "Alternate Economic Price Adjustment clause Applicable to Multiyear Contracts" to assist contracting officers in selecting the proper clause. These recommendations were not accepted because to do so would violate the regulatory conventions used in the Federal Acquisition Regulation and the GSAR. Additionally, there is no indication that contracting officers are including the wrong clauses in solicitations.

b. *Executive Order 12291.* The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule.

c. *Regulatory Flexibility.* The GSA certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. The rule would simply modify the existing Economic Price Adjustment clause used in multiyear multiple award schedule contracts to make the language more general so that it will apply to multiyear

contracts of varying terms. The existing clause is written in contemplation of a 3-year contract period.

d. *Paperwork Reduction Act.* The Economic Price Adjustment Clause at section 552.216–71 contains an information collection requirement which has been approved by OMB under section 3504(h) of the Paperwork Reduction Act and assigned OMB Control No. 3090–0243. The title of the collection is "48 CFR 552.216–71 Economic Price Adjustment Clause." The clause requires MAS contractors to submit certain pricing information when requesting a price adjustment under a MAS contract. The contracting officer uses the information to determine whether the requested price adjustment is reasonable. The respondents are MAS contractors requesting price adjustments under MAS contracts that contain the Economic Price Adjustment clause. The estimated total annual burden for this collection is 2,186 hours. This is based on estimated average burden hours per response of .5, a proposed frequency of 1.5 responses per respondent, and an estimated number of likely respondents of 2,914.

Any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden may be directed to the Director, Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets NW., Room 4026, Washington, DC 20405 and to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503.

List of Subjects in 48 CFR Part 552

Government procurement.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for 48 CFR Part 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 552.216–71 is amended by revising Alternate I to read as follows:

552.216–71 Economic Price Adjustment—FSS Multiple Award Schedule Contracts.

* * * * *

Alternate I (Jan 1989)

The following is substituted for paragraph (b) and (c) of the basic clause:

"(b) Contractors may request price increases to be effective on or after the first 12 months of the contract period providing all of the following conditions are met:

(1) Increases result from a reissue or other modification of the contractor's commercial catalog price list that was used as the basis for the contract award.

(2) No more than three increases will be considered during each succeeding 12-month period of the contract. (For succeeding contract periods of less than 12 months, up to three increases will be considered subject to the other conditions of this subparagraph (b)).

(3) Increases are requested before the last 60 days of the contract period.

(4) At least 30 days elapse between requested increases.

(c) In any contract period during which price increases will be considered, the aggregate of the increases during any 12-month period shall not exceed [1] percent of the contract unit price in effect at the end of the preceding 12-month period. The Government reserves the right to raise the ceiling when market conditions during the contract period support such a change.

(End of Clause)

Dated: February 2, 1989.

Richard H. Hopf III,

Associate Administrator for Acquisition Policy.

[FR Doc. 89–3566 Filed 2–14–89; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 81008–9008]

Foreign Fishing; Foreign Fee Schedule

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NOAA implements the fee schedule for foreign vessels fishing in the Exclusive Economic Zone. Under this schedule, owners and operators of foreign vessels will pay fees, at 44.4 percent of the exvessel value, for fish they directly harvest from the Exclusive Economic Zone, and $354 per vessel permit application. The fee schedule is designed to recover $6.420 million in poundage fees for government costs incurred under the Magnuson Fishery Conservation and Management Act (Magnuson Act). This rule is needed to comply with section 204(b)(10) of the Magnuson Act.

EFFECTIVE DATE: January 1, 1989.

ADDRESS: Copies of the regulatory impact review (RIR) may be obtained from the Fees and Permits Program, F/CM, at the telephone number below.

[1] Insert the percentage appropriate at the time the solicitation is issued. This percentage should be determined based on the trend established by an appropriate index such as the Producer Prices and Price Index. A ceiling of more than 10 percent must be approved by the contracting director.

FOR FURTHER INFORMATION CONTACT: Alfred J. Bilik, (301) 427–2339, or telex 467856 US COMM FISH CI.

SUPPLEMENTARY INFORMATION: NOAA implements the schedule of fees for fishing by foreign vessels in the Exclusive Economic Zone in 1989. The schedule sets a target for an annual fee collection of $6.420 million in poundage fees, and permit application fees of $354 per vessel. The schedule also requires that vessels of any nation falling under "higher fee" criteria would pay an additional incremental amount of 67.42 percent of their poundage fees. No nation will be required to pay the additional incremental amount.

Background

On November 1, 1988, NOAA published a Notice of Proposed Rulemaking (NPR) for a 30-day public comment period at 53 FR 44047. NOAA proposed a foreign fee schedule at the level of fees charged in 1988. This schedule was found to be in accord with provisions of section 204(b)(10) of the Magnuson Act (16 U.S.C. 1801 *et seq.*)

Section 204(b)(10) states, in part, "The fees * * * shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act * * * during (FY 1988) the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the Exclusive Economic Zone during (1987) bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during (1987)." (16 U.S.C. 1824(b)(10)(B)). The fiscal and calendar years applied for determining compliance of this fee schedule are shown above (see 53 FR 44047).

Section 204(b)(10) also states that if the Secretary of Commerce, in consultation with the Secretary of State, finds a fishing nation to be "harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary", or "failing to take sufficient action to benefit the conservation and development of United States fisheries", in other words, meeting a "higher fee" criterion, subparagraph 204(b)(10)(C) applies. Subparagraph 204(b)(10)(C) requires the Secretary to impose fees for that nation which are based on the ratio of the fish harvested by foreign vessels in the Exclusive Economic Zone to the aggregate quantity of fish harvested by both foreign and domestic vessels in the Exclusive Economic Zone only. Removing the quantity of U.S. harvested fish caught in the territorial waters from

the formula increases the ratio and thereby the fees that the nation must pay.

The NPR reviewed the procedures, assumptions and estimates used by NOAA to conclude that a foreign fee target based on the fees charged for catches of each species in 1988 and on estimates of 1989 allocations would exceed the amount calculated by assuming $200 million costs for activities to carry out the purposes of the Magnuson Act in FY 1988 and a 1987 foreign catch of 2.6 percent of the total catch in the Exclusive Economic Zone and the U.S. territorial waters. A poundage fee target for the foreign catches of $6.420 million was proposed and an additional amount of $354 per vessel was proposed for processing 1989 fishing permit applications. The surcharge for the Fishing Vessel and Gear Damage Compensation Fund (FVGDCF) was proposed to be waived since the fund contains sufficient capital for paying claims for the duration of foreign fishing in the Exclusive Economic Zone.

Only one timely comment was received and the comment addressed the species fee for Atlantic Mackerel. Several late comments addressed the same issue. The comments advocated a reduction in the fee on the poundage for Atlantic mackerel harvested directly by foreign vessels. Allegedly, reducing this fee would allow foreign processing vessels to pay higher prices to U.S. fishermen who sell Atlantic mackerel catch to them. The purpose would be to attract more U.S. fishermen into that fishery. The commenters said that the prescribed ratios of domestic production, joint venture production and directed fishing which bear on approval of foreign fishing applications for the Northwest Atlantic Ocean fishery affect the profitability of Atlantic mackerel operations. NOAA considered similar comments when it adopted the final fee schedule for 1988. Changes were made prior to implementation of the final 1988 fee schedule to address trade and development implications. The adjustments made in the 1988 schedule specifically took into account the concerns in the Atlantic mackerel fishery. A change in the mackerel fee could shift a disproportionate fee burden to the Pacific whiting fishery if allocations for foreign fishing are made in 1989. NOAA believes it has exercised as much flexibility as possible under the Magnuson Act with respect to the Atlantic mackerel fishery. No change is made in response to this comment. NOAA adopts the species fees assessed in 1988 for the final 1989 fee schedule.

The poundage fee target for 1989 is $6.420 million. Permit application fees of $354 will be charged for each foreign fishing application. No nation will be charged the higher incremental fees of 67.4 percent of its poundage fees. The surcharge for the FVGDCF is waived for 1989. The Department of State concurs in this fee schedule.

Classification

NOAA prepared an RIR for the 1988 fee schedule that discussed the economic consequences and impacts of the fee schedule and alternatives. Since NOAA proposed no changes for 1989, conclusions of the RIR for the 1988 fees schedule were also not significantly changed. Copies of the final RIR are available at the above address. Based on the RIR, the Administrator, NOAA, determined that the proposed schedule does not constitute a major rule under Executive Order 12291 (E.O. 12291). The RIR demonstrates that the fee schedule complies with the requirements of section 2 of E.O. 12291.

The General Counsel for the Department of Commerce certified that the proposed fee schedule will not have a significant economic impact upon a substantial number of small entities for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* This certification was forwarded to the Chief Counsel for Advocacy of the Small Business Administration. Because the fee schedule will not have a significant economic impact upon a substantial number of small entities, a regulatory flexibility analysis was not prepared.

The proposed fee schedule has no direct impact on the fishery resources in the Exclusive Economic Zone. At the most, a fee schedule might affect the harvesting strategy of foreign fishing vessels; however, the schedule as set out in the final rule meets the criterion that fees should minimize disruption of traditional fishing patterns because the 1989 fees are directly related to exvessel values and are designed to minimize effects on U.S. fishery development and trade. Since this fee schedule will not prevent the harvesting of the available total allowable level of foreign fishing (TALFF), and the environmental impact of harvesting the TALFF is described for each fishery management plan, no further environmental assessment is necessary.

The 30-day delay in implementation required by the Administrative Procedure Act is waived so that the fee schedule can be implemented near the beginning of the fishing season. This action does not require changes in plans or strategies by foreign fishing companies since it makes no change from the fee which applied in 1988.

The final rule has no information collection provisions for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

This rule would not directly affect the Coastal zone of any state with an approved Coastal Zone Management program. Neither does the rule contain policies with federalism implications sufficient to warrant a federalism assessment under Excutive Order 12612.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting requirements.

Dated: February 10, 1989.

James W. Brennan,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons above, 50 CFR Part 611 is amended as follows:

PART 611—[AMENDED]

1. The authority citation for Part 611 is amended as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 971 *et seq.*, 22 U.S.C. 1971 *et seq.*, and 16 U.S.C. 1361 *et seq.*

2. Section 611.22(b)(1), (c) and (d) are revised as follows:

§ 611.22 Fee schedule for foreign fishing.

* * * * *

(b) *Poundage fees*—(1) *Rates.* If a nation chooses to accept an allocation, poundage fees must be paid at the rate specified in Table 1, plus the surcharge required by paragraph (d) of this section.

TABLE 1. SPECIES AND POUNDAGE FEES

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
Northwest Atlantic Ocean fisheries:	
1. Butterfish	274.61
2. Hake, red	163.97
3. Hake, silver	174.63
4. Herring, river	61.76
5. Mackerel, Atlantic	68.43
6. Other groundfish	119.09
7. Squid, *Illex*	103.98
8. Squid, *Loligo*	245.73
Atlantic and Gulf fisheries:	
9. Shark, Atlantic	187.96
10. Shrimp, royal red	1
Alaska fisheries:	
11. Pollock, Alaska	95.09
12. Cod, Pacific	143.97
13. Pacific ocean perch	195.96
14. Rockfish, other	326.15
15. Mackerel, Atka	118.64
16. Squid, Pacific	75.10
17. Flounders	83.09
18. Sablefish (Gulf of Alaska)	399.03
19. Sablefish (Bering Sea and Aleutian Islands)	210.18

TABLE 1. SPECIES AND POUNDAGE FEES—Continued

[Dollars per metric ton, unless otherwise noted]

Species	Poundage fees
20. Groundfish, other	106.64
21. Snails	128.42
Pacific fisheries:	
22. Whiting, Pacific	78.21
23. Sablefish	415.47
24. Pacific Ocean Perch	320.38
25. Rockfish, other	335.93
26. Flounders	316.82
27. Mackerel, jack	254.61
28. Groundfish, other	406.58
Western Pacific fisheries:	
29. Coral [2]	91.54
30. Dolphin fish	2,450.59
31. Wahoo	980.24
32. Sharks	490.12
33. Marlin, striped	823.82
34. Billfish	882.03
35. Swordfish	1,038.45

(1) Reserved.
(2) Dollers per kilogram.

* * * * *

(c) *Incremental amount.* An additional incremental amount will be added to the poundage fee Bill for Collection for fish harvested by a nation during the first quarter of the next fiscal year following notification under paragraph (10)(c) of section 204(b) of the Magnuson Act (16 U.S.C. 1824(b)(10)(C)). This incremental amount will be added to all subsequent quarterly bills until the quarter specified when the Assistant Administrator notifies that nation that it has taken appropriate corrective action. The incremental amount in 1989 will be 67.4 percent of the total poundage fee in each quarter during which this provision applies.

(d) *Surcharges.* The owner or operator of each foreign vessel who accepts and plays permit application or poundage fees under paragraph (a) or (b) of this section must also pay a surcharge. The Assistant Administrator may reduce or waive the surcharge if it is determined that the Fishing Vessel and Gear Damage Compensation Fund is capitalized sufficiently. The Assistant Administrator also may increase the surcharge during the year to a maximum level of 20 percent, if needed, to maintain capitalization of the fund. The Assistant Administrator has effectively waived the surcharge on 1989 fees.

* * * * *

[FR Doc. 89-3556 Filed 2-14-89; 8:45 am]

BILLING CODE 3510-08-M

50 CFR Part 675

[Docket No. 81131-9019]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of prohibition of receipt of groundfish.

SUMMARY: NOAA announces prohibition of receipt by foreign processors in the exclusive economic zone (EEZ) of Pacific cod taken in directed fisheries for Pacific cod in the Bering Sea and Aleutian Islands Management Area (BSAI). This action, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), limits joint venture processing (JVP) to the amount of Pacific cod specified for JVP, assures optimum use of groundfish, and promotes orderly conduct of the groundfish fisheries.

DATES: Effective 2359 GMT, February 11, 1989 (1459 Alaska Standard Time, February 11, 1989) through the remainder of 1989. Comments will be accepted through February 27, 1989.

ADDRESS: Comments should be mailed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK. 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Pat Peacock, Fishery Management Specialist, NMFS, 907-586-7654.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the EEZ of the BSAI under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR 611.93 and Part 675. For other actions in 1989 concerning JVP Pacific cod in the Bering Sea and Aleutian Islands Management Area, see 54 FR 3605, January 25, 1989.

Notice of Closure to Directed Fishing

Under § 675.20(a)(7), the Regional Director has determined that 7,000 mt of the total 37,466 mt of Pacific cod allocated to JVP will be needed after the closure of the directed fishery for bycatch in other JVP fisheries for yellowfin sole, rock sole, and "other flatfish." To preserve this bycatch amount, foreign processors must cease receiving Pacific cod caught by U.S. fishermen in directed fisheries for Pacific cod, effective 2359 g.m.t. February 11, 1989. Directed fishing is defined at § 675.2.

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and opportunity for comment. Immediate effectiveness of this notice is necessary to prevent the harvest of Pacific cod from exceeding the JVP amount.

Interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 10, 1989.

Richard H. Schaefer,

Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 89-3557 Filed 2-10-89; 4:05 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 54, No. 30
Wednesday, February 15, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Maintenance of Nuclear Power Plants; Availability of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Availability of Information.

SUMMARY: In response to a request from Nuclear Utility Management and Resources Council (NUMARC), an open meeting was held on December 14, 1988 between representatives of (NUMARC) and the NRC staff to discuss questions relative to the proposed maintenance rule (November 28, 1988, 53 FR 47822). A summary report of that meeting is in the Public Document Room.

NUMARC has subsequently submitted questions relating to the regulatory analysis which accompanied the proposed rule. NRC has responded to those questions in a letter dated February 3, 1989. Copies of both the questions and answers are available in the NRC Public Document Room at the address and times below.

DATE: Comment period expiration date for this proposed rulemaking is still February 27, 1989.

ADDRESS: Mail written comments to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attn: Docketing and Service Branch. Deliver comments to One White Flint North, 11555 Rockville Pike, Rockville, MD between 7:30 a.m. and 4:15 p.m. Federal workdays, or to the NRC Public Document Room, 2120 L. Street NW., Washington, DC, between 7:30 a.m. and 4:15 p.m.

FOR FURTHER INFORMATION CONTACT: Moni Day, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 492–3730.

Dated in Rockville, Maryland this 9th day of February, 1989.

For the Nuclear Regulatory Commission.

Moni Dey,

Manager, Advanced Reactors and Generic Issues Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 89–3541 Filed 2–14–89; 8:45 am]

BILLING CODE 7509–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 89–ASO–3]

Proposed Designation of Transition Area; Fulton, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate the Fulton, Mississippi, transition area to accommodate Instrument Flight Rules (IFR) operations at the Fulton-Itawamba County Airport. This action will lower the base of controlled Airspace from 1,200 feet to 700 feet above the surface in the vicinity of the airport. A Standard Instrument Approach Procedure (SIAP) is being developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical operations. Concurrent with publication of the SIAP, the airport status will change from Visual Flight Rules (VFR) to IFR.

DATES: Comments must be received on or before March 24, 1989.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, ASO–530, Manager, Airspace and Procedures Branch, Docket No. 89–ASO–3, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone (404) 763–7646.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 89–ASO–3." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch (ASO–530), Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the

Federal Aviation Regulations (14 CFR Part 71) to designate the Fulton, Mississippi transition area. This action will provide controlled airspace for aircraft executing a new Standard Instrument Approach Procedure to the Fulton-Itawamba County Airport. If the proposed designation of the transition area is found acceptable, the flight status of the airport will be changed to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) was republished in FAA Handbook 7400.6D dated January 4, 1988.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation Safety, Transition area.

The Proposed Amendment

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

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

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

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

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Fulton, Mississippi [New]

That airspace extending upward from 700 feet above the surface within a 7-mile radius of the Fulton-Itawamba County Airport (Lat. 34°21'07" N, Long. 88°22'38" W).

Issued in East Point, Georgia, on February 2, 1989.

William D. Wood,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 89-3501 Filed 2-14-89; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 81024-9018]

Revision of Patent Practices

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Notice of extension of comment period for proposed rule making.

SUMMARY: The Patent and Trademark Office is extending the comment period for receiving comments on the proposed amendments to the rules of practice in patent cases, Part 1 of Title 37, Code of Federal Regulations. The Office is extending the Comment period on the proposed amendments to 37 CFR 1.53, 1.55, 1.60, 1.62 and 1.96 and on the proposed addition of 1.21(n), as published on November 30, 1988 at 53 FR. 48402. These amendments would clarify requirements in the filing of applications and provide for procedures for applicants to cure certain defects in the filing of applications. After comments are received, the Patent and Trademark Office will issue a notice of final rule making addressing these proposals.

DATE: Written comments on proposed amendments to 37 CFR 1.53, 1.55, 1.60, 1.62 and 1.96, and proposed new rule 1.21(n) must be submitted by March 3, 1989.

ADDRESS: Address written comments to the Commissioner of Patents and Trademarks, Washington, DC, 20231, Attention: Frances Michalkewicz, Suite 904, Crystal Park 2.

FOR FURTHER INFORMATION CONTACT: Frances Michalkewicz by telephone at (703) 557-1610 or by mail marked to her attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

Date: February 10, 1989.

Bradford R. Huther,

Assistant Commissioner for Finance and Planning.

[FR Doc. 89-3540 Filed 2-10-89; 2:44 pm]

BILLING CODE 3510-16-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[GA-012; FRL-3520-1]

Approval and Promulgation of Implementation Plans; Georgia Stack Height Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve revisions to the Georgia state implementation plan (SIP) submitted to EPA on December 15, 1986. Georgia has revised its SIP to include regulations for good engineering practice stack height. Georgia has not yet adopted the definitions of "stack" and "stack in existence" found at 40 CFR 51.100 (ff) and (gg) or incorporated grandfathering provisions into their rules. This proposal is made on the assumption that the State will adopt the definition of "stack" and "stack in existence" and incorporate into their rules the grandfathering provisions before final rulemaking. Georgia's regulations will then meet the requirements of Part 51, Chapter I, Title 40 of the Code of Federal Regulations. EPA also provides notice that this action may be subject to modification when EPA completes rulemaking to respond to the decision in *NRDC* vs. *Thomas* 838 F.2d 1224 (D.C. Cir. 1988). If EPA's response in the NRDC remand modifies the July 8, 1985, stack height regulations, EPA will notify Georgia that its rules must be changed to comport with EPA's modified requirements. This may result in revised emission limitations or may affect other actions taken by Georgia and source owners or operators.

DATES: To be considered, comments must be submitted on or before March 17, 1989.

ADDRESSES: Written comments should be addressed to Beverly T. Hudson of EPA Region IV's Air Programs Branch (See EPA Region IV address below). Copies of the materials submitted by Georgia may be examined during normal business hours at the following locations:

Air Programs Branch, Environmental Protection Agency, Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

Georgia Department of Natural Resources, Floyd Towers East, Room 1162, 205 Butler Street, Atlanta, Georgia 30334.

FOR FURTHER INFORMATION CONTACT: Beverly T. Hudson, EPA Region IV, Air Programs Branch at above listed address, telephone (404) 347–2864 or FTS 257–2864.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 8, 1985 (50 FR 27892), EPA published final regulations to implement section 123 of the Clean Air Act (CAA), which regulates the manner in which dispersion of pollutants from a source may be considered in setting emission limitations. These regulations are codified at 40 CFR 51.100(z)–(kk), 51.118 and 51.164. Pursuant to these regulations and the Clean Air Act Amendments of 1977, all states were required to (1) review and revise, as necessary, their state implementation plans (SIPs) to include provisions that limit stack height credit and dispersion techniques in accordance with the revised regulations, and (2) review all existing emission limitations to determine whether these limitations have been affected by stack height credits above Good Engineering Practice (GEP) or any other dispersion techniques.

For any limitations so affected, states were to prepare revised limitations consistent with their revised SIPs. All SIP revisions and revised emission limits were to be submitted to EPA within nine months of promulgation.

Subsequently, EPA issued detailed guidance on carrying out the necessary reviews. For the review of emission limitations, states were to prepare inventories of stacks greater than 65 meters in height and sources with emissions of sulfur dioxide (SO_2) in excess of 5,000 tons per year. These limits correspond to the *de minimis* GEP stack height and the *de minimis* SO_2 emission exemption from prohibited dispersion techniques. These sources were then to be subjected to detailed review for conformance with the revised regulations. State submissions were to contain an evaluation of each stack and source in the inventory.

EPA's stack height regulations were challenged in *NRDC* vs. *Thomas*, 838 F.2d 1224 (DC Cir. 1988). On January 22, 1988, the U.S. Appeals Court for the DC Circuit issued a decision affirming the regulations in large part, but remanding three provisions to EPA for reconsideration:

1. Grandfathering pre-October 11, 1983, within-formula stack height increases from demonstration requirements (40 CFR 51.100(kk)(2)).

2. Dispersion credit for sources originally designed and constructed with merged or multi-flue stacks (40 CFR 51.100(hh)(2)(ii)(A)).

3. Grandfathering pre-1979 use of the refined H+1.5L formula (40 CFR 51.100(ii)(2)).

If EPA's response to the NRDC remand modifies the July 8, 1985, stack height regulations, EPA will notify the State of Georgia that its rules must be changed to comport with EPA's modified requirements. This may result in revised emission limitations or may affect other actions taken by Georgia and source owners or operators.

State Submission

On December 15, 1986, the Georgia Department of Natural Resources submitted revised regulations which limit stack height credit and dispersion techniques in accordance with EPA's requirements. A public hearing on the revised stack height rules was held on October 9, 1986.

These rules apply to all new sources and modifications as required in 40 CFR 51.164 as well as existing sources specified in 40 CFR 51.118.

This means that these rules apply to all sources that were or are constructed, reconstructed or modified subsequent to December 1, 1970. EPA has reviewed the revisions to these regulations and has determined that they are consistent with EPA's requirements for GEP stack height and dispersion techniques as revised on July 8, 1985.

The State formally adopted EPA's stack height regulations by reference. Georgia has not yet adopted the definitions of "stack" and "stack in existence" found at 40 CFR 51.100(ff) and (gg) or incorporated into their rules the grandfathering provision. Before EPA takes final rulemaking action to approve the Georgia regulations, the State must adopt EPA's definition of "stack" and "stack in existence" and incorporate EPA's grandfathering provision into their rules.

Proposed Action

Since Georgia's revision brings their existing regulations into conformance with the federal stack height rule, EPA is proposing to approve the State's stack height regulations. This proposal is made on the assumption that the State will adopt EPA's definition of "stack" and "stack in existence" and incorporate into their rules EPA's grandfathering provisions.

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

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

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: December 8, 1988.

Lee A. DeHihns, III,

Acting Regional Administrator.

[FR Doc. 89–3531 Filed 2–14–89; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 8E3650/P479; FRL–3518–6]

Pesticide Tolerance for Ethyl 3-Methyl-4-(Methylthio) Phenyl (1-Methylethyl) Phosphoramidate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the nematicide ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphormaidate (also referred to in this document as fenamiphos) and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity eggplant. The proposed regulation to establish a maximum permissible level for residues of the pesticide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

DATE: Comments, identified by the document control number, [PP 8E3650/P479], must be received on or before March 17, 1989.

ADDRESS: By mail, submit written comments to: Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Room 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Hoyt Jamerson, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 716C, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2310.

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petiton (PP) 8E3650 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station(s) of Alabama, Florida, New Jersey, North Carolina, Oklahoma, and the U.S. Department of Agriculture.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for the combined residues of the nematicide fenamiphos and its cholinesterase-inhibiting metabolites ethyl 3-methyl-4-(methylsulfinyl)phenyl (1-methylethyl) phosphoramidate and ethyl 3-methyl-4-(methyl-sulfonyl)phenyl (l-methylethyl) phosphoramidate in or on the raw agricultural commodity eggplant at 0.1 part per million (ppm).

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerance is sought. The toxicological data considered in support of the proposed tolerance include:

1. A 2-year dog feeding study with a no-observed-effect level (NOEL) for cholinesterase inhibition (ChE) at 1 ppm (equivalent to 0.025 milligram (mg)/kilogram (kg)/day) and no systemic effects at 10 ppm (the highest dose tested).

2. A 2-year feeding/oncogenicity study in rats with a NOEL for cholinesterase inhibition at less than 2.0 ppm (equivalent to 0.1 mg/kg/day) and no systemic effect at 10 ppm (equivalent to 0.5 mg/kg/day). The study was negative for oncogenic effects under the conditions of the study at all feeding levels.

3. An 18-month oncogenicity study in mice with feeding levels of 2, 10, and 50 ppm (equivalent to 0.3, 1.5, and 7.5 mg/kg/day), which was negative for oncogenic effects under the conditions of the study at all levels tested.

4. A three-generation reproduction study with no reproductive effects at 30 ppm (highest dose tested).

5. A teratology study in rabbits with developmental and maternal NOEL's at 0.5 mg/kg.

6. A neurotoxicity study in hens with no neurotoxicity damage at 12.5 mg/kg (highest dose tested).

7. In a metabolism study in rats, fenamiphos was metabolized to its sulfoxide and sulfone analogs with 50 percent excreted in the urine within 12 to 15 hours.

8. Genotoxicity studies including an Ames test (negative), a dominant-lethal test in mice (negative), an *in vitro* assay in Chinese hamster ovary cells (negative for nonactivation assay at concentrations up to 130 micrograms/milliliter and for activation assay up to 230 micrograms/milliliter), and gene mutation using *Bacillus subtilis* (negative).

Data currently lacking include a teratology study in a second species. Data requirements for registration of fenamiphos are identified in a Registration Standard for the chemical, which was issued in June 1987.

The acceptable daily intake (ADI), based on the 2-year feeding study in dogs with a NOEL for cholinesterase inhibition at 1.0 ppm (0.025 mg/kg/day) and using a 100-fold safety factor, is calculated to be 0.00025 mg/kg of body weight (bw)/day. The anticipated residue contribution (ARC) from existing tolerances is calculated to be 0.000094 mg/day, which is equivalent to 37.8 percent of the ADI. The current action will contribute an additional 0.0000001 mg/kg/day of residues to the human diet.

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography using a thermionic detector, is available in the *Pesticide Analytical Manual*, Vol. II (PAM II), for enforcement purposes. There are currently no actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, the tolerance established by amending 40 CFR 180.349 would protect the public health. Therefore, it is proposed that the tolerance be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this document in the **Federal Register** that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 8E3650/P479]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: January 30, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

PART 180—[AMENDED]

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

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

2. In § 180.349(a), by adding and alphabetically inserting the raw agricultural commodity eggplant, to read as follows:

§ 180.349 Ethyl 3-methyl-4-(methylthio)phenyl (1-methylethyl) phosphoramidate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Eggplant	0.1
* * * * *	

[FR Doc. 89-3195 Filed 2-14-89; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 89-12, RM-6545]

Radio Broadcasting Services; Oakes, ND

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by CERM Broadcasting Corporation proposing the substitution of Channel 223C1 for Channel 222C2 at Oakes, North Dakota, and the modification of its license for Station KDDR-FM to specify operation on the higher powered channel. Channel 223C1 can be allotted to Oakes in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for this allotment are North Latitude 46-08-12 and West Longitude 98-05-36. Canadian concurrence in the allotment is required since Oakes is located within 320 kilometers of the U.S.-Canadian border. In accordance with § 1.420(g), competing expression of interest in use of the channel at Oakes will not be accepted.

DATES: Comments must be filed on or before April 3, 1989, and reply comments on or before April 18, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Frank R. Jazzo, Esq., Fletcher, Heald & Hildreth, 1225 Connecticut Avenue NW., Suite 400, Washington, DC 20036-2679 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-12, adopted January 17, 1989, and released February 8, 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 contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 89-3509 Filed 2-14-89; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 89-13, RM-6547]

Radio Broadcasting Services; Gleneden Beach, Sweet Home and Toledo, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition by Galaxy Broadcast Partners proposing the substitution of Channel 296C2 for Channel 296A at Sweet Home, Oregon, and the modification of its license for Station KNKN to specify the higher powered channel. In order to comply with the Commission's minimum distance separation requirements, Galaxy also proposes the substitution of Channel 264A for Channel 296A at Toledo, Oregon, the modification of Station KTDO-FM's license accordingly, and the substitution of Channel 236C2 for unused Channel 264C2 at Gleneden Beach, Oregon. Channel 296C2 can be allotted to Sweet Home and Channel 264A can be allotted to Toledo in compliance with the Commission's minimum distance separation requirements and can be used at the present transmitter sites of Station KNKN and Station KTDO-FM, respectively. Channel 236C2 can be allotted to Gleneden Beach in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction. The coordinates for Channel 296C2 at Sweet Home are North Latitude 44-26-05 and West Longitude 122-42-23. The coordinates for Channel 264A at Toledo are North Latitude 44-38-40 and West Longitude 124-00-52. The coordinates for Channel 236C2 at Gleneden Beach are North Latitude 44-52-53 and West Longitude 124-01-59. In accordance with the Commission's Rules, competing expressions of interest in Channel 296C2 at Sweet Home will not be accepted..

DATES: Comments must be filed on or before April 3, 1989, and reply comments on or before April 18, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Heather McDaniel, Galaxy Broadcast Partners, 33692 Santiam Hwy., Lebanon, Oregon 97355 (Petitioner)..

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

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 89-13, adopted January 17, 1989, and released February 8, 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 contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

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

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

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

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Steve Kaminer,

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

[FR Doc. 89-3508 Filed 2-14-89; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 18

Marine Mammals; Native Exemptions; Extension of Comment Period

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Extension of comment period.

SUMMARY: In the November 14, 1988, Federal Register (53 FR 45788) the Fish and Wildlife Service (Service) proposed to amend the regulations in 50 CFR Part 18 implementing the Marine Mammal Protection Act of 1972 (the Act), 16 U.S.C. 1361-1407. The proposed rule would prohibit the taking of sea otters by Alaska Natives for use in creating and selling authentic native articles of handicrafts and clothing under the Native Exemptions section of the Act, 16 U.S.C. 1371(b). The Service gives notice that the comment period will be extended. This extension was requested by the State of Alaska and by several individuals and organizations in Alaska in order to allow interested persons and groups in remote Alaskan villages sufficient time to comment on the proposal. This extension of the comment period will allow comments on the proposal to be submitted from all interested parties.

DATES: Written comments will be accepted through April 13, 1989.

ADDRESSES: Comments and materials concerning this notice should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 28006, Washington, DC 20038-8006. Comments and materials may be delivered to the U.S. Fish and Wildlife Service, Division of Law Enforcement, Room 300, Hamilton Building, 1375 K Street NW., Washington, DC, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Special Agent in Charge Thomas L. Striegler at the above address ((202) 343-9242 or FTS 343-9242).

Date: February 9, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-3515 Filed 2-14-89; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 54, No. 30
Wednesday, February 15, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication; Public Meeting

SUMMARY: Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States. The committee will meet to discuss a study of consular visa denials and a study of the use of regional processing facilities in the alien legalization program.

DATE: Monday, March 13, 1989 at 1:00 p.m.

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

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

FOR FURTHER INFORMATION CONTACT: Nancy G. Miller, 202–254–7020.

Jeffrey S. Lubbers,
Research Director.

February 9, 1989.

[FR Doc. 89–3490 Filed 2–14–89; 8:45 am]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

February 10, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) title of the information collection; (3) form number(s), if applicable; (4) how often the information is requested; (5) who will be required or asked to report; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to provide the information; (8) an indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Packers and Stockyards Administration

"Clear Title" Regulation to implement section 1324 of the Food Security Act of 1985.
None
Other; One time
State or local governments; 10 responses; 120 hours; not applicable under section 3504(h)
Calvin W. Watkins, (202) 447–7063

- Agricultural Marketing Service

Fresh Bartlett Pears Grown in Oregon and Washington—Marketing Order No. 931
None
Recordkeeping; Weekly; Semi-monthly
Businesses or other for-profit; 1,698 responses; 983 hours; not applicable under section 3504(h)
Virginia M. Olson, (202) 475–3930.

New Collection

- Agricultural Marketing Service

Marketing Agreement for Proposed Marketing Order Vidalia Onions Grown in Georgia
None
Recordkeeping; Weekly; Biannually
Farms; Businesses or other for-profit; Small businesses or organizations; 808 responses; 100 hours; not applicable under section 3504(h)
Virginia M. Olson, (202) 475–3930.

Donald E. Hulcher,
Departmental Clearance Officer.

[FR Doc. 89–3551 Filed 2–14–89; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF COMMERCE

National Medal of Technology Nomination Evaluation Committee; Closed Meeting

AGENCY: Office of Technology Policy, Technology Administration, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces the forthcoming closed meeting of the National Medal of Technology Nomination Evaluation Committee. The Committee was rechartered on February 4, 1988. The Committee shall make recommendations to the Secretary of Commerce, through a Steering Committee, concerning award of the National Medal of Technology.

The Committee will meet only in executive session to discuss matters dealing with the relative merits of all persons and companies nominated for the Medal as a result of a public solicitation.

Time and Place: The meeting will begin at 10:00 a.m. and end at 3:30 p.m. on April 3, 1989. The meeting will be held in Room 150 at the National Academy of Engineering, 2101 Constitution Avenue, NW., Washington, DC 20418.

FOR FURTHER INFORMATION CONTACT: Dr. Paul Braden, Executive Director, National Medal of Technology Nomination Evaluation Committee, U.S. Department of Commerce, 14th and

Constitution Avenue, NW., Herbert C. Hoover Building, Room 4814–B, Washington, DC 20230 (202) 377–5572.

SUPPLEMENTARY INFORMATION: A Notice of Determination to close the meetings of the Committee to the public on the basis of 5 U.S.C. 552(c) (4) and (6) was approved by the Assistant Secretary of Commerce for Administration, with the concurrence of the General Counsel on January 31, 1989 in accordance with the Federal Advisory Committee Act, since the discussions are likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy and may also disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential. A copy of the Notice of Determination is available for public inspection and copying in the Central Reference and Records Inspection Facility, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Herbert C. Hoover Building, Room 6628, Washington, DC 20230, (202) 377–4210.

Date: February 10, 1989.

Ernest Ambler,

Acting Under Secretary for Technology Administration.

[FR Doc. 89–3538 Filed 2–14–89; 8:45 am]

BILLING CODE 3510–18–M

DEPARTMENT OF DEFENSE

Office of the Secretary

DoD Advisory Group on Electron Devices; Advisory Committee Meeting

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0800, Wednesday, 15 March 1989.

ADDRESS: The meeting will be held at Palisades Institute for Research Services, Inc., 2011 Crystal Drive, Suite 307, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: David Slater, AGED Secretariat, 201 Varick Street, New York 10014.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide the Under Secretary of Defense for Acquisition, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The AGED meeting will be limited to review of research and development programs which the Military Departments propose to initiate with industry, universities or in their laboratories. The agenda for this meeting will include programs on Radiation Hardened Devices, Microwave Tubes, Displays and Lasers. The review will include details of classified defense programs throughout.

In accordance with section 10(d) of Pub. L. No. 92–463, as amended, (5 U.S.C. App. II 10(d) (1982)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly, this meeting will be closed to the public.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 9, 1989.

[FR Doc. 89–3523 Filed 2–14–89; 8:45 am]

BILLING CODE 3810–01–M

The Joint Staff; Joint Stragetic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: The Director, Joint Strategic Target Planning Staff has scheduled a closed meeting of the Scientific Advisory Group.

DATE: The meeting will be held on 4 and 5 April 1989.

ADDRESS: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Scientific Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues which relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearance and specific need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. 552b(c)(1).

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

February 9, 1989.

[FR Doc. 89–3524 Filed 2–14–89; 8:45 am]

BILLING CODE 3810–01–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 22, 1989 beginning at 1:30 p.m. at the Ramada Hotel, Route 1 and Ridge Road, Princeton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location. Topics scheduled for discussion at the conference session include status reports on the Upper Delaware Ice Jam Project, Payments to the Corps of Engineers for Beltzville and Blue Marsh Reservoirs, and Hydrologic Conditions and Drought Warning Measures in the Delaware River Basin.

The subjects of the hearing will be as follows:

Proposed Amendment to the Comprehensive Plan and Water Code of the Delaware River Basin Relating to Temporary Revision of Commission Resolution No. 83–13. The proposed amendment, drafted in response to declining storage levels in upper basin reservoirs, would temporarily revise streamflow objectives at the Montague, New Jersey, USGS gaging station and release and diversion requirements from the New York City Delaware Basin Reservoirs.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Philadelphia Electric Company (PECO) D–69–210 CP (Final) Revisions Nos. 8 & 9.* An application for extensions and amendments through December 31, 1989, of temporary approvals granted in Docket Revision Nos. 5 and 6. Requested extensions refer to previous revisions authorizing substitution of DO limitations in place of temperature restrictions, transfer of consumptive water use allocations from Cromby Unit 2 and Metropolitan Edison's Titus Station to Limerick Unit 1, and consumptive water use at Limerick whenever that consumptive use has been replaced in equal volume by water released from the Still Creek and Owl Creek Reservoirs. Requested amendments include adding Limerick Unit 2, so that both project approvals refer to Limerick Units Nos. 1 and 2, and increasing the maximum permitted

release rate (into Still and Owl Creeks for use at Limerick) from 28 cfs to 56 cfs.

2. *Lehigh County Authority D–85–51 CP (Revised).* An application to revise the docket approved September 24, 1985, because the applicant's requested allocation based upon the projected water demand of the Western Lehigh Service Area during the five-year approval period has already been exceeded. The applicant requests that the decision condition "d" be revised to increase the withdrawal limit of all wells from 154 to 188 million gallons (mg)/30 days. The project is located in Lower and Upper Macungie Townships, Lehigh County, Pennsylvania.

3. *Robesonia-Wernersville Municipal Authority D–88–23 CP.* An application to upgrade and expand a 0.6 million gallons per day (mgd) sewage treatment plant to provide tertiary treatment of 1.3 mgd through the year 2000. The plant is located in Heidelberg Township, Berks County, Pennsylvania, and also serves portions of Lower and South Heidelberg Townships, plus Robesonia and Wernersville Boroughs. Treatment plant effluent will continue to be discharged through the existing outfall to Spring Creek, a tributary of Tulpehocken Creek.

4. *Limerick Township Municipal Authority D–88–56 CP.* An application to expand a 0.5 mgd sewage treatment plant to process a design average flow of 1.0 mgd. The plant is located off King Road in Limerick Township, Montgomery County, Pennsylvania. The project is designed to continue to provide secondary treatment and serve an equivalent population of 10,000 persons in Limerick Township through the year 1998. Treatment plant effluent will continue to be discharged to an unnamed tributary of the Schuylkill River via the existing outfall.

5. *Upper Uwchlan Township D–88–72 CP.* An application to construct a 0.062 mgd sewage treatment plant and spray irrigation system to serve a proposed development, known as Marsh Harbour, in Upper Uwchlan Township, Chester County, Pennsylvania. The plant is designed to provide high quality secondary treatment via the sequential batch reactor process, and the spray irrigation will further remove organics, solids, and nutrients. The 14-acre spray site is located less than half a mile from the Marsh Creek Reservoir, but no surface water discharges are proposed as effluent storage capacity is provided. The project is designed to serve 950 residents in 314 dwelling units.

6. *Municipal Authority of the Township of Spring D–88–77 CP.* An application to expand a 0.8 mgd sewage treatment plant to process 1.25 mgd through the year 2010. The plant is designed to serve an equivalent population of 12,500 persons residing in Spring and Sinking Spring Townships, Berks County, Pennsylvania. The project involves the construction of a 0.45 mgd plant adjacent to the existing facility located off State Hill Road in Spring Township. The expanded plant is designed to remove more than 90 percent of the suspended solids and BOD_5, plus provide nitrification. Treatment plant effluent will continue to be discharged to Cacoosing Creek, a tributary of Tulpehocken Creek.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact George E. Elias concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,

Secretary.

February 7, 1989.

[FR Doc. 89–3564 Filed 2–14–89; 8:45 am]

BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before March 17, 1989.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 732–3915.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) frequency of collection; (4) the affected public; (5) reporting burden; and/or (6) recordkeeping burden; and (7) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: February 10, 1989.

Carlos U. Rice,

Director for Office of Information Resources Management.

Office of Postsecondary Education

Type of Review: Reinstatement.
Title: Application for Foreign Language and Area Studies.
Frequency: Annually.
Affected Public: State or local governments; Non-Profit institutions.
Reporting Burden:
Responses: 717.
Burden Hours: 22447.
Recordkeeping Burden:
Recordkeepers: 0.
Burden Hours: 0.
Abstract: This form will be used by state and local agencies and non-profit institutions to apply for funding under the Foreign Language and Area Studies Programs. The Department uses the information to make grant awards.

[FR Doc. 89–3582 Filed 2–14–89; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.029K]

Notice Extending the Closing Date for Transmittal of Applications for New Awards Under the Special Projects—Training Personnel for the Education of the Handicapped Program for Fiscal Year 1989

Summary: On November 10, 1988, a notice was published in the **Federal Register** (53 FR 45739–45740), establishing closing dates for transmittal of applications for new awards for the fiscal year 1989 competitions under the Training Personnel for the Education of the Handicapped Program. The closing date for applications for the Special Projects competition is extended from February 20, 1989 to February 21, 1989. February 20, 1989 is a Federal holiday. Detailed information concerning this competition is included in that notice. The purpose of this notice is to extend the closing date for transmittal of applications.

For Applications or for Further Information Contact: William Peterson, U.S. Department of Education, Office of Special Education Programs, Division of Personnel Preparation, 400 Maryland Avenue SW., (Switzer Building, Room 3094–2651), Washington, DC 20202. Telephone: (202) 732–1083.

(Program Authority: 20 U.S.C. 1431.)

Dated: February 10, 1989.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 89–3584 Filed 2–14–89; 8:45 am]

BILLING CODE 4000–01–M

[CFDA No. 84.180P]

Notice Correcting the Project Period for Applications for New Awards Under the Technology, Educational Media, and Materials for the Handicapped Program for Fiscal Year 1989

Project Period in Months: On January 26, 1989, a notice was published in the **Federal Register** that established a project period of up to 12 months for applications for the fiscal year 1989 Compensatory Technology Applications competition under the Technology, Educational Media, and Materials for the Handicapped Program (54 FR 3955). Detailed information concerning this competition was included in that notice. The purpose of this notice is to alert applicants that the project period for applications submitted under this competition may be for a period of up to 18 months. The project period for "Compensatory Technology Applications (CFDA 84.180P)" should read "Up to 18."

FOR FURTHER INFORMATION CONTACT: Linda Glidewell, U.S. Department of Education, Office of Special Education Programs, Division of Innovation and Development, 400 Maryland Avenue SW. (Switzer Building, Room 3094–2641). Washington, DC 20202. Telephone: (202) 732–1099.

(Program authority: 20 U.S.C. 1461)

Dated: February 10, 1989.

Madeleine Will,

Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 89–3583 Filed 2–14–89; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER89–203–000, et al.]

Carolina Power & Light Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

February 9, 1989.

Take notice that the following filings have been made with the Commission:

1. Carolina Power and Light Company

[Docket No. ER89–203–000]

Take notice that Carolina Power & Light Company (CP&L) on January 30, 1989, tendered for filing three charges in service affecting CP&L's wholesale customers which include updates and changes to CP&L's monthly charge for wheeling service for the delivery of power from the John H. Kerr Dam and Reservoir (Kerr Project) to recipients in CP&L's eastern area, the delivery of power from the Cumberland Projects to recipients in CP&L's western area, and a change in the Exhibit A for French Broad Electric Membership Corporation (FBEMC) Alta Pass point of delivery.

The monthly charge for wheeling service for the delivery of power from the Kerr Project is based on the formula in Appendix A of the Contract, CP&L Rate Schedule FERC No. 127 dated January 23, 1987, between the United States of America, Department of Energy, acting by and through the Southeastern Power Administration (Administrator) and CP&L. The monthly charge for wheeling service for the delivery of power from the Cumberland projects is based on the formula contained in Appendix A of the Contract, CP&L Rate Schedule FERC No. 126 dated August 21, 1986, between the United States of America, Department of Energy, acting by and through the Southeastern Power Administration and Company. CP&L's monthly wheeling charges filed herewith increased from the 1988 charges and are each applicable for the time period April 1, 1989, through March 31, 1990. These rates are filed with the Commission as a result of a change in return on common equity pursuant to the exhibits to Appendices A of Rate Schedule FERC No. 126 and Rate Schedule FERC No. 127.

The change in Exhibit A for FBEMC Alta Pass point of delivery is the result of a request by FBEMC that the maximum capacity at this point of delivery be increased to 5,000 KVA. The Exhibit A has been executed by both FBEMC and CP&L. It is proposed that this Exhibit A become effective April 1, 1989.

Comment date: February 24, 1989, in accordance with Standard Paragraph E at the end of this document.

2. Southwestern Electric Power Company

[Docket No. ER89–205–000]

Take notice that on January 30, 1989, Southwestern Electric Power Company (SWEPCO) submitted for filing a Restated and Amended Interconnection Agreement, dated December 29, 1988, between SWEPCO and Gulf States Utilities Company (GSU). The Restated Agreement reflects changes agreed to by the parties with respect to facility charges and losses.

Copies of the filing were served on GSU, the Arkansas Public Service Commission, the Louisiana Public Service Commission, and the Public Utility Commission of Texas. Copies of the filing are also available for inspection at SWEPCO's offices in Shreveport, Louisiana.

Comment date: February 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corporation

[Docket No. ER89–206–000]

Take notice that Central Hudson Gas and Electric Corporation (Central Hudson), on January 30, 1989, tendered for filing, as a rate schedule an executed Agreement dated December 1, 1988 between Central Hudson and Public Service of New Hampshire. The proposed rate schedule provides for the sale and purchase of 25 MW of capacity and related energy for the period December 1, 1988 to April 30, 1989.

Public Service of New Hampshire shall pay Central Hudson monthly $60/MW day for the capacity made available which charge includes the use

of Central Hudson's transmission facilities required to deliver and transmit energy. Energy and supplemental capacity charges are based on a number of factors described in Section 6a and 6b of the Agreement.

Central Hudson states that copies of the subject filing were served upon Public Service of New Hampshire.

Comment date: February 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Montana Power Company

[Docket No. ER89-204-000]

Take notice that on January 30, 1989, Montana Power Company (Montana), tenderd for filing a revised Appendix I as required by Exhibit C for retail sales in accordance with the provisions of the Residential Purchase and Sale Agreement (Agreement) between Montana and the Bonneville Power Administration (BPA).

The Agreement was entered into pursuant to the Pacific Northwest Electric Power Planning and Conservation Act, Pub. L. 96-501. The Agreement provides for exchange of electric power between Montana and BPA for the benefit of Montana's residential and farm customers.

Montana requests that the rate, subject to possible modification by the FERC, has an effective date of January 1, 1988, and therefore requests waiver for the Commission's notice requirements.

A copy of the filing was served upon BPA.

Comment date: February 24, 1989, in accordance with Standard Paragrpah E at the end of this notice.

5. Northesast Utilities Service Company

[Docket No. ER89-201-000]

Take notice that on January 30, 1989, Northeast Utilities Company (NUSCO) tendered for filing proposed rate schedules pertaining to: (1) Purchase Agreement with Respect to Various Gas Turbine Units (Gas Turbine Agreement) between NUSCO, as Agent for The Connecticut Light and Power Company (CP&L) and Western Massachusetts Electric Company (WMECO), and Montaup Electric Company (Montaup), dated November 1, 1987; and (2) Sales Agreement with Respect to Montville and Middletown Units (Fossil Unit Agreement) between NUSCO, as Agent for CL&P, and Montaup, dated November 1, 1987.

NUSCO states that the Gas Turbine Agreement provides for a sale to Montaup of a specified percentage of capacity and energy from various gas turbine units during the period November 1, 1987 through October 31, 1988. NUSCO states that the Fossil Unit Agreement provides for a sale to Montaup of a specified percentage of capacity and energy from Montville Unit 6 and Middletown Unit 4 during the period November 1, 1987 through October 31, 1988.

NUSCO states that the capacity charge rate for the proposed service under the Gas Turbine Agreement is a negotiated rate, based on the market price for this capacity, and less than the cost-of-service rate (determined in accordance with schedule I and Exhibits I and II thereto of Appendix A to the transmittal letter). The transmission charge is determined by the product of (i) the appropriate transmission charge rate (determined in accordance with Schedule II and Exhibits I, II, and III thereto of Appendix A to the transmittal letter and expressed in $/kW-yr) and (ii) the number of kilowatts of winter capability which Montaup is entitled to receive. The energy charge is based on Montaup's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive these charges.

NUSCO states that the capacity charge rate for the proposes service under the Fossil Unit Agreement is a negotiated rate, based on the market price for this capacity, and less than the cost-of-service rate (determined in accordance with Schedule III and Exhibits I and II thereto of Appendix A of the transmittal letter). The energy charge and the station service energy charges are based on Montaup's portion of the applicable fuel expenses and no special cost-of-service studies were made to derive these charges.

NUSCO states that the services to be provided under the Gas Turbine Agreement are similar to services provided by CL&P and WMECO pursuant to a purchase agreement with City of Chicopee Municipal Lighting Plant (FERC Rate Schedule Nos. CL&P 331, WMECO 267).

NUSCO states that the services to be provided under the Fossil Agreement are similar to services provided by CL&P pursuant to a sales agreement with Fitchburg Gas and Electric Light Company (FERC Rate Schedule No. CL&P 359).

NUSCO states that a copy of the rate schedules have been mailed or delivered to CL&P and WMECO, and to Montaup.

NUSCO requests that the Commission waiver its notice periods and permit the rate schedule to commence effective November 1, 1987, and to terminate effective October 31, 1988.

Comment date: February 24, 1989, in accordance with Standard Paragrpah E at the end of this notice.

6. Wisconsin Public Service Corporation

[Docket No. ER89-202-000]

Take notice that Wisconsin Public Service Corporation on January 30, 1989, tendered for filing a supplement to the following service agreement:

Service Agreement No. 1

October 29, 1987, "Partial Requirements Load Pattern Service Agreement," between the Consolidated Water Power Company and Wisconsin Public Service Corporation.

These supplements will revise the contract demand quantities in accordance with Exhibit 1 of the service agreement, Paragraph 6, *Requirements*.

A copy of this filing was served upon the Consolidated Water Power Company.

The supplement is to be effective on or after January 1, 1989.

Comment date: February 24, 1989, in accordance with standard Paragrpah 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 NW., 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 considerd 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. 89-3526 Filed 2-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-727-000, et al.]

Trunkline Gas Co., et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Trunkline Gas Company

[Docket No. CP89-727-000]

February 6, 1989.

Take notice that on January 30, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP89-727-000, a request pursuant to § 157.205 of the

Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for American Central Gas Marketing Company (American Central), a shipper and marketer, under its blanket certificate issued in Docket No. CP86–586–000 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.

Trunkline states that pursuant to a Transportation Agreement dated October 6, 1988, between Trunkline and American Central, it would receive the natural gas at various existing points of receipt on its system. Trunkline further states that it would then transport and redeliver the natural gas, less fuel and unaccounted for line loss, to Transcontinental Gas Pipe Line Corporation (Ragley) in Beauregard Parish, Louisiana. Trunkline indicates that the estimated daily and estimated annual quantities that would be transported for American Central would be 20,000 Dt. and 7,300,000 Dt., respectively.

Trunkline states that it commenced the transportation of natural gas for American Central on November 11, 1988, as reported in Docket No. ST89–1908–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: March 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Natural Gas Pipeline Company of America

[Docket No. CP89–718–000]

February 6, 1989.

Take notice that on January 30, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, filed in Docket No. CP89–718–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of PSI, Inc. (PSI), under Natural's blanket certificate issued in Docket No. CP86–582–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural requests authorization to transport, on an interruptible basis, up to a maximum of 100,000 MMBtu of natural gas per day for (PSI), a marketer of natural gas, from receipt points located in Louisiana, Offshore Louisiana, Texas, Offshore Texas, Illinois, Oklahoma and Kansas, to delivery points located in Iowa. Natural anticipates transporting, on an average day 30,000 MMBtu and an annual volume of 10,950,000 MMBtu.

Natural states that the transportation of natural gas for PSI commenced December 4, 1988, as reported in Docket No. ST89–2038–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP86–582–000.

Comment date: March 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Texas Gas Transmission Corporation

[Docket No. CP89–716–000]

February 6, 1989.

Take notice that on January 30, 1989, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP89–716–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Stand Energy Corporation (Stand), for the ultimate end use by The Kroger Co., under Texas Gas' blanket certificate issued in Docket No. CP88–686–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Texas Gas requests authorization to transport, on an interruptible basis, up to a maximum of 6,000 MMBtu of natural gas per day for Stand from receipt points located in Arkansas, Illinois, Indiana, Kentucky, Ohio, Louisiana, offshore Louisiana, Tennessee and Texas to delivery points located in Tennessee. Texas Gas anticipates transporting, on an average day 800 MMBtu and an annual volume of 2,190,000 MMBtu.

Texas Gas states that the transportation of natural gas for Stand commenced December 15, 1988, as reported in ST89–1401–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Texas Gas in Docket No. CP88–686–000.

Comment date: March 23, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP89–708–000]

February 6, 1989.

Take notice that on January 27, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–708–000 and application 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 Sonat Marketing Company (Sonat), a marketer of natural gas, under United's blanket certificate issued in Docket No. 88–6–000 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 proposes to transport up to 30,900 MMBtu per day for Sonat. United states that construction of facilities would not be required to provide the proposed service.

United further states that the maximum day, average day, and annual transportation volumes would be approximately 30,900 MMBtu, 30,900 MMBtu and 11,278,500 MMBtu respectively.

United advises that service under § 284.223(a) commenced January 1, 1989, as reported in Docket No. ST89–1739.

Comment date: March 23, 1989, in accordance with Standard Paragraph G at the end of this Notice.

5. Williams Natural Gas Company

[Docket No. CP89–734–000]

February 6, 1989.

Take notice that on January 30, 1989, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–734–000, a request pursuant to § 157.205 (18 CFR 157.205) of the Commission's Regulations under the Natural Gas Act for authorization to provide firm transportation service for Mountain Iron and Supply Company (Mountain Iron) a marketer under Williams blanket transportation certificate issued May 10, 1988, in Docket No. CP89–631–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williams states it will receive the gas at various supply sources in Kansas and Wyoming and transport the gas to various delivery points on Williams system in Kansas.

Williams proposes to transport up to 325 MMBtu of gas on a peak day or approximately 54,020 MMBtu of gas annually. Williams states that the transportation service commenced under the 120-day automatic authorization of § 284.223(a)(i) of the Commission's Regulations on December 14, 1988, pursuant to a transportation agreement dated December 14, 1988. Williams notified the Commission of the commencement of the transportation service in Docket No. ST89–1734–000 on January 13, 1989.

Comment date: March 23, 1989, in accordance with Standard Paragraph G at the end of this Notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP89–695–000]

February 6, 1989.

Take notice that on January 25, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP89–695–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Shell Gas Trading Company (Shell) under the certificate 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 on file with the Commission and open to public inspection.

Natural indicates that it proposes to transport up to 400,000 MMBtu per day, on a peak day 300,000 MMBtu and 109,500,000 MMBtu on an annual basis. Natural also states that pursuant to a transportation agreement dated November 14, 1988 between Natural and Shell, it proposes to transport natural gas for Shell from points in Texas, offshore Texas, Oklahoma, New Mexico and offshore Louisiana. The points of delivery and ultimate points of delivery are located in Louisiana, Oklahoma, Illinois, New Mexico, Iowa, Arkansas and Texas.

Natural further indicates that it commenced this service on December 1, 1988, as reported in Docket No. ST89–1920–000.

Comment date: March 23, 1989, in accordance with Standard Paragraph G at the end of this Notice.

7. Trunkline Gas Company

[Docket No. CP89–714–000]

February 7, 1989.

Take notice that on January 30, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–714–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas for Tejas Power Corporation (Tejas), a shipper and marketer of natural gas, pursuant to Trunkline's blanket certificate issued in Docket No. CP86–586–000 and 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.

Specifically, Trunkline requests authority to transport up to 50,000 dt equivalent of natural gas per day on an interruptible basis for Tejas pursuant to a transportation agreement dated November 1, 1988, between Trunkline and Tejas. Trunkline states that the transportation agreement provides for Trunkline to receive gas from various receipt points on its system in Texas, Louisiana and Illinois and redeliver the gas, less fuel and unaccounted-for line loss, into the facilities of Columbia Gulf Transmission Company in St. Mary Parish, Louisiana.

Trunkline indicates it would provide the service for a primary term of one month from the date of initial transportation and continue to provide the service on a month-to-month basis until terminated by either party upon at least 30 days prior notice to the other. Trunkline states that it would charge the rates and abide by the terms and conditions of its Rate Schedule PT.

It is indicated that the estimated maximum daily volume, average volume, and annual volume would be 50,000 dt equivalent of natural gas, 40,000 dt equivalent of natural gas, and 14,600,000 dt equivalent of natural gas, respectively. Trunkline states it commenced a 120-day transportation service for Tejas on November 1, 1988, as reported in Docket No. CP89–1909.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. Northern Natural Gas Company

[Docket No. CP89–724–000]

February 7, 1989.

Take notice that on January 30, 1989, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–724–000 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 on an interruptible basis on behalf of Sonat Marketing Company (Sonat), a marketer of natural gas, under its blanket certificate issued in Docket No. CP86–435–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it proposes to transport natural gas on behalf of Sonat between a receipt and delivery point in offshore Texas.

Northern further states that the maximum daily, average and annual quantities that it would transport on behalf of Sonat would be 20,000 MMBtu equivalent of natural gas, 15,000 MMBtu equivalent of natural gas and 7,300,000 MMBtu equivalent of natural gas, respectively.

Northern indicates that in Docket No. ST89–1859, filed with the Commission on January 23, 1989, it reported that transportation service on behalf of Sonat had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Tennessee Gas Pipeline Company

[Docket No. CP89–747–000]

February 7, 1989.

Take notice that on February 2, 1989, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–747–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Alcan Aluminum Corporation (Alcan), an end-user, under the blanket certificate issued in Docket No. CP87–115–000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated December 9, 1988, under its Rate Schedule IT, it proposes to transport up to 28,000 dekatherms (dt) per day equivalent of natural gas for Alcan. Tennessee states that it would transport the gas from receipt points located offshore Louisiana and in the state of West Virginia, Ohio, Pennsylvania, and New York. It is further stated that the ultimate delivery point is located in the State of New York.

Tennessee advises that service under § 284.223(a) commenced January 5, 1989, as reported in Docket No. ST89–2004 (filed January 27, 1989). Tennessee further advises that it would transport 28,000 dt on an average day and 10,220,000 dt annually.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Northern Natural Gas Company

February 7, 1989.

Take notice that on January 30, 1989, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–722–000 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 on an interruptible basis on behalf of Sonat Marketing Company (Sonat), a marketer of natural gas, under its blanket certificate issued in Docket No. CP86–435–00 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it proposes to transport natural gas on behalf of Sonat between numerous points of receipt and delivery in Texas, Louisiana, Mississippi, Kansas and Oklahoma.

Northern further states that the maximum daily, average and annual quantities that it would transport on behalf of Sonat would be 80,000 MMBtu equivalent of natural gas, 60,000 MMBtu equivalent of natural gas and 29,200,000 MMBtu equivalent of natural gas, respectively.

Northern indicates that in Docket No. ST89–1852, filed with the Commission on January 23, 1989, it reported that transportation service on behalf of Sonat had begun under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

11. Tennessee Gas Pipeline Company

[Docket No. CP89–743–000]

February 7, 1989.

Take notice that on Febraury 1, 1989, Tennessee Gas Pipeline Company, (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89–743–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Tenngasco Corporation (Tenngasco), a marketer, as agent for Endevco Oil & Gas Company, U.S. Oil & Gas Company, Western Gas Marketing, Mississippi Fuel Company, and Tenngasco Exchange Corporation, under the blanket certificate issued in Docket No. CP87–115–000 on June 18, 1987, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated November 29, 1988, under its Rate Schedule IT, it proposes to transport up to 1,000,000 dekatherms (dt) per day equivalent of natural gas for Tenngasco. Tennessee states that it would transport the gas from receipt points located offshore Louisiana and offshore Texas, and in multiple states proximate to Tennessee's system, and deliver such gas to interconnections with (1) Southern Natural Gas Company at Bay St. Elaine, Terrebonne Parish, Louisiana, (2) Mississippi Fuel Company at Stafford Springs, Jasper County, Mississippi, and (3) TransCanada Pipelines Limited at Niagara River, Niagara County, New York.

Tennessee advises that service under § 284.223(a) commenced December 9, 1988, as reported in Docket No. ST89–1602 (filed January 5, 1989). Tennessee further advises that it would transport 1,000,000 dt on an average day and 365,000,000 dt annually.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

12. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–751–000]

February 7, 1989.

Take notice that on February 2, 1989, Transcontinental Gas Pipe Line Corporation (Transco) P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP89–751–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Kerr-McGee Corporation (Kerr-McGee), under the blanket certificate issued in Docket No. CP88–328–000 on April 29, 1988, 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.

Transco states that pursuant to a transportation agreement dated June 9, 1988, under its Rate Schedule IT, it proposes to transport up to 50,747 dekatherms (dt) per day equivalent of natural gas for Kerr-McGee. Transco states that it would transport the gas from Ship Shoal Block 233B, offshore Louisiana, and deliver the gas at an existing point of interconnection between Transco and Texas Gas Transmission Corporation in Evangeline Parish, Louisiana.

Transco advises that service under § 284.223(a) commenced December 8, 1988, as reported in Docket No. ST89–1578. Transco further advises that it would transport 6,000 dt on an average day and 2,190,000 dt annually.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

13. Williams Natural Gas Company

[Docket No. CP89–742–000]

February 7, 1989.

Take notice that on January 31, 1989, Williams Natural Gas Company (Williams), P.O. Box, 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP89–742–000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to provide firm transportation service for Northeast Oklahoma Public Facilities Authority (NOPFA), an end user, under Williams' blanket certificate issued in Docket No. CP86–631–000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Williams states that pursuant to a firm transportation agreement dated December 19, 1988, it proposes to transport natural gas for NOPFA from various supply sources in Kansas to various delivery points on Williams' system in Oklahoma.

Williams proposes to transport up to 4,227 MMBtu of gas on a peak day, 1,329 MMBtu of gas on an average day and 485,085 MMBtu of gas annually. Service under § 284.223(a) commenced on December 22, 1988, as reported in Docket No. ST89–1868–000, it is stated.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

14. United Gas Pipe Line Company

[Docket No. CP89–726–000]

February 7, 1989.

Take notice that on January 30, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–726–000 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 for the City of Gulf Breeze, Florida (Gulf Breeze), a local distribution company, under United's blanket certificate 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 proposes to transport up to 2,266 million Btu equivalent of natural gas per day on a firm basis for Gulf Breeze. United states it would receive the gas at an existing point of receipt offshore Louisiana, and redeliver the gas for the account of Gulf Breeze at existing interconnections in Escambia County, Florida, and St. Mary Parish,

Louisiana. United states it commenced service for Gulf Breeze under § 284.223(a) on January 1, 1989, as reported in Docket No. ST89–1781.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

15. ANR Pipeline Company

[Docket No. CP89–746–000]

February 7, 1989.

Take notice that on February 1, 1989, Renaissance Center, Detroit, Michigan 48243 (ANR), filed in Docket No. CP89–746–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Exxon Corporation (Exxon) under ANR's blanket certificate issued in Docket No. CP88–532–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR requests authorization to transport, on an interruptible basis, up to a maximum of 6,000 dt of natural gas per day for Exxon from receipt points located in offshore Louisiana to delivery points located in Louisiana. ANR anticipates transporting, on an average day 6,000 dt and an annual volume of 2,190,000 dt.

ANR states that the transportation of natural gas for commenced December 1, 1988, as reported in Docket No. ST89–1915–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to ANR in Docket No. CP88–532–000.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

16. ANR Pipeline Company

[Docket No. CP89–745–000]

February 7, 1989.

Take notice that on February 1, 1989, ANR Pipeline Company (ANR), 500 Renaissance Center Detroit, Michigan 48243, filed in Docket No. CP89–650–000 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 the blanket certificate issued in Docket No. CP88–532–000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport natural gas on an interruptible basis for Texaco Gas Marketing, Inc. (Texaco). ANR explains that service commenced January 1, 1989 under § 284.223(a) of the Commission's Regulations, as reported in Docket No. ST89–1914. ANR further explains that the peak day quantity would be 100,000 dekatherms, the average daily quantity would be 100,000 dekatherms, and that the annual quantity would be 36,500,000 dekatherms. ANR explains that it would receive natural gas at an existing point of receipt in Galveston Area Block A–131, Offshore Texas. ANR states that it would deliver the gas to Texas Gas Transmission Corporation in High Island Area Block A–555, offshore Texas.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

17. Interstate Power Company

[Docket No. CP89–738–000]

February 7, 1989.

Take notice that on January 31, 1989, Interstate Power Company (IPW), 1000 Main Street, Dubuque, Iowa 52001, filed in Docket No. CP89–738–000 an application pursuant to Part 157 of the Commission's Regulations and sections 7(f)(1) and 7(b) of the Natural Gas Act for a determination of service area and the abandonment of its section 7(c) transportation certificates, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

IPW states taht the section 7(f)(1) service area determination encompasses IPW's service area in the Iowa communities of Clinton, Camanche and Low Moor in Clinton County, Iowa; IPW's service area in and around the communities of Albany, Fulton, Fenton, Erie and Garden Plain in Whiteside County, Illinois; and IPW's service area in and around the communities of Thomson, Argo Fay and Savanna, Illinois in Carroll County, Illinois. IPW states that it intends to offer only retail gas distribution service and no sale for resale service in the requested service areas subject to the regulatory authority of the respective states' commissions.

IPW further requests the abandonment under section 7(b) of the Natural Gas Act of its section 7(c) transportation certificates which were granted in Docket No. CP86–679. It is requested that the abandonment of these certificates become effective with the granting of its section 7(f)(1) service area when IPW's transportation service would be subject to the exclusive jurisdiction of the state commissions pursuant to the Uniform Regulatory Jurisdiction Act of 1988.

IPW states that a section 7(f)(1) service area determination would enhance its gas supply options, permit it to operate more effectively, expand its distribution system across state boundaries and afford its customers the attendant gas cost benefits that results from a reduction of state constraints and Federal jurisdiction.

Comment date: February 28, 1989, in accordance with Standard Paragraph F at the end of this notice.

18. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP89–723–000]

February 7, 1989.

Take notice that on January 30, 1989, Northern Natural Gas Company, Division of Enron Corp., (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251–1188, filed in Docket No. CP89–723–000, an application pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authority to transport natural gas on behalf of Centran Corporation, a marketer of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Northern proposes to transport up to 3,000 MMBtu per day for Centran Corporation through existing facilities. Construction of facilities will not be required to provide the proposed service. Service under § 284.223(a) commenced December 16, 1988, as reported in Docket No. ST89–1529 (filed December 30, 1988).

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

19. Panhandle Eastern Pipe Line Company

[Docket No. CP89–754–000]

February 7, 1989.

Take notice that on February 3, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–754–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Amgas, Inc. (Amgas), a marketer, under the blanket certificate issued in Docket No. CP86–585–000 on November 20, 1987, 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.

Panhandle states that pursuant to a transportation agreement dated November 23, 1988, under its Rate Schedule PT, it proposes to transport up to 1,000 dekatherms (dt) per day equivalent of natural gas for Amgas

from points of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A", which transportation service may involve interconnections between Panhandle and various transporters. Panhandle states that it would receive the gas at various existing points on its system in Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois, and that it would transport and redeliver the gas, less fuel used and unaccounted for line loss, for Amgas' account to Central Illinois Light Company in Tazewell, Edgar, Moultrie, Douglas, Vermillion, Logan, Champaign, Sangamon, Peoria, and Knox Counties, Illinois.

Panhandle advises that service under § 284.223(a) commenced on January 1, 1989, as reported in Docket No. ST89–1896. Panhandle further advises that it would transport 165 dt on an average day and 60,225 dt annually.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

20. Panhandle Eastern Pipe Line Company

[Docket No. CP89–755–000]

February 7, 1989.

Take notice that on February 3, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–755–000 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 O. I. Brockway Glass, Inc. (Brockway), an end-user, under the blanket certificate issued in Docket No. CP86–585–000 on November 20, 1987, 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.

Panhandle states that pursuant to a transportation agreement dated January 1, 1989, under its Rate Schedule PT, it proposes to transport up to 4,000 dekatherms (dt) per day equivalent of natural gas for Brockway from points of receipt listed in Exhibit "A" of the agreement to delivery points also listed in Exhibit "A", which transportation service may involve interconnections between Panhandle and various transporters. Panhandle states that it would receive the gas at various existing points on its system in Texas, Oklahoma, Kansas, Colorado, Wyoming, and Illinois, and that it would transport and redeliver the gas, less fuel used and unaccounted for line loss, to Brockway in Madison County, Indiana.

Panhandle advises that service under § 284.223(a) commenced on January 1, 1989, as reported in Docket No. ST89–1832. Panhandle further advises that it would transport 4,000 dt on an average day and 1,460,000 dt annually.

Comment date: March 24, 1989, in accordance with Standard Paragraph G at the end of this notice.

21. Transcontinental Gas Pipe Line Corporation

[Docket No. CP89–7–001]

February 7, 1989.

Take notice that on January 27, 1989, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houton, Texas 77251, pursuant to the "Order Finding Niagara Import Point Projects Discrete" issued January 12, 1989 in *Northeast U.S. Pipeline Projects, et al.*, Docket Nos. CP87–451–017, *et al.*, 46 FERC ¶ 61,013 (1989) and in accordance with the Offer of Settlement Regarding Niagara Import Point Projects (Niagara Settlement), filed in Docket No. CP89–7–001 an amendment to its pending application for a certificate of public convenience and necessity filed with the Federal Energy Regulatory Commission (Commission) in Docket No. CP89–7–000 (formerly Docket No. CP88–177–000). Applicant states that the purposes of its amendment is to modify the proposed expansion project to reflect changes, additions, and deletions of facilities and services pursuant to the terms of the Niagara Settlement, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Transco proposes to offer the services in three phases and to construct the related facilities over a three year period.

Transco states that it would provide storage service for potential customers of up to 11 Bcf storage capacity with a maximum daily delivery capability of 100 MMcf at the facilities of Penn-York Energy Corporation in Wharton County, Pennsylvania. Transco further states that although the proposed storage and transportation services are being offered as a joint project Transco would offer the storage and/or transportation service in an unbundled fashion. Transco would offer its storage service and related transportation commencing November 1, 1989. Transco states that this storage and related transportation service would be phase one of its service proposed in this application.

Transco would offer its potential customers the storage service under a proposed Rate Schedule SS–2 the revised initial rates of which would be a demand rate of $12.76 per dekatherm (dt) of contract demand, a monthly capacity rate of $.0396 per dt of annual capacity, and injection and withdrawal charges of $.0376 per dt. Transco states that the derivation of the SS–2 rates for such service entail (1) an accumulation and direct assignment of the charges for the underlying storage and upstream transmission costs, and (2) an allocation to the storage service of a portion of the cost of Transco's proposed facilities which will be used to deliver the additional storage quantities through Transco's system.

Transco states that, on behalf of potential customers, it would provide firm transportation of up to the dekatherm equivalent of 125 MMcf of natural gas per day (MMcf/d) from the United States/Canadian border to a point of delivery for injection into storage or to points of delivery for transportation on Transco's system. Transco states that 48.4 MMcf/d of the 125 MMcf/d of available transportation remains unsubscribed but that it anticipates firm commitment for this capacity in February 1989. Transco further states that it would offer the 125 MMcf/d of Canadian gas in phases two and three to accommodate customer demand, gas availability, and Transco's construction schedule. First Transco would offer 85 MMcf/d to be available in 1990, and next offer 40 MMcf/d to be available in 1991. Transco states that it would use the modified fixed variable rate design for determining the D–1, D–2 reservation rate and commodity rates below.

Delivery Point	D–1 reservation rate ($dt)	D–2 reservation rate ($dt)	Commodity rate ($dt)
1990			
Ellisburg	4.3416	0.0559	0.0694
City Gate	4.3416	0.0559	0.2217
1991			
Ellisburg	4.2216	0.0507	0.0694
City Gate	4.2216	0.0507	0.2089

Transco further states that in phase one (storage service and related transportation) it would construct 27.44 miles of pipeline loop in Lycoming and Monroe Counties, PA. and in Middlesex and Gloucester Counties NJ. Transco would also add a new metering and regulating station at the proposed new interconnection with National Fuel in Clinton County, PA. Transco states that in phase two (transportation of 85 MMcf/d Canadian gas) it would install 12,600 horsepower of new compression

at an existing compressor station in Lycoming County, PA and 12,000 horsepower at a new compressor station in Mercer County, NJ. Transco states that in phase three (transportation of 40 MMcf/d Canadian gas) it would install 1.61 miles of pipeline looping in Northampton County, PA. The total estimated construction costs of the proposed project is $73,474,000.00. Transco states that the proposed facilities will be financed initially through short-term loans and funds on hand, and that permanent financing will be undertaken as part of Transco's overall long-term financing program at a later date.

Comment date: February 24, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

22. United Gas Pipeline Company

[Docket No. CP89-740-000]

February 8, 1989.

Take notice that on January 31, 1989, United Gas Pipeline Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP88-653-000, a request for authorization pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Texas Gas Marketing (TGM), a marketer of natural gas, under the Natural Gas Act, under United's blanket certificate 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 proposed to transport on an interruptible basis up to 103,000 MMBtu equivalent of natural gas on a peak day for TGM's account, 103,000 MMBtu equivalent on an average day and 37,959,000 MMBtu equivalent on an annual basis. It is stated that United would receive the gas for TGM's account at an existing interconnection between United and Sea Robin Pipeline Company near Erath, Vermilion Parish, Louisiana, and would deliver equivalent volumes at existing points on United's line in Louisiana and Texas. It is stated that the transportation service would be effected using existing facilities and would not require the construction of additional facilities. It is explained that the service commenced January 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-1740.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

23. Transwestern Pipeline Company

[Docket No. CP89-749-000]

February 8, 1989.

Take notice that on February 2, 1989, Transwestern Pipeline Company (Transwestern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP89-749-000 an application pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Yates Petroleum Corporation (Yates), a producer of natural gas, under Transwestern's blanket certificate issued in Docket No. CP88-133-000, 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.

Transwestern proposes to transport on an interruptible basis up to 100,000 MMBtu equivalent of natural gas on a peak day for Yates' account, 75,000 MMBtu equivalent on an average day and 36,500,000 MMBtu equivalent on an annual basis. It is stated that Transwestern would receive the gas for Yates' account at existing points on Transwestern's system in Texas and New Mexico and would deliver equivalent volumes at existing points on Transwestern's system in Texas, New Mexico and California. It is explained that the transportation service would be effected using existing facilities and without requiring the construction of additional facilities. It is further explained that the transportation service commenced December 1, 1988, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89-1468.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

24. National Fuel Gas Supply Corporation and Penn-York Energy Corporation

[Docket No. CP88-194-001]

February 8, 1989

Take notice that on January 27, 1989, National Fuel Gas Supply Corporation (National) 10 Lafayette Square Buffalo, New York 14203 and Penn-York Energy Corporation (Penn-York) 10 Lafayette Square Buffalo, New York 14203 filed in Docket No. CP88-194-001 an amendment to their abbreviated joint application pursuant to sections 7(b) and 7(c) of the Natural Gas Act, filed on January 19, 1988 requesting the issuance of a certificate of public convenience and necessity and related abandonment authorization, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

This amended application is filed pursuant to the Order Approving the Niagara Settlement, issued on January 12, 1989 in *Northeast U.S. Pipeline Projects,* Docket No. CP87-451-000, and the offer of Settlement Regarding Niagara Import Point Projects, filed with the Commission on November 21, 1988. This amended application is part of the Transco System Expansion Project, as modified in the approved Niagara Settlement.

As explained in more detail in the body of this amended application, National is making a number of changes to the certificate application first filed in Docket No. CP88-194-000 on January 15, 1988, and subsequently consolidated, as part of the Transco System Expansion Project, by the Commission in the context of the Northeast Open Season. According to National these changes are necessitated by, and consistent with, the approved Niagara Settlement.

Unless specified in this amended application, the proposed facilities and services, and supporting exhibits, set forth in the original application in Docket No. CP88-194-000, remain in force and are incorporated by reference. The changes to National's original application being made in this amendment are outlined ad follows:

(1) *Facilities:*

(a) Supercede the originally proposed 8,400 horsepower compressor at National's existing Gunnville, New York station;

(b) Move the location of, and slightly increase (by 500 horsepower) the size of, and phase-in the 8,100 horsepower compressor and station from East Eden, New York, 9 miles downstream on National's existing line X to Concord, New York;

(c) Replace National's proposed 20 miles of 24" line and appurtenant facilities from an interconnection with Tennessee at Lewiston, New York to National's Nash Road Station (proposed by National in Docket No. CP88-94-000 as part of the TEMCO Project) with National's joint onwership and usage of the Niagara Spur Loop Line (49.2 miles of 30" loop of Tennessee's existing Niagara Spur, detailed in Tennessee's companion amended application in Docket No. CP88-171-000); and

(d) Modify the 41 miles of 24" pipeline from National's existing Ellisburg, Pennsylvania compressor station to Transco's pipeline at Leidy, Pennsylvania in the following respects:

(i) The modified line will be jointly and equally owned and utilized by National and PennEast Gas Services

Company (PennEast), with specific procedures to reconcile the joint owners' equal financial responsibility with different throughput levels, receipt points, and in-service dates;

(ii) Approximately 2.5 miles of 24" line will be added to connect the existing Ellisburg compressor stations of National and CNG Transmission Corporation (CNG) to permit this joint usage:

(iii) 2,600 horsepower of compression will be added at National's Ellisburg station, also to permit this joint usage: and

(iv) With these joint changes, the originally proposed capacity of 225,000 Mcf/d which will be available by November 1989 only from National's Ellisburg station receipt point, will be increased to 326,00 Mcf/d upon the November 1990 in-service date from CNG's Ellisburg station receipt point, that is, when the aforementioned connecting facilities are in place.

(2) *Capitol Costs:*

(a) Provide new capitol cost estimates to reflect the aforementioned changed project facilities; and

(b) update capitol costs to reflect the passage of time, delayed in-service dates associated with the open season consolidation process, and design improvements and refinements.

(3) *Phase-in Schedule for Facilities and Volumes:*

As amended, the Transco System Expansion Project will be phased in over three years, from 1989 and 1991.

(a) In *1989* the storage component is proposed to commence. Penn-York would start receiving gas for injection by April 1989, with withdrawals to start by November 1989.

(b) in *1990* the first increment of Canadian gas transportation service from the Niagara import point is proposed to commence. Specifically, National proposes to transport up to 85,000 Mcf/d to Leidy, along with 34,000 Mcf/d to delivery points on the Niagara Spur Loop Line. National states that it must have 6,300 horse power at its new concord compressor station in service, as well as the pipe and compression facilities at the Ellisburg connecting the National and CNG stations with the 41 mile Ellisburg to Leidy Line. The Niagara Spur Loop Line is proposed to be in service by November 1990.

(c) In *1991* the remaining 40,000 Mcf/d of the Canadian gas transportation service from the Niagara import point is proposed to commence. National states that it requires the remaining 2,300 horsepower at the Concord compressor station to be in service at that time.

(4) *Revised Rates:*

(a) Adjust transportation rates to reflect changed facilities, joint ownership and usage of the Niagara Spur Loop Line and the Ellisburg to Leidy Line, changed volumes, and current precedent for setting National's rates; and

(b) levelize transportation rates to account for phase in of facilities construction, in-service dates, and volumes.

(5) *Markets:*

(a) According to National, the market for the Transco System Expansion Project has been refined over the last year. The Niagara Settlement noted that original nominations exceeded the proposed levels of service, that Transcontinental Pipeline Company (Transco) had requested further data to ascertain *bona fide* markets, and that the results of this review would appear in Transco's amended application. In its companion amended application, Transco is submitting final exclusive contractual arrangements for both the transportation and storage services, and is seeking to demonstrate that the full 11 Bcf of storage and 100,000 Mcf/d of related transportation service is subscribed, as is the Canadian gas transportation service of 125,000 Mcf/d.

(b) As noted in the Niagara Settlement, National is also amending its application to reflect the transportation and purchase of an additional 34,000 Mcf/d through its capacity on the Niagara Spur Loop Line; specifically the purchase of 10,000 Mcf/d for National's own system supply and transportation of 24,000 Mcf/d for a cogeneration shipper for two facilities in New York State.

(6) *Environment:*

According to National, the unchanged portions of the application are ripe for environmental review. In addition National has submitted with the amended application, as exhibit Z–3, a separate document containing the twelve revised resource reports on the changed facilities proposed herein: (1) shift of the East Eden compressor station to Concord, New York; (2) 2.5 miles of 24" line from National's to CNG's compressor station at Ellisburg Pennsylvania; and (3) 2,600 horsepower of compression at National's Ellisburg station. National has also submitted topographical maps and aerials of these facilities.

(7) *Storage Abandonment:*

National is amending the application to delete Penn Fuel Gas, at its request, from Penn-York's abandonment application (by which a portion of Penn-York's storage capacity was to be made available for the project), and to increase by the same amount capacity that it will provide to Penn-York to serve Transco and its customers with the originally requested 11 Bcf of annual storage service.

(8) *Phased Procedural Schedule:*

National is requesting that the Commission *phase* review this, and related applications along with the issuance of the requested certificates to

(i) Assure expedited authorization of those facilities needed for 1989 service (Phase 1),

(ii) Permit sufficient time for Commission review of the Niagara Spur Loop Line and other facilities proposed in this, and other facilities proposed in this, and related, amended applications needed for 1990 and 1991 services (Phase 2), and

(iii) Provide for prompt Phase 2 certification as soon after Phae 1 as possible to meet the timing requirements of the several sponsors of the Niagara import point projects.

Comment date: February 27, 1989, in accordance with Standard Paragraph F at the end of this notice.

25. Southern Natural Gas Company

[Docket No. CP89–739–000]

February 9, 1989.

Take notice that on January 31, 1989, Southern Natural Gas Company, (Southern) filed in Docket No. CP89–739–000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authority to transport gas on an interruptible basis for Tejas Power Corporation (Tejas), a marketer of natural gas, under Southern's blanket certificate issued in Docket No. CP88–316–000, 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.

Southern seeks authority to perform the proposed transportation under its Rate Schedule IT, pursuant to a Transportation Service Agreement dated October 4, 1988 (Agreement). Southern states that the Agreement is for a primary term of one month with successive terms of one month thereafter unless cancelled by either party. Southern further states that Agreement provides for a maximum transportation quantity of 50,000 MMBtu of natural gas and that Tejas expects to transport the full 50,000 MMBtu on an average day, and according thereto, 18,250,000 MMBtu is expected to be transported on an annual basis. Southern proposes to receive the gas at various receipt points located offshore Texas and transport the gas to three (3) points of delivery in Refugio County,

Texas. Southern advises that the transportation service commenced on October 12, 1988, as reported in Docket No. ST89–1553, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

26. Trunkline Gas Company

[Docket No. CP89–757–000]

February 9, 1989.

Take notice that on February 3, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston Texas, 77251–1642, filed in Docket No. CP89–757–000 a request pursuant to §157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Anadarko Trading Company (Anadarko), a shipper and marketer of natural gas, under its blanket certificate issued in Docket No. CP86–586–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trunkline requests authorization to transport, on an interruptible basis, up to a maximum of 75,000 dt of natural gas per day for Anadarko from receipt points located in the states of Illinois, Louisiana, Tennessee and Texas. Trunkline will then transport and redeliver the gas to Columbia Gulf Company in St. Mary Parish, Louisiana. The transportation agreement dated December 30, 1988 (Contract No. T–PLT–1335), has a primary term of one month and shall continue in effect month-to-month thereafter until terminated by either party upon at least 30 days written notice. Trunkline anticipates transporting, on an average day 75,000 dt and an annual volume of 27,375,000 dt.

Trunkline states that the transportation of natural gas for Anadarko commenced January 1, 1989, as reported in Docket No. ST89–1905–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

27. El Paso Natural Gas Company

[Docket No. CP89–737–000]

February 9, 1989.

Take notice that on January 31, 1989, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas, 79978, filed a request for authorization in Docket No. CP89–737–000 pursuant to §§157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to provide interruptible transportation service for Petrus Oil Company, L.P., under its blanket certificate issued at Docket CP88–433–000, all as more fully set forth in the request for authorization on file with the Commission and open to public inspection.

It is stated that El Paso would transport up to 527,000 MMBtu of natural gas per day for Shipper from various receipt points to various delivery points on El Paso's system located in New Mexico, Oklahoma and Texas. El Paso states that the estimated daily and annual quantities would be 26,375 MMBtu and 9,626,875 MMBtu, respectively. El Paso further states that transportation service under § 284.223(a) commenced on December 18, 1988, as reported in Docket No. ST89–1754–000.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

28. Northwest Pipeline Corporation

[Docket No. CP89–764–000]

February 9, 1989.

Take notice that on February 6, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–764–000 a request pursuant to §157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for The Boeing Company (Boeing), an end-user, under its blanket certificate issued in Docket CP86–578–000, 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.

Northwest states that pursuant to a transportation agreement dated September 7, 1988, as amended December 5, 1988, under its Rate Schedule TI–1, it proposes to transport up to 6,000 MMBtu per day equivalent of natural gas for Boeing. Northwest states that it would transport the gas from any of the receipt points on Northwest's system and deliver the gas to any of the delivery points on Northwest's system.

Northwest advises that service under § 284.223(a) commenced December 15, 1988, as reported in Docket No. ST89–2011 (filed January 27, 1989). Northwest further advises that it would transport 50 MMBtu on an average day and 20,000 MMBtu annually.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

29. National Fuel Gas Supply Corporation

[Docket No. CP88–94–001]

February 9, 1989

Take notice that on February 3, 1989,[1] National Fuel Gas Supply Corporation (Applicant) 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP88–94–001 an amended application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of facilities and firm transportation of natural gas, all as more fully set forth in the amended application which is on file with the Commission and open to public inspection.

Applicant filed this amended application pursuant to the January 12, 1989, order issued in Docket No. CP87–451–000. Specifically Applicant states that it proposes to eliminate the construction of 20 miles of 24" line and appurtenant facilities from an interconnection with a Tennessee Gas Pipeline Company (Tennessee) at Lewiston, New York to Applicant's Nash Road Station, with Applicant's joint ownership (with Tennessee and PennEast Gas Services Company) and usage of the Niagara Spur Loop Line (49.2 miles of 30" loop of Tennessee's existing Niagara Spur (a detailed description is contained in Tennessee's amended application in Docket No. CP88–171–001)). Since the Niagara Spur Loop Line will not be placed in service until November 1990, Applicant states that beginning in November 1989, it would be able to transport gas by using 75,000 Mcf/day of firm transportation capacity provided by Tennessee (in the Niagara Settlement) from the Niagara input point to Applicant at Clarence, New York. In November 1990, Applicant would be able to transport this gas from the Niagara import point to its existing line X at East Aurora, New York through its capacity on the Niagara Spur Loop Line.

Because of the change in proposed facilities, Applicant states that for 1989, the proposed monthly demand charge would be $1.2986 per Mcf of the contract demand and the community charge would be $0.0484 per Mcf plus Tennessee's charges for transporting gas to Clarence, New York. The 1990 and 1991 transportation rates are contained

[1] The amendment was tendered for filing on January 27, 1989, however, the fee required by § 381.207 of the Commission's Rules (18 CFR 381.207) was not paid until February 3, 1989. Section 381.103 of the Commission's Rules provides that the filing date is the date on which the fee is paid.

in Applicant's amended application in Docket No. CP88–194–001.

This amended application is part of the TEMCO Project, as modified in the approved Niagaia Settlement. The other two initial proposals (6,000 horsepower of compression at Applicant's Ellisburg station and 1,000 horsepower of compression at Applicant's East Fork station) shall remain in force.

Comment date: March 2, 1989, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

30. Tennessee Gas Pipeline Company

[Docket No. CP89–652–000]

February 10, 1989.

Take notice that on January 18, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, pursuant to section 7(b) of the Natural Gas Act filed in Docket No. CP89–652–000 an application requesting permission and approval to abandon a transportation service for Brooklyn Union Gas Company (Brooklyn Union), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Tennessee states:

1. By Commission order issued December 15, 1978 in Docket No. CP78–490 (5 FERC ¶61,234), Tennessee was authorized, inter alia, to transport and deliver up to 20,000 Mcf of gas per day to Brooklyn, Union. Tennessee delivers the gas to Brooklyn Union at Tennessee's White Plains sales meter station, Westchester County, New York, and/or, to Transcontinental Gas Pipe Line Corporation (Transco) when mutually agreed upon by the parties at Tennessee's Rivervale, Bergen County, New Jersey sales meter station for redelivery by Transco to Brooklyn Union.

2. The authorized transportation service enabled Brooklyn Union to receive volumes of natural gas equivalent to liquefied natural gas (LNG) purchased by Brooklyn Union from Distrigas of Massachusetts Corporation (DOMAC). In order to effect receipt by Brooklyn Union of equivalent volumes of natural gas, Boston Gas Company (Boston Gas) a customer of Tennessee, receives daily volumes of LNG from DOMAC and releases equivalent volumes of natural gas to Tennessee for Brooklyn Union's account at Tennessee's Arlington sales meter station delivery point to Boston Gas in Middlesex County, Massachusetts. Volumes also made available by Boston Gas to Tennessee at the receipt point are volumes designated by Boston Gas from its contracted demand purchases to Tennessee under Tennessee's Rate Schedule CD–6.

3. The authorized transportation service is presently rendered under the terms of an Interruptible Transportation Contract (the Contract) made as of April 10, 1985 by and among Tennessee, Transco, Boston Gas and Brooklyn Union. The Contract has been filed by Tennessee as its FERC Rate Schedule T–82.

4. Article XI of Tennessee's Rate Schedule T–82 provides that the Contract shall extend for a primary term ending March 31, 1985 and year to year thereafter unless terminated by any party upon twelve months prior written notice to the other parties.

In addition, Tennessee states that by this application it seeks authorization to abandon the transportation service for Brooklyn Union authorized in Docket No. CP78–490 effective as of January 31, 1989, since by letter of November 7, 1988, Brooklyn Union has requested such termination to be effective January 31, 1989.

Tennessee further states that it has a rate case before the Commission at Docket No. RP88–228. It will be Tennessee's position that the abandonment of the transportation service as proposed herein should be considered by the Commission and reflected in the decision of RP88–228.

Comment date: March 3, 1989, in accordance with Standard Paragraph F at the end of this notice.

31. Natural Gas Pipeline Company of America

[Docket No. CP89–748–000]

February 10, 1989.

Take notice that on February 2, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–748–000 a request pursuant to §§ 157.205 and 284.223(2)(b) of the Commission's Regulations under the Natural Gas Act for authorization to transport gas for Texarkoma Transportation Company (Texarkoma), a marketer of natural gas, under Natural's blanket certificate issued in Docket No. CP89–748–000 under section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open for public inspection.

Natural states that it would transport, on a firm basis, up to a maximum of 20,000 MMBtu (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule FTS), Texarkoma. Natural states that the receipt points would be located in Oklahoma and Kansas and the delivery points would be located in Illinois and Texas. Natural indicates that the total volume of gas to be transported for Texarkoma on a peak day would be 20,000 MMBtu; on an average day would be 20,000 MMBtu; and an annual basis would be 7,300,000 MMBtu. Natural indicates it would perform the proposed transportation service for Texarkoma pursuant to a service agreement dated January 1, 1989, between Natural and Texarkoma.

Natural states that it commenced the transportation of natural gas for Texarkoma on January 1, 1989, at Docket No. ST89–2112–000 for a 120-day period ending May 1, 1989, pursuant to § 284.223(a)(1) of the Commission's Regulations. Natural states that it proposes to continue this service in accordance with §§ 284.221 and 282.223(b). Natural further states that no new facilities are to be constructed in order to provide this transportation service.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

32. Panhandle Eastern Pipe Line Company

[Docket No. CP89–756–000]

February 10, 1989.

Take notice that on February 3, 1989, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP89–756–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to transport natural gas on behalf of Teepak, Inc. (Teepak), a shipper and end-user of natural gas, under Panhandle's blanket certificate issued in Docket No. CP86–585–000, 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.

Panhandle proposes to transport on a firm basis up to 1,900 dt equivalent of natural gas on a peak day for Teepak, 1,900 dt equivalent on an average day and 693,500 dt equivalent on an annual basis. It is stated that the transportation service would be effected using existing facilities and would not require any construction of additional facilities. It is explained that Panhandle would receive the gas for Teepak's account at existing points on Panhandle's system in Kansas, Texas, Oklahoma, Colorado, Wyoming and Illinois, and would deliver equivalent volumes of gas less fuel used and unaccounted for line loss to Illinois Power Company in Vermilion County, Illinois. It is explained that the service

commenced January 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST89–1834.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

33. CNG Transmission Corporation

[Docket No. CP89–769–000]

February 10, 1989.

Take notice that on February 6, 1989, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26302, filed in Docket No. CP89–769–000 a prior notice request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for various shippers under the certificate issued in Docket No. CP86–311–000, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

CNG proposes to transport gas for the shippers on an interruptible basis from various receipt points on its system to various interconnections between CNG and certain local distribution companies and pipelines. CNG lists for each shipper the receipt and delivery points, the maximum daily, average daily, and annual volumes, as well as the docket number related to the 120-day transportation service initiated by CNG (see attached appendix).

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

APPENDIX

Docket No.	Shipper or customer	Commence date	Max. daily, Avg. daily, Est. annual	Receipt point	Delivery point or LDC
ST89–1944	Gulf Ohio Corp	12/15/88	900 48 17,520	B	NFG.
ST89–1952	Access Energy Corp	12/01/88	1,000 600 219,000	C	RGE.
ST89–1950	Phoenix Diversified Ventures, Inc	12/01/88	5,000 100 36,500	B	RGE.
ST89–1949	Pentex Petroleum, Inc	12/29/88	2,000 100 36,500	B	Tenn.
ST89–1946	End Users Supply System	12/30/88	30,000 1,197 436,905	C	Texas Eastern.
ST89–1947	Texas-Ohio Gas, Inc	12/02/88	3,000 823 300,395	A	Texas Eastern.
ST89–1951	Heath Petra Resources, Inc	12/10/88	30,000 1,903 694,595	A	Transco.
ST89–1945	Pentex Petroleum, Inc	12/28/88	2,000 100 36,500	B	North Penn.

Legend of LDC's or Delivery Points: RGE—Rochester Gas & Electric Corp.; NFG—National Fuel Gas Supply Corp.; Transco—Transcontinental Gas Pipeline Corporation; North Penn—North Penn Gas Company; Tenn.—Tennessee Gas Pipeline Company; Texas Eastern—Texas Eastern Transmission Corporation.
Legend of Receipt Points: A—Various interconnects between Tennessee Gas Pipeline Company and CNG; B—Various receipt points in WV/PA/NY; C—Various interconnects between Texas Gas Transmission Corp. and CNG.

34. Northwest Pipeline Corporation

[Docket No. CP89–763–000]

February 10, 1989.

Take notice that on February 6, 1989, Northwest Pipeline Corporation (Northwest), P.O. Box 8900, Salt Lake City, Utah 84108–0900, filed in Docket No. CP89–763–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to provide an interruptible transportation service for Murphy Plywood Company (Murphy), an end user of natural gas, under its blanket certificate issued in Docket No. CP86–578–000 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.

Northwest states that it proposes to transport natural gas for Murphy from various receipt points on its system to delivery points located on Northwest Natural Gas Company's and CP National Corporation's distribution systems.

Northwest further states that the maximum daily average and annual quantities that it would transport for Murphy would be 1,500 MMBtu equivalent of natural gas, 30 MMBtu equivalent of natural gas and 1,000 and 11,000 MMBtu equivalent of natural gas, respectively.

Northwest indicates that in a filing made with the Commission on January 27, 1989, it reported in Docket No. ST89–2017–000 that transportation service for Murphy had begun on December 23, 1988 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

35. Northwest Pipeline Corporation

[Docket No. CP89–776–000]

February 10, 1989.

Take notice that on February 7, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89–776–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide a transportation service for

Jermone P. McHugh (McHugh), a producer, under the blanket certificate issued in Docket No. CP86–578–000 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.

Northwest states that pursuant to a transportation agreement dated January 1, 1987, as amended, under its Rate Schedule TI–1, it proposes to transport up to 10,000 MMBtu per day equivalent of natural gas for McHugh. Northwest states that it would transport the gas from wells in the San Juan Basin area of Rio Arriba County, New Mexico, to the Ignacio Plant delivery point and the Ignacio interconnect with El Paso Natural Gas Company (El Paso) in LaPlata County, Colorado, and to the existing LaJara and Tapacito interconnects with El Paso in Rio Arriba County, New Mexico.

Northwest advises that service under § 284.223(a) commenced December 22, 1988, as reported in Docket No. ST89–1766 (filed January 17, 1989). Northwest further advises that it would transport 5,800 MMBtu on an average day and 2,100,000 MMBtu annually.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

36. Trunkline Gas Company

[Docket No. CP89–758–000]

February 10, 1989.

Take notice that on February 3, 1989, Trunkline Gas Company (Trunkline), P.O. Box 1642, Houston, Texas, 77251–1642, filed in Docket No. CP89–758–000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 284.223) for authorization to transport natural gas for Exxon Corporation (Exxon or Shipper), a shipper and producer of natural gas, under Trunkline's blanket certificate issued in Docket No. CP86–586–000 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 for public inspection.

Trunkline proposes to transport, on an interruptible basis, up to 100,000 dt equivalent of natural gas per day on behalf of Exxon pursuant to a transportation agreement dated December 22, 1988, between Trunkline and Exxon. Trunkline states that the transportation agreement provides for Trunkline to receive gas from various existing points of receipt on its system. It is stated that Trunkline will then transport and redeliver subject gas, less fuel and unaccounted for line loss, to Transcontinental Pipe Line Corporation (Transco) in Beauregard Parish, Louisiana. Trunkline states that no new facilities nor expansion of existing facilities are required to provide the service. Trunkline further states that the estimated daily and estimated annual quantities would be 100,000 dt equivalent of natural gas and 36,500,000 dt equivalent of natural gas, respectively, based upon Shipper's estimates. It is stated that service under § 284.223(a) commenced on December 31, 1988, as reported in Docket No. ST89–1907.

Comment date: March 27, 1989, in accordance with Standard Paragraph G at the end of this notice.

37. Natural Gas Pipeline Company of America

[Docket No. CP89–750–000]

February 10, 1989.

Take notice that on February 2, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP89–750–000 a request pursuant to § 157.205 of the Commission's Regulations for authorization to provide transportation service on behalf of Coastal Gas Marketing Company (Coastal), under Natural's blanket certificate issued in Docket No. CP86–582–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural requests authorization to transport, on an interruptible basis, up to a maximum of 300,000 MMBtu of natural gas per day for Coastal, a marketer of natural gas, from receipt points located in Louisiana, Offshore Louisiana, Illinois, Oklahoma, Texas, Offshore Texas, Kansas, and Iowa to delivery points located in Louisiana, Missouri, Texas, Iowa and Illinois. Natural anticipates transporting, on an average day 100,000 MMBtu and an annual volume of 36,500,000 MMBtu.

Natural states that the transportation of natural gas for Coastal commenced December 1, 1988, as reported in Docket No. ST89–2113–000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP86–582–000.

Comment date: March 27, 1989 in accordance with Standard Paragraph G at the end of the 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. 89–3527 Filed 2–14–89; 8:45 am]

BILLING CODE 6717–01–M

[Project Nos. 9518-002, *et al.*]

Calaveras County Water District, et al.; Surrender of Preliminary Permits and Exemptions

February 8, 1989.

Take notice that the following preliminary permits/exemptions have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Calaveras County Water District

[Project No. 7589-002]

Take notice that the Calaveras County Water District, Permittee for the Upper Mokelumne River Multipurpose Water Development Project No. 9518, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 9518 was issued January 16, 1987, and would have expired December 31, 1989. The project would have been located on the Middle Fork Mokelumne River, the South Fork Mokelumne River and the Mokelumne River in Calaveras County, California.

The Permittee filed the request on January 13, 1989.

2. Baker Mountain Hydro Electric Company

[Project No. 10224-001, Washington]

Take notice that Baker Mountain Hydro Electric Company, Permittee for the Cascade Creek Project No. 10224, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10224 was issued July 28, 1987, and would have expired June 30, 1990. The project would have been located on Cascade Creek in Whatcom County, Washington.

The Permittee filed the request on January 23, 1989.

3. Cascade River Hydro

[Project No. 10278-002, Washington]

Take notice that Cascade River Hydro, Permittee for the Kindy Creek Project No. 10278, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10278 was issued July 28, 1987, and would have expired June 30, 1990. The project would have been located on Kindy Creek in Skagit County, Washington.

The Permittee filed the request on January 23, 1989.

Standard Paragraph

I. The preliminary permit/exemption shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 89-3528 Filed 2-14-89; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-180803; FRL-3519-8]

Receipt of an Application For a Specific Exemption To Use Avermectin B_1; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the California Department of Food and Agriculture (hereafter referred to as the "Applicant") for use of avermectin B_1 (AVID 0.15 EC™) to control two-spotted spider mites (*Tetranychus urticae*) on 11,000 acres of strawberries in California. Avermectin B_1 (CAS 63AB) contains a mixture of avermectins containing > 80% avermectin B_{1a} (5-0-demethyl avermectin A_{1a}) and □ 20% avermectin B_{1b} (5-0-demethyl-25-de(1-methylpropyl-25-(1-methylethyl)avermectin A_{1a}). In accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before March 2, 1989.

ADDRESS: Three copies of written comments, bearing the identification notation "OPP-180803" should be submitted by mail to: Public Docket and Freedom of Information Section, Field Operations Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. In person, bring comments to: Room 246, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information (CBI)." Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for inspection in Room 246 at the address given above from 8 a.m. to 4 p.m., Monday through Friday, excluding all legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: Libby Pemberton, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Office location and telephone number: Rm. 716, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any provisions of FIFRA if he determines that emergency conditions exist which requires such exemption.

The Applicant has requested the Administrator to issue a specific exemption for the use of avermectin B_1, manufactured as AVID 0.15 EC™, by Merck & Co., Inc., on strawberries in California. No tolerances have been established for avermectin B_1 on any raw agricultural commodities.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant proposes ground applications applied at a rate of 16 ounces of product per acre per application. A maximum of four applications will be made per acre per crop season. Treatment would not be allowed 3 days prior to harvest.

The Applicant indicates that warm dry weather and use of pesticides necessary to control insects lead to a build up of the population of spider mites. This has been the case in the affected area for a number of seasons. An additional factor in allowing the increase of this pest in 1988 was the loss of Plictran, which was the primary miticide used on strawberries. Additionally, resistance to other miticides (e.g., Kelthane, Vendex, and Carzol) have reduced their effectiveness, while the recent change in the reentry interval for Omite, essentially eliminates its use during the fruiting season, according to the Applicant.

The Applicant indicates that without adequate control of the spider mites a potential loss of $4 to $9 million could occur from this pest.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice in the **Federal Register** and solicit public comment on an application

involving the first food use of a pesticide. Accordingly, interested persons may submit written views on this subject to the Field Operations Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Dated: January 31, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-3417 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

[PF-510; FRL-3520-4]

Nor-Am Chemical Co.; Filing of Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the filing of pesticide petition (PP) 7F3511 for the pesticide clofentezine in or on various commodities by the Nor-Am Chemical Co.

ADDRESS:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

In person, bring comments to: Room 246, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 246 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Dennis H. Edwards, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 202, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-2386.

SUPPLEMENTARY INFORMATION: EPA has received from the Nor-Am Chemical Co., P.O. Box 7495, 3509 Silverside Rd., Wilmington, DE 19803, a pesticide petition, PP 7F 3511, proposing to establish tolerances for residues of the pesticide chemical clofentezine ([3,6-bis(2-chlorophenyl)-2,2,4,5-tetrazine]) in or on pears at 0.5 part per million (ppm); apples at 0.5 ppm; milk, meat, and meat byproducts of cattle at 0.05 ppm; and liver of cattle at 0.5 ppm.

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

Dated: January 26, 1989.

Anne E. Lindsay,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 89-3533 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59268; FRL-3520-7]

Toxic and Hazardous Substances; Test Market Exemption Applications

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substance Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt are discused in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application(s) for exemption, provides a summary, and requests comments on the appropriateness of granting this exemption.

DATES: Written comments by: T 89-7, February 18, 1989.

ADDRESS: Written comments, identified by the document control number "[OPTS-59268]" and the specific TMD number should be sent to: TSCA 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: 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: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer of the TME received by EPA. The complet nonconfidential document is available in the Public Reading Room NE-G004 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 89-7

Close of Review Period. March 4, 1989.

Manufacturer. Confidential.

Chemical. (S) Melamine amyl phosphate.

Use/Production. (S) Flame retardant. Prod. range: 50,000-5,000,000 kg/yr.

Date: February 2, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-3534 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59861; FRL-3520-6]

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). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of five such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 89-49—January 30, 1989
Y 89-50—February 1, 1989
Y 89-51—January 30, 1989
Y 89-53, 89-54—February 6, 1989

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: 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.

Y 89-49

Manufacturer. Sicpa Securink Corporation.
Chemical. (G) Alkyd resin.
Use/Production. (S) Manufacture of printing inks. Prod. range: Confidential.

Y 89-50

Manufacturer. Sicpa Securink Corporation.
Chemical. (G) Intaglio varnish.
Use/Production. (S) Manufacture of printing inks. Prod. range: Confidential.

Y 89-51

Manufacturer. Sicpa Securink Corporation.
Chemical. (G) Intaglio varnish.
Use/Production. (S) Manufacture of printing inks. Prod. range: Confidential.

Y 89-53

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

Y 89-54

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

Date: February 1, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-3535 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59862; FRL-3520-g]

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). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of three such PMN(s) and provides a summary of each.

DATES: Close of Review Periods:

Y 89-55, 89-56, 89-57—February 20, 1989.

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: 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.

Y 89-55

Manufacturer. Scipa Ink Systems Corporation.
Chemical. (G) Amine polymer.
Use/Production. (S) Offset printing ink. Prod. range: 40,000-280,000 kg/yr.

Y 89-56

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Styrene terpene hydrocarbon terpolymer.
Use/Production. (S) Tackifier component used in the production of various adhesive systems. Prod. range: Confidential.

Y 89-57

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (S) Flexible bending resin. Prod. range: Confidential.

Date: February 9, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-3536 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51727; FRL-35209]

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 sixty-four such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 89-269, 89-270, 89-271—April 16, 1989.
P 89-272—April 8, 1989.
P 89-273—April 12, 1989.
P 89-274, 89-275, 89-276, 89-277, 89-278—April 17, 1989.
P 89-279—April 18, 1989.
P 89-280, 89-281, 89-282, 89-283, 89-284, 89-285—April 22, 1989.
P 89-286, 89-287, 89-288, 89-289, 89-290, 89-291, 89-292, 89-293, 89-294, 89-295—April 23, 1989.
P 89-296—April 24, 1989.
P 89-297, 89-298, 89-299, 89-300, 89-301—April 25, 1989.
P 89-302, 89-303, 89-304—April 26, 1989.
P 89-305, 89-306, 89-307, 89-308, 89-309, 89-310, 89-311, 89-312, 89-313, 89-314—April 29, 1989.
P 89-315, 89-316, 89-317, 89-318, 89-319, 89-320, 89-321, 89-322, 89-324, 89-325, 89-326, 89-327—April 30, 1989.
P 89-328, 89-329, 89-330, 89-331, 89-332, 89-333—May 1, 1989.

Written comments by:

P 89-269, 89-270, 89-271—March 17, 1989.
P 89-272—March 9, 1989.
P 89-273—March 13, 1989.
P 89-274, 89-275, 89-276, 89-277, 89-278—March 18, 1989.
P 89-279—March 19, 1989.
P 89-280, 89-281, 89-282, 89-283, 89-284, 89-285—March 23, 1989.

P 89-286, 89-287, 89-288, 89-289, 89-290, 89-291, 89-292, 89-293, 89-294, 89-295—March 24, 1989.
P 89-296—March 25, 1989.
P 89-297, 89-298, 89-299, 89-300, 89-301—March 26, 1989.
P 89-302, 89-303, 89-304—March 27, 1989.
P 89-305, 89-306, 89-307, 89-308, 89-309, 89-310, 89-311, 89-312, 89-313, 89-314—March 30, 1989.
P 89-315, 89-316, 89-317, 89-318, 89-319, 89-320, 89-321, 89-322, 89-324, 89-325, 89-326, 89-327—March 31, 1989.
P 89-328, 89-329, 89-330, 89-331, 89-332, 89-333—April 1, 1989.

ADDRESS: Written comments, identified by the document control number "[OPTS-51727]" 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: 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: 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 89-269

Manufacturer. Confidential.
Chemical. (G) Modified hydrocarbon polymer.
Use/Production. (G) Additive for the binder used in publication gravure printing inks. Prod. range: Confidential.

P 89-270

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 89-271

Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (S) Spray applied coatings. Prod. range: Confidential.

P 89-272

Manufacturer. Confidential.
Chemical. (G) Isocyanate terminated urethane prepolymer.
Use/Production. (S) Hot melt adhesive. Prod. range: Confidential.

P 89-273

Manufacturer. Confidential.
Chemical. (G) Substituted aromatic ketone.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 89-274

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Unsaturated polyester resin.
Use/Production. (S) Polyester laminating resin. Prod. range: Confidential.

P 89-275

Importer. Confidential.
Chemical. (G) Polyphenylene precursor.
Use/Import. (G) Prepolymer. Import range: Confident.
Toxicity Data. Acute oral toxicity LD50 > 2,000 mg/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: slight species (Rabbit). Skin sensitization: negative species (Guinea pig).

P 89-276

Manufacturer. Confidential.
Chemical. (G) Saturated polyester resin.
Use/Production. (G) Resin. Prod. range: Confidential.

P 89-277

Manufacturer. DSM Resins U.S., Inc.
Chemical. (G) Dibasic/acid glycol ester.
Use/Production. (G) Use in the formulation of organic coatings. Prod. range: Confidential.

P 89-278

Manufacturer. Confidential.
Chemical. (G) Organophosphine.
Use/Production. (G) Petrochemical catalyst. Prod. range: Confidential.

P 89-279

Manufacturer. Hoechst Celanese.
Chemical. (G) Modified phenol formaldehyde resin.
Use/Production. (S) Resin preproduct. Prod. range: 25,000-135,000 kg/yr.

P 89-280

Manufacturer: BioTechnica Agriculture, Inc.
Microorganism: (G) *Rhizobium meliloti* strain SU47 from the Rothamsted Experiment Station collection was modified, using recombinant DNA techniques, to contain an antibiotic resistance marker and other genes to enhance nitrogen-fixing ability.

Genes were introduced from the following genera: streptomycin and spectinomycin resistance genes from *Shigella flexneri,* transcriptional terminator sequences from *Escherichia coli,* and additional intergeneric genes to enhance the nitrogen-fixing ability.

Use/Production: (G) a small-scale field trial to test the competitive ability of the engineered strain and to determine whether alfalfa yield can be increased in the field. Production range: 1×10^{13} cells per year.

Test Data: The dry weight of alfalfa plants infected with the PMN strain was increased 3% compared to plants infected with the parent strain after 3 weeks of growth in a greenhouse.

Exposure: Human: Production and field application, maximum of 6 people. *Environmental:* The log cell number per gram of soil decreased from 7.2 to approximately 6, over 4 weeks in laboratory studies using soil from the field test site.

Environmental Release/Disposal: In the small scale field trial, release to air, soil, and water are possible. Cells will be applied in an aqueous suspension to the soil in a single application immediately after planting the alfalfa seeds. The treated area of the field plot is 0.07 acres over a total test site area of 0.75 acres. The field test experiment will be conducted within a 14-acre parcel of land leased by BTA in Bristol Township, Dane County, Wisconsin. Laboratory cultures are sterilized before disposal and entered into Publicly Owned Treatment Works (POTW).

P 89-281

Manufacturer. Confidential.
Chemical. (G) Deep dye nylon 6.
Use/Production. (S) Nylon fiber carpet component. Prod. range: Confidential.

P 89-282

Manufacturer. Amoco Corporation.
Chemical. (G) Epoxy/amine adduct.
Use/Production. (S) Component in epoxy prepreg resin system. Prod. range: 225-450 kg/yr.

P 89-283

Manufacturer. Amoco Corporation.
Chemical. (G) Epoxy/amine resin.
Use/Production. (S) Component in epoxy prepreg resin system. Prod. range: 4-10 kg/yr.

P 89-284

Manufacturer. Amoco Corporation.
Chemical. (G) Epoxy/amine resin.

Use/Production. (S) Component in epoxy resin formulation in fiber reinforced prepreg (carbon fiber, glassfiber, aramid fiber). Prod. range: 1,800 kg/yr.

P 89–285

Manufacturer. Amoco Corporation.
Chemical. (G) Oil ether.
Use/Production. (G) Resin component. Prod. range: 800 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 1.55 mg/kg species (Rat). Acute dermal toxicity: LD50 8.6 ml/kg species (Rabbit). Eye irritation: slight species (Rabbit). Skin irritation: slight species (Rabbit).

P 89–286

Manufacturer. Confidential.
Chemical. (G) Modified alkyl alkoxy silane.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.

P 89–287

Manufacturer. R.T. Vanberbilt Company, Inc.
Chemical. (G) Methyl acid phosphate alkylamine.
Use/Production. (S) Antiwear and extreme pressure agent for libricants. Prod. range: Confidential.

P 89–288

Manufacturer. Confidential.
Chemical. (G) Acrylourethane.
Use/Production. (G) Coatings for open nondispersive use. Prod. range: Confidential.

P 89–289

Manufacturer. Confidential.
Chemical. (G) Acrylourether.
Use/Production. (G) Coatings for open nondispersive use. Prod. range: Confidential.

P 89–290

Manufacturer. E.I Du Pont De Nemours & Co., Inc.
Chemical. (S) Pyridine 2,3,4,5-tetrahydro-5-methyl.
Use/Production. (S) Manufacture of beta-picoline. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 1690 mg/kg species (rat).

P 89–291

Manufacturer. Confidential.
Chemical. (G) Alkyl aryl modified alkoxy polyol polymer.
Use/Production. (S) Additive for polyurethane foam. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 20.7 mg/kg species (Rat). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit).

P 89–292

Manufacturer. Confidential.
Chemical. (G) Carboxy alkyl silyl salt.
Use/Production. (G) Additive for engine coolant formulations. Prod. range: Confidential.

P 89–293

Manufacturer. Confidential.
Chemical. (G) Modified polyester of carbomoncyclic acids and anhydride with neogentyl glycol.
Use/Production. (S) Coil coatings to be applied to steel substrate. Prod. range: 32,000-160,000 kg/yr.

P 89–294

Manufacturer. Confidential.
Chemical. (G) Aromatic aliphate polyester.
Use/Production. (G) Industrially used coating with an open use. Prod. range: 200,000–60,000 kg/yr.

P 89–295

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 89–296

Manufacturer. Confidential.
Chemical. (G) Phosphonic acid salt.
Use/Production. (G) Dispersive use scale inhibitor additive. Prod. range: Confidential.

P 89–297

Importer. Organic Dyestuffs Corporate.
Chemical. (G) Reactive red rb.
Use/Import. (S) Resale as is and physical mixtures other shading colors. Import range: Confidential.

P 89–298

Importer. Organic Dyestuffs Corporation.
Chemical. (G) Reactive yellow 1.
Use/Import. (S) Resale as is and physical mixtures other shading colors. Import range: 1,000-10,000 kg/yr.

P 89–299

Manufacturer. Confidential.
Chemical. (G) Amine functional epoxy salted with an organic acid.
Use/Production. (S) Coatings. Prod. range: Confidential.

P 89–300

Importer. Confidential.
Chemical. (G) Brominated aromatic ether oligomer.
Use/Import. (S) Flame retardants for plastics. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 25,000 mg/kg species (Mouse). Acute dermal toxicity: LD50 > 10,000 mg/kg species (Mouse). Mutagenicity: negative.

P 89–301

Manufacturer. Eastman Kodak Company.
Chemical. (G) Disubstituted glycine potassium complex.
Use/Production. (G) Open, nondispersive use. Prod. range: 10,000–500,000 kg/yr.

P 89–302

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Urethane modified acrylic polymer.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 89–303

Importer. Marubeni America Corporation.
Chemical. (S) 2-Oxo-4-methyl-6-gureido pryridine.
Use/Import. (S) Fertilizer for consumer use. Import range: 40–500,000 kg/yr.

P 89–304

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Phenolic modified alkyd.
Use/Production. (S) Industrial coating vehicle. Prod. range: Confidential.

P 89–305

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Organopolysiloxane.
Use/Import. (S) Adhesive for plastic compounds and rubber compounds. Import range: 1,000–6,000 kg/yr.

P 89–306

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Organopolysiloxane.
Use/Production. (S) Adhesive for epoxy resin compounds. Import range: 10–40 kg/yr.

P 89–307

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Organopolysiloxane.
Use/Import. (S) Ingredient for silicone, rubber compounds and for coating. Import range: 1,000–2,000 kg/yr.

P 89–308

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Polyorganosilazane.
Use/Import. (S) Coating. Import range: 30–100 kg/yr.

P 89-309

Manufacturer. Air Products and Chemicals, Inc.
Chemical. (G) Alkylated aromatic diamine.
Use/Production. (S) Process recycle intermediate. Prod. range: Confidential.

P 89-310

Manufacturer. Air Products and Chemicals, Inc.
Chemical. (G) Alkylated aromatic diamine.
Use/Production. (S) Process recycle intermediate. Prod. range: Confidential.

P 89-311

Manufacturer. Air Products and Chemicals, Inc.
Chemical. (G) Alkylated aromatic diamine.
Use/Production. (S) Process recycle intermediate. Prod. range: Confidential.

P 89-312

Manufacturer. Air Products and Chemicals, Inc.
Chemical. (G) Alkylated aromatic diamine.
Use/Production. (S) Process recycle intermediate. Prod. range: Confidential.

P 89-313

Manufacturer. Air Products and Chemicals, Inc.
Chemical. (G) Alkylated aromatic diamine.
Use/Production. (S) Process recycle intermediate. Prod. range: Confidential.

P 89-314

Manufacturer. Air Products and Chemicals, Inc.
Chemical. (G) Alkylated aromatic diamine.
Use/Production. (S) Process recycle intermediate. Prod. range: Confidential.

P 89-315

Importer. Confidential.
Chemical. (G) Substituted-substituted-benzoxazine.
Use/Import. (G) Paper coating. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50>2,500 mg/kg specied (Rat). Acute dermal toxicity: LD50>2,000 mg/kg species (Rabbit). Eye irritation: none species (Rabbit). Skin irritation: negligible species (Rabbit. Mutagenicity: negative.

P 89-316

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Peroxy initiated acrylic ester/ether polymer.
Use/Production. (G) Destructive use. Prod. range: Confidential.

P 89-317

Manufacturer. GE Plastics.
Chemical. (G) Arylalkyl polycyclicdoil.
Use/Production. (S) Monomer for manufacture of polycarbonate resins, and polyester carbonate resins. Prod. range: Confidential.

P 89-318

Manufacturer. GE Plastics.
Chemical. Arylalkyl copolycarbonate resin.
Use/Production. (S) Molded thermoplastic resin products. Prod. range: Confidential.

P 89-319

Manufacturer. Confidential.
Chemical. (G) Polyalkylene glycol ester with alkanoic acids.
Use/Production. (G) Plasticizer and lubricant for polymeric materials. Prod. range: Confidential.

P 89-320

Importer. Huils America Inc.
Chemical. (G) Saturated polyester resin from dibasic acids and polyol.
Use/Import. (S) Coatings and adhesives. Import range: 50,000-300,000 kg/yr.

P 89-321

Manufacturer. Confidential.
Chemical. (G) Substituted dithiocarbamate.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 89-322

Manufacturer. GTE Products Corporation.
Chemical. (G) Ytrium tantalate.
Use/Production. (S) Phosphor for use in X-ray intensifying screens for medical radiography. Prod. range: Confidential.

P 89-324

Manufacturer. Goldschmidt Chemical Corproation.
Chemical. (G) Carboxymodified polyether.
Use/Production. (G) Epoxy resin additive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 5,005 mg/kg species (Rat). Eye irritation: none species(Rabbit). Skin irritation: negligible species(Rabbit).

P 89-325

Importer. Goldschmidt Chemical Corporation.
Chemical. (G) Tetraalkyl-tin-trialkoxysilane.
Use/Import. (G) Open, nondispersive use. Import range: Confidential.

P 89-326

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Organopolysiloxane.
Use/Import. (S) Textile finishing agent and additive for plastics. Import range: 10,000-15,000 kg/yr.

P 89-327

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (S) Methymethacrylate-2-hydroxy ethyl methacrylate; copolymer; methylmethacrylate-3-(trimethoxysilyl)propol; methacrylate copolymer; trichloromethylsilanepolymer with dichloro; dimethylsilane, trichlorophyenylsilane and diphenyldichlorosilane.
Use/Import. (S) Paints and coating materials for metals. Import range: 1,000-5,000 kg/yr.

P 89-328

Importer. Confidential.
Chemical. (G) Alkyl ketone.
Use/Import. (G) Site limited intermediate. Import range: 884,250-1,965,000 kg/yr.

P 89-329

Manufacturer. Confidential.
Chemical. (S) Trisubstituted sulfonium salt.
Use/Production. (G) Site limited intermediate. Prod. range: Confidential.

P 89-330

Manufacturer. Confidential.
Chemical. (G) Epoxide.
Use/Production. (G) Site limited intermediate. Prod. range: Confidential.

P 89-331

Manufacturer. Confidential.
Chemical. (G) Styrenated acrylic polymer.
Use/Production. (S) Intermediate. Prod. range: Confidential.

P 89-332

Manufacturer. Confidential.
Chemical. (G) Styrenated acrylic polymer oxirane adduct.
Use/Production. (G) Paint. Prod. range: Confidential.

P 89-333

Manufacturer. American Cyanmid Company.
Chemical. (G) Substituted thiophosphate.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.

Date: February 9, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 89-3518 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51726; FRL-3521-1]

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 thirty-three such PMNs and provides a summary of each.

DATES: Close of Review Periods:

P 89-202, 89-203—March 22, 1989
P 89-226—March 26, 1989
P 89-239, 89-240—April 5, 1989
P 89-241, 89-242, 89-243, 89-244, 89-245, 89-246, 89-247, 89-248, 89-249, 89-250, 89-251, 89-252—April 8, 1989
P 89-253—April 10, 1989
P 89-254—April 8, 1989
P 89-255, 89-256, 89-257, 89-258, 89-259, 89-260, 89-261—April 9, 1989
P 89-262, 89-263, 89-264, 89-265, 89-266, 89-267, 89-268—April 11, 1989

Written comments by:

P 89-202, 89-203—February 20, 1989
P 89-226—February 24, 1989
P 89-239, 89-240—March 6, 1989
P 89-241, 89-242, 89-243, 89-244, 89-245, 89-246, 89-247, 89-248, 89-249, 89-250, 89-251, 89-252—March 9, 1989
P 89-253—March 11, 1989
P 89-254—March 9, 1989
P 89-255, 89-256, 89-257, 89-258, 89-259, 89-260, 89-261—March 10, 1989
P 89-262, 89-263, 89-264, 89-265, 89-266, 89-267, 89-268—March 12, 1989

ADDRESS: Written comments, identified by the document control number "(OPTS-51726)" 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: 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: 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 89-202

Importer. Confidential.
Chemical. (G) Polyester acrylate.
Use/Import. (G) Polymer component for coating. Import range: Confidential.

P 89-203

Importer. Confidential.
Chemical. (G) Polyester acrylate.
Use/Import. (G) Polymer component for coating. Import range: Confidential.

P 89-226

Importer. Kuraray International Corporation.
Chemical. (S) 3-methyl-1, 3-butanediol.
Use/Import. (S) Cosmetics. Import range: 10-20 kg/yr.

P 89-239

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Neutralized aryl- alky organic acid.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89-240

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Acrylic copolymer ammonium salt.
Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 89-241

Manufacturer. The Dow Chemical Company.
Chemical. (G) Blocked aromatic isocyanate.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-242

Manufacturer. The Dow Chemical Company.
Chemical. (G) Blocked aromatic isocyante.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-243

Manufacturer. The Dow Chemcial Company.
Chemical. (G) Blocked aromatic isocyanate.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-244

Manufacturer. The Dow Chemical Company.
Chemical. (G) Blocked aromatic isocyanate.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-245

Manufacturer. The Dow Chemical Company.
Chemical. (G) Block aromatic isocyanate.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-246

Manufacturer. The Dow Chemical Company.
Chemical. (G) Block aromatic isocyanate.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-247

Manufacturer. The Dow Chemical Company.
Chemical. (G) Block aromatic isocyanate.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-248

Manufacturer. The Dow Chemical Company.
Chemical. (G) Block aromatic isocyanate.
Use/Production. (G) Coating. Prod. range: Confidential.

P 89-249

Manufacturer. Confidential.
Chemical. (G) Acrylic solution polymer.
Use/Production. (G) Open, dispersive use. Prod. range: Confidential.

P 89-250

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Organotin compound.
Use/Import. (S) Curing catalyst. Import range: 400-600 kg/yr.

P 89-251

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Organopolysiloxane.

Use/Import. (S) Ingredient for silicone rubber compounds. Import range: 1,000–3,000 kg/yr.

P 89–252

Importer. Shin-Estu Silicones of America, Inc.
Chemical. (G) Organopolysiloxane.
Use/Import. (S) Ingredient for coating. Import range: 3,000–5,000 kg/yr.

P 89–253

Manufacturer. Reilly Tar & Chemical Corporation.
Chemical. (G) Organometallic heterocycle.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 89–254

Manufacturer. K.C. Coatings, Inc.
Chemical. (G) Unsaturated polyamide ether.
Use/Production. (S) Base resin for printing inks. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5 g/kg species (Rat). Eye irritation: slight species (Rabbit). Skin irritation: moderate species (Rabbit). Mutagenicity: negative.

P 89–255

Importer. Confidential.
Chemical. (G) Polyacrylate resin.
Use/Import. (S) Intermediate. Import range: Confidential.

P 89–256

Manufacturer. Confidential.
Chemical. (G) Styrene acrylate methacrylate.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 89–257

Importer. Confidential.
Chemical. (G) Polyamine adduct of epon 1001.
Use/Import. (S) Hardener for epoxy. Import range: Confidential.

P 89–258

Manufacturer. Confidential.
Chemical. (G) Polyacrylate resin.
Use/Production. (G) Paint. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (Rat). Skin irritation: moderate species (Rabbit). Mutagenicity: negative.

P 89–259

Manufacturer. Ferro Corporation—Bedford Chem. Div.
Chemical. (G) Plastic additive.
Use/Production. (S) Plastic additive. Prod. Range: Confidential.

P 89–260

Manufacturer. Huls America Inc.
Chemical. (G) C12–C14 tert-alkyl amides.
Use/Production. (S) Organic intermediate. Prod. range: Confidential.

P 89–261

Manufacturer. Confidential.
Chemical. (S) Monisopropanol amine; isophthalic acid; cyclohexane dimethanol; phosphorus acid.
Use/Production. (G) Pigment. Prod. range: 150,000–400,000 kg/yr.

P 89–262

Manufacturer. Confidential.
Chemical. (G) Vinyl acetate-acrylate copolymer.
Use/Production. (G) Pressure sensitive adhesive emulsion. Prod. range: Confidential.

P 89–263

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene copolymer.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 89–264

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene copolymer.
Use/Production. (G) Intermediate. Prod. range: Confidential.

P 89–265

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene copolymer.
Use/Production. (S) Polymer scrap. Prod. range: Confidential.

P 89–266

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene copolymer.
Use/Production. (S) Polymer scrap. Prod. range: Confidential.

P 89–267

Manufacturer. E.I. Du Pont De Nemours & Co., Inc.
Chemical. (G) Ethylene polymer.
Use/Production. (S) Polymer scrap. Prod. range: Confidential.

P 89–268

Manufacturer. Confidential.
Chemical. (G) Alkyl amine.
Use/Production. (G) Dispersive. Prod. range: Confidential.
Toxicity Data. Acute oral toxicity: LD50> 5 g/kg species (Rat). Eye irritation: moderate species (Rabbit). Skin irritation: neglible species (Rabbit). Mutagenicity: negative.

Date: February 3, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 3519 Filed 2–14–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Michael P. Stephens et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

	City/State	File No.	MM Docket No.
I. Applicant			
A. Michael P. Stephens	Locust Grove, OK	BPH-871124MK	89-6
B. David C. Simpson	Locust Grove, OK	BPH-871215MD	
C. Murry Broadcasting, Inc	Locust Grove, OK	BPH-871216MF	
Issue Heading and Applicants			
1. Comparative, A,B,C			
2. Ultimate A,B,C			
II. Applicants			
A. William A. Brownlee d/b/a Rudolph Radio Company	Rudolph, WI	BPH-880107NC	89-8
B. M&M Broadcasting	Rudolph, WI	BPH-880107NE	
Issue Heading and Applicants			
1. Financial, B			
2. Air Hazard, A			
3. Comparative, A,B			
4. Ultimate, A,B			
III. Applicants			
A. Joseph J. Matta, Jr.	Ocean Acres, NJ	BPH-870417MA	89-10
B. Pasquale C. Tominaro et al. d/b/a Seaira Associates	Ocean Acres, NJ	BPH-870430NM	
C. Fredrick and Naomi C. Gerken d/b/a Barnegat Broadcasting Company	Ocean Acres, NJ	BPH-870430NN	
D. Bay Communications, L.P.	Ocean Acres, NJ	BPH-870430NO	
E. Word Alive Ministries	Ocean Acres, NJ	BPH-870430NR	
F. Frank Canale	Ocean Acres, NJ	BPH-870430NS	
G. Howard Burtensky and Louis Gotsis Associates	Ocean Acres, NJ	BPH-870430OC	
H. Richard Lee Harvey	Ocean Acres, NJ	BPH-870430OM	
I. Press Broadcasting Company	Ocean Acres, NJ	BPH-870430NP (Previously Dismissed).	
Issue Heading and Applicants			
1. Air Hazard, E			
2. Comparative, A,B,C,D,E,F,G,H			
3. Ultimate, A,B,C,D,E,F,G,H			

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicants to which it applies are set forth in an Appendix to this notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street NW., Washington, DC 20037. (Telephone (202) 857-3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 89-3504 Filed 2-14-89; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice that the following agreement(s) has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after the date of the **Federal Register** in which this notice appears. The requirements for comments and protests are found in § 560.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 202-008054-032.

Title: South and East Africa/U.S.A. Agreement.

Parties:

The Bank Line.
Empresa de Navegacao Internacional (Navinter)
Lykes Bros. Steamship Co., Inc.
P&O Containers, Ltd.
Safbank Line, Ltd. (Safbank).

Synopsis: The proposed modification would prohibit members lines from entering into loyalty contracts or exercising independent action on any loyalty contract offered by the Conference.

Agreement No.: 202-009502-025.

Title: United States/South and East Africa Agreement.

Parties:

The Bank Line.
Empresa de Navegacao Internacional (Navinter)
Lykes Bros. Steamship Co., Inc.
P&O Containers, Ltd.
Safbank Line, Ltd. (Safbank).

Synopsis: The proposed modification would prohibit members lines from entering into loyalty contracts or exercising independent action on any loyalty contract offered by the Conference.

Agreement No.: 203-010999-003.

Title: Ecuador Discussion Agreement.

Parties:

United States Atlantic and Gulf/ Ecuador Freight Association.
Transportes Navieros Equatorianos.
Gran Golfo Express.

Synopsis: The proposed modification would add Compania Chilean de Navigacion as an Independent Carrier Party to the Agreement. The parties have requested a shortened review period.

Agreement No.: 232–011230.
Title: V.A.G. Transport/Tecomar Reciprocal Space Charter and Sailing Agreement.

Parties:

V.A.G Transport GmbH.
Tecomar S.A.

Synopsis: The proposed Agreement would authorize the parties to discuss, and agree upon terms and conditions of service. It would also permit the parties to charter space and slots from one another and to rationalize sailings in the trade from ports in Mexico to ports on the United States Atlantic and Gulf Coast.

By Order of the Federal Maritime Commission.

Dated: February 10, 1989.

Joseph C. Polking,

Secretary.

[FR Doc. 89–3548 Filed 2–14–89; 8:45 am]

BILLING CODE 6730–01–M

[Petition No. P8–99]

American Trucking Associations; Further Notice of Filing of Petition

On September 2, 1988, the Federal Maritime Commission ("Commission") served a "Notice of Filing of Petition" in connection with a filing by the American Trucking Associations ("ATA"). That Petition requested that the Commission issue an order to show cause why carriers serving Pacific Coast ports should not be ordered to cease and desist from implementing the 50-mile Container Rules at those particular ports.

The basis for the Petition was the August 9, 1988, decision of the U.S. Court of Appeals for the District of Columbia Circuit in *New York Shipping Association v. FMC,* 854 F.2d 1338 (1988), affirming the Commission's final decision in Docket No. 81–11, *"50-Mile Container Rules" Implementation By Ocean Common Carriers Serving the U.S. Atlantic and Gulf Coast Ports—Possible Violations of the Shipping Act, 1916,* 24 S.R.R. 411 (1987). In Docket No. 81–11, the Commission determined that rules applicable at East Coast ports, and which the ATA alleges are similar to those at Pacific Coast ports, were violative of the Shipping Act, 1916, the Shipping Act of 1984, and the Intercoastal Shipping Act, 1933.

Because of the possibility of a further rehearing before the Court of Appeals or review on writ of certiorari by the United States Supreme Court, the Commission's September 2, 1988, Notice indicated that ATA's Petition would be held in abeyance.

On January 23, 1989, the United States Supreme Court denied certiorari of the lower court's decision affirming the Commission's rulings (see, *ILA v. FMC* 57 LW 3486). In view of the Supreme Court's denial of certiorari, the Commission, by this notice, is not seeking comments on ATA's Petition.

Therefore, in order for the Commission to make a thorough evaluation of the Petition, interested persons are requested to submit views, arguments or data on the Petition no later than March 17, 1989. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573–0001 in an original and 15 copies. Responses shall also be served on ATA's counsel, Kenneth E. Siegel, Esq., ATA Litigation Center, 2200 Mill Road, Alexandria, Virginia 22314 and shall include an indication that service has been made. Copies of the Petition are available at the Washington, DC office of the Commission, 1100 L Street NW., Room 11101.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89–3553 Filed 2–14–89; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control; Acquisitions of Shares of Banks or Bank Holding Companies; Thomas W. Colbert, et al.

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 March 1, 1989.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Thomas W. Colbert,* Forest, Mississippi; to acquire 31.61 percent of the voting shares of Metropolitan Corporation, Biloxi, Mississippi, and thereby indirectly acquire Metropolitan National Bank, Biloxi, Mississippi.

B. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *L.T. Womack,* Lincoln, Nebraska; Joseph Polack, Omaha, Nebraska; and M. Victor Monson, Omaha, Nebraska; to each acquire 8.87 percent of the voting shares of Corn Belt Bancorporation, Lincoln, Nebraska, and thereby indirectly acquire Corn Belt State Bank, Correctionville, Iowa, and Union National Bank, Massena, Iowa.

Board of Governors of the Federal Reserve System, February 10, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89–3561 Filed 2–14–89; 8:45 am]

BILLING CODE 6210–01–M

GENERAL SERVICES ADMINISTRATION

Federal Telecommunications System Meeting/Hearing-Impaired and Speech-Impaired Needs

Time and Date: 10:00, Thursday, February 23, 1989.

Place: 18th and F Street NW., Washington, DC, Room 3210.

Status: Open.

Matters to be Considered: GSA will consider issues related to the Federal telecommunications system and the accessibility needs of hearing-impared and speech-impaired individuals.

Contact Person for Reservations: Leah Urcia, 566–0291.

Dated: February 7, 1989.

Francis A. McDonough,

Deputy Commissioner, Federal Information Resources Management Service.

[FR Doc. 89–3565 Filed 2–14–89; 8:45 am]

BILLING CODE 6820–25–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Twenty-Third National Immunization Conference; Meeting

Action: Notice of Meeting—23rd National Immunization Conference.

Federal, State, and local public health officials, as well as representatives from the private sector who are involved in the organization and implementation of immunization activity, will participate.

Time and Date: Registration—Monday, June 5, 1989.

The Program is scheduled for 8:30 a.m.–5 p.m., Tuesday, June 6, through Thursday, June 8, and from 8:30 a.m.–11:30 a.m. on Friday, June 9.

Place: Holiday Inn—Embarcadero, San Diego, California, (619) 232–3861.

Status: Open to public, limited only by available space.

Matters to be Discussed: Current status of the epidemiology, prevention, and control of vaccine-preventable diseases.

Contact Person for More Information: Mr. Conrad P. Ferrara, Program Support Section, Division of Immunization, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: FTS 236–1836; Commercial: (404) 639–1836.

Dated: January 27, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–3482 Filed 2–14–89; 8:45 am]

BILLING CODE 4160–18–M

Public Health Conference on Records and Statistics; Meeting

ACTION: Notice of meeting.

The Centers for Disease Control announces the dates and other information for the following conference scheduled to assemble during the month of July 1989.

Name: 22nd National Meeting of the Public Health Conference on Records and Statistics.

Time and Date: 9:00 am–5:00 pm, July 17 and 18, and 9:00 am–3:00 pm, July 19, 1989.

Place: Mayflower Hotel, 1127 Connecticut Avenue NW., Washington, DC 20036.

Status: Open (registration required, however, there is no registration fee).

Purpose: The theme "Challenges for Public Health Statistics in the 1990's" will focus on the demands on health statistics for use in planning and evaluating health program strategies. Public health issues covered will be Promotion and Prevention, Surveillance and Epidemiology, and Targeting Services. A broad spectrum of topics pertinent to current and future public health concerns will be covered.

Contact Person for More Information: Substantive program and registration information of the meeting may be obtained from Nancy G. Hamilton, Public Health Conference on Records and Statistics, Office of Planning and Extramural Programs, National Center for Health Statistics, Room 2–12, Center Building, 3700 East West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7122.

Dated: February 9, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–3484 Filed 2–14–89; 8:45 am]

BILLING CODE 4160–18–M

Vessel Sanitation Program; Meeting

ACTION: Notice of public meeting between the Centers for Disease Control (CDC) and the cruise ship industry, private sanitation consultants, and other interested parties.

Time and Date: 9:00 a.m.—Wednesday, March 8, 1989.

Place: Miami Port Authority, Passenger Terminal No. 10, 1007 North American Way, Miami, Florida.

Status: Open to the public for participation, comment, and observation, limited only by space available.

SUPPLEMENTARY INFORMATION: As part of the Vessel Sanitation Program, CDC conducts pubic meetings with members of the cruise ship industry, private sanitation consultants, and other interested parties. This meeting is a continuation of a series of public meetings.

Matters to be Considered: Experience to date with the operation of the Vessel Sanitation Program including a review of the results of vessel sanitation inspections; changes in the method of reporting the results of sanitation inspections; and proposed revisions to the *Vessel Sanitation Program Operations Manual.*

For a period of 15 days following the meeting, through March 23, 1989, the official record of the meeting will remain open so that additional material or comments may be submitted to be made part of the record of the meeting.

Contact Person for More Information: Woodrow Garrett, Special Programs Group, Center for Environmental Health and Injury Control, CDC, Atlanta, Georgia 30333. Telephone: FTS: 236–4595; Commercial: (404) 488–4595.

Dated: February 9, 1989.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 89–3483 Filed 2–14–89; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

[Docket No. 89M–0003]

Collagen Corp.; Premarket Approval of Alveoform™ Biograft

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Collagen Corp., Palo Alto, CA, for premarket approval, under the Medical Device Amendments of 1976, of Alveform™ Biograft. After reviewing the recommendation of the General and Plastic Surgery Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 28, 1988, of the approval of the application.

DATE: Petitions for administrative review by March 17, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Thomas J. Callahan, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301–427–7156.

SUPPLEMENTARY INFORMATION: On December 11, 1986, Collagen Corp., Palo Alto, CA 94303–3334, submitted to CDRH an application for premarket approval of Alveoform™ Biograft. The device is composed of hydroxyapatite particles which are bound together with fibrillar collagen, and is indicated for the augmentation or reconstruction of the atrophic mandible and/or maxilla.

On May 29, 1987, the General and Plastic Surgery Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 28, 1988, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at

CDRH—contact Thomas J. Callahan, address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee on experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 17, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: February 8, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89–3493 Filed 2–14–89; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Delegation of Authority; Administrator, Health Resources and Services Administration

Notice is hereby given that in furtherance of the delegation of authority to the Assistant Secretary for Health on January 14, 1981, by the Secretary of Health and Human Services, the Assistant Secretary for Health has delegated to the Administrator, Health Resources and Services Administration, all of the authorities under Title III, Part H, of the Public Health Service Act, as amended, pertaining to Organ Transplants, excluding the authorities to issue regulations, to submit reports to Congress or a congressional committee, to establish advisory committees or councils, or to appoint members to advisory committees or councils. Also excluded was the authority under section 373(b) (42 U.S.C. 274b) pertaining to the Bone Marrow Registry.

Redelegation

This authority may be redelegated.

Effective Date

This delegation was effective on February 2, 1989.

Date: February 2, 1989.

Robert E. Windom,

Assistant Secretary for Health.

[FR Doc. 89–3547 Filed 2–14–89; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–010–GP9–0109]

Extension of Public Comment Period for the Molycorp Guadalupe Mountain Tailings Disposal Facility Draft Environmental Impact Statement (EIS)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of extension of public comment period.

SUMMARY: The Bureau of Land Management, Albuquerque District, announces the extension of the public review and comment period for the Molycorp Guadalupe Mountain Tailings Disposal Facility DEIS.

DATE: Written comments on the Draft EIS will be accepted if they are submitted or post-marked no later than March 9, 1989.

ADDRESS: Comments should be sent to Robert Dale, District Manager, Bureau of Land Management, Albuquerque District Office, 435 Montano NE., Albuquerque, New Mexico 87107.

FOR FURTHER INFORMATION CONTACT: Kent Hamilton, Bureau of Land Management, Albuquerque District Office, 435 Montano NE., Albuquerque, New Mexico 87107, telephone commercial (505) 761–4546, FTS 474–4546.

Date: February 9, 1989.

Patricia E. McLean,

Associate District Manager.

[FR Doc. 89–3503 Filed 2–14–89; 8:45 am]

BILLING CODE 4310–FB–M

Final—Western Oregon Program Management of Competing Vegetation; Environmental Impact Statement; Availability

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the final environmental impact statement for Western Oregon Management of Competing Vegetation and request for comments to be used in development of the proposed decision.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a Final Environmental Impact Statement for Management of Competing Vegetation on lands in western Oregon. The proposal involves implementing a vegetation management program on approximately 1.8 million acres of public lands administered by the Bureau of Land Management.

SUPPLEMENTARY INFORMATION: The EIS examines the proposed action to use a selection of vegetation management methods, including mechanical, chemical, biological and thermal, to control competing vegetation on public forest lands in western Oregon. The EIS also examines seven alternatives which emphasize or eliminate use of particular methods.

Seventy-nine comment letters on the draft EIS and supplement to the draft EIS were received and have been included in the Final EIS along with BLM's responses to those comments. Text changes in response to public and peer review comments have been incorporated into the Final EIS.

DATES: A 60-day public review and comment period on the Final EIS will end on April 18, 1989. The public is encouraged to use this extended review period to prepare and submit comments to be used by the BLM in developing a proposed decision. The resulting

proposed decision will be made available to the public for review and comment prior to preparation and issuance of a final decision document.

LOCATIONS: Reading copies and a limited number of individual copies of the Final EIS are available in Oregon BLM Offices in Portland, Salem, Tillamook, Eugene, Roseburg, Coos Bay, Medford, Klamath Falls, and Lakeview.

FOR FURTHER INFORMATION CONTACT: Tom Aufenthie, Branch of Forestry, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, Telephone (503) 231–6834.

Dated: February 1, 1989.

Charles W. Luscher,

State Director, Oregon/Washington.

[FR Doc. 89–3550 Filed 2–14–89; 8:45 am]

BILLING CODE 4320–09–M

[OR–942–09–4730–12: GP9–119]

Filing of Plats of Survey; Oregon/Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Oregon State Office, Portland, Oregon, thirty (30) calendar days from the date of this publication.

Willamette Meridian

Oregon

T. 8 S., R. 2 E., approved December 2, 1988
T. 20 S., R. 4 W., approved December 2, 1988
T. 22 S., R. 7 W., approved December 23, 1988
T. 17 S., R. 2 E., approved December 23, 1988
T. 14 S., R. 8 W., approved January 6, 1989
T. 6 S., R. 44 E., approved January 20, 1989

Washington

T. 36 N., R. 20 E., approved September 30, 1988
T. 7 N., R. 18 E., approved January 20, 1989

If protests against a survey, as shown on any of the above plat(s), are received prior to the date of official filing, the filing will be stayed pending consideration of the protest(s). A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

The plat(s) will be placed in the open files of the Oregon State Office, Bureau of Land Management, 825 NE Multnomah, Portland, Oregon 97208, and will be available to the public as a matter of information only. Copies of the plat(s) may be obtained from the above office upon required payment. A person or party who wishes to protest against a survey must file with the State Director, Bureau of Land Management, Portland, Oregon, a notice that they wish to protest prior to the proposed official filing date given above. A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the proposed official filing date.

The above-listed plats represent dependent resurveys, survey and subdivision.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 825 N.E. Multnomah Street, P.O. Box 2965, Portland, Oregon 97208.

Dated: February 6, 1989.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89–3488 Filed 2–14–89; 8:45 am]

BILLING CODE 4310–33–M

National Park Service

Concession Contract Negotiation; International Leisure Hosts, Ltd.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession contract with International Leisure Hosts, Ltd. authorizing it to continue to provide camping, food, retail merchandising, and gasoline facilities and services for the public at John D. Rockefeller Memorial Parkway, Wyoming for a period of up to twenty years from January 1, 1990 through December 31, 2009.

EFFECTIVE DATE: May 16, 1989.

ADDRESS: Interested parties should contact the Regional Director, Rocky Mountain Region, P.O. Box 25287, Denver, Colorado 80225–0287, for information as to the requirements of the proposed contract.

SUPPLEMENTARY INFORMATION: This proposed contract requires a construction and improvement program. The construction and improvement program required was previously addressed in the Environmental Review of Assessment of Alternatives, approved November 6, 1979, that was prepared in conjunction with the Development Concept Plan for John D. Rockefeller, Jr. Memorial Parkway.

International Leisure Hosts, has been conducting certain operations under the immediate supervision of the Superintendent, Grand Teton National Park, (307) 733–2880, pursuant to a U.S. Forest Service Special Use Permit which expires by limitation of time on December 31, 1989. The permittee is being administratively granted a preference in the nature of that granted to satisfactory concessioners under 16 U.S.C. 20, provided that the permittee submits a responsive proposal.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of International Leisure Hosts, must be postmarked or hand delivered on or before the ninetieth (90th) day following publication of this notice to be considered and evaluated.

Date: February 8, 1989.

Lorraine Mintzmyer,

Regional Director, Rocky Mountain Region.

[FR Doc. 89–3552 Filed 2–14–89; 8:45 am]

BILLING CODE 4310–70–M

Upper Delaware Citizens Advisory Council; Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committee Act.

DATE: February 24, 1989, 7:P.M.[1]

Inclement Weather Reschedule Date: March 10, 1989.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recreational River P.O. Box C, Narrowsburg, NY 12765–0159; 717–729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will cover a summary report of

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

the 1988 recreational season and administrative business, including membership and charter renewal.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Dated: February 7, 1989.

Alec Gould,

Deputy Regional Director, Mid-Atlantic Region.

[FR Doc. 89-3549 Filed 2-14-89; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332-269]

Likely Impact of EC Government Procurement Initiatives Affecting Excluded Sectors

AGENCY: United States International Trade Commission.

ACTION: Likely impact of EC Government procurement initiatives affecting excluded sectors.

SUMMARY: Following receipt on November 28, 1988, of a request from U.S. Trade Representative at the direction of the President, the Commission instituted investigation No. 332-269 under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of providing a report on EC government procurement initiatives affecting sectors that have previously been effectively closed to all international (including intra-EC) competition—namely, the telecommunications, water, transportation, and energy sectors, frequently referred to as the "excluded sectors."

More specifically, USTR requested that the Commission provide a report containing the following information:

1. A review of studies on the likely impact of excluded sector procurement initiatives being considered in the 1992 process, in particular, any independent European research on these matters;

2. An analysis of each excluded sector coverage;

3. A review of current procurement laws, policies and practices in each EC member state;

4. A reporting of sales levels by country of origin for excluded sector products in major non-producing markets outside the United States and EC;

5. A reporting of sales levels of domestic suppliers and major foreign suppliers in each EC country under current arrangements;

6. Analysis of industry attributes affecting the competitive environment in the excluded sectors; and

7. Estimates of trade creation and trade diversion under alternative scenarios (to be supplied by USTR) for 1992 excluded sector procurement rules.

USTR has modified its original request to ask that the Commission submit its report not later than June 15, 1989.

EFFECTIVE DATE: December 30, 1988.

FOR FURTHER INFORMATION CONTACT: Joseph Francois (202) 252-1229 or Donald Rousslang (202) 252-1223, Research Division, Office of Economics, U.S. International Trade Commission, Washington, DC 20436.

PUBLIC HEARING: The Commission will hold a public hearing on this investigation at the United States International Trade Commission Building, 500 E Street, SW, Washington, DC, beginning at 9:30 a.m. on March 23, 1989. All persons shall have the right to appear in person or to be represented by counsel, to present information, and to be heard. Persons wishing to appear at the public hearing should file requests to appear and should file prehearing briefs (original and 14 copies) with the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, no later than noon, March 3, 1989. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 252-1000.

WRITTEN SUBMISSION: Interested persons are invited to submit written statements concerning the matters to be addressed in the report. Commercial or financial information that a party desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked as "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons in the Office of the Secretary to the Commission. To be assured of consideration by the Commission, written statements relating to the Commission's report and post-hearing briefs should be submitted at the earliest practical date and should be received no later than April 7, 1989. All submissions should be addressed to the Secretary to the Commission at the Commission's office in Washington, DC.

Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 252-1810.

By order of the Commission.

Issued: February 9, 1989.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-3577 Filed 12-14-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-293 and 295 (Final), and Investigations Nos. 731-TA-412 through 419 (Final)]

Industrial Belts From Israel, et al.

AGENCY: United States International Trade Commission.

ACTION: Institution of final antidumping investigations and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigations Nos. 731-TA-412 (Final) (Israel), 731-TA-413 (Final) (Italy), 731-TA-414 (Final) (Japan), 731-TA-415 (Final) (Singapore), 731-TA-416 (Final) (South Korea), 731-TA-417) (Final) (Taiwan), 731-TA-418 (Final) (United Kingdom), and 731-TA-419 (Final) (West Germany) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Israel, Italy, Japan, Singapore, South Korea, Taiwan, the United Kingdom, and West Germany of industrial belts,[1] provided for in

[1] The merchandise covered by these investigations includes certain industrial belts for power transmission. These include V-belts, synchronous belts, round belts, and flat belts, in part or wholly or rubber or plastic, and containing textile fiber (including glass fiber) or steel wire, cord or strand, and whether in endless (i.e., closed loop) belts, or in belting in lengths or links. These investigations exclude conveyor belts and automotive belts as well as front engine drive belts

Continued

subheadings 4010.10.10, 4010.10.50, 5910.00.10, and 5910.00.90 of the Harmonized Tariff Schedule of the United States (items 358.02, 358.06, 358.08, 3258.09, 358.11, 358.14, 358.16, 657.25, and 773.35 of the Tariff Schedules of the United States), that have been found by the Department of Commerce, in preliminary determinations, to be sold in the United States at less than fair value (LTFV). Unless the investigations are extended, Commerce will make its final LTFV determinations on or before April 11, 1989, and the Commission will its make final injury determinations by May 31, 1989 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b)).

In addition, the Commission hereby gives notice of its intention to conduct its final countervailing duty investigations Nos. 710–TA–293 (Final) (Israel) and 701–TA–295 (Final) (South Korea), which were instituted effective December 2, 1988 (53 FR 52517, December 28, 1988), concurrently with its antidumping investigations.

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's rules of Practice and Procedure, part 207, subparts A and C (19 CFR part 207 as amended, 53 FR 33041 *et seq.* (August 29, 1988)), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: February 1, 1989.

FOR FURTHER INFORMATION CONTACT: Tedford Briggs (202–252–1181), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–252–1000.

SUPPLEMENTARY INFORMATION:

Background.—These antidumping investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that imports of industrial belts from Israel, Italy, Japan Singapore, South Korea, Taiwan, the United Kingdom, and West Germany are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigations were requested in a petition filed on June 30, 1988, by The Gates Rubber Co., Denver, CO. In response to that petition the Commission conducted preliminary antidumping investigations and, on the basis of information developed during the course of those investigations determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (53 FR 32478, August 25, 1988).

Participation in the investigations.—Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR § 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3, as amended (53 FR 33041 *et seq.* (August 29, 1988)), of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a) as amended, 53 FR 33041 *et seq.* (August 29, 1988)), the Secretary will make available business proprietary information gathered in these final investigations to authorized applicants under a protective order, provided that the application be made not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Staff report.—The prehearing staff report in these investigations will be placed in the nonpublic record on April 14, 1989, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with these investigations beginning at 9:30 a.m. on April 27, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 14, 1989. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on April 21, 1989, at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 24, 1989. The hearing will be a consolidated proceeding for the countervailing and antidumping investigations.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 207.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2)).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on May 3, 1989. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations on or before May 3, 1989.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business

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found on equipment powered by internal combustion engines, including trucks, tractors, buses, and left trucks.

proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a) as amended, 53 FR 33041 *et seq.* (August 29, 1988)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than May 8, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: February 10, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-3576 Filed 2-14-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-409 (Final)]

Certain Light-Walled Rectangular Pipes and Tubes from Argentina

AGENCY: United States International Trade Commission.

ACTION: REVISED SCHEDULE FOR THE SUBJECT INVESTIGATION.

EFFECTIVE DATE: January 12, 1989.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202-252-1182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION: Effective November 21, 1988, the Commission instituted the subject investigation and established a schedule for its conduct (53 FR 50303, December 4, 1988). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from January 30, 1989 to March 31, 1989 (54 FR 1199, January 12, 1989). The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's schedule for the investigation is revised as follows: the deadline for filing posthearing briefs is April 7, 1989, and the deadline for Parties to file additional written comments on business proprietary information is April 14, 1989. The schedule through the date of the hearing for this investigation remains the same, and the schedule for the investigation concerning imports of light-walled rectangular pipes and tubes from Taiwan (731-TA-410 (Final)) has not been altered.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: February 7, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-3579 Filed 2-14-89 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-296 (Final)]

Certain Steel Wheels From Brazil

AGENCY: United States International Trade Commission.

ACTION: Scheduling of a hearing to be held in connection with a final countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of a hearing to be held in connection with a final countervailing duty investigation No. 701-TA-296 (Final) conducted under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of steel wheels,[1] provided for in subheading 8708.70.80 of the Harmonized Tariff Schedule of the United States (item 692.32 of the Tariff Schedules of the United States), that have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before April 7, 1989 and the Commission will make its final injury determination by May 24, 1989 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207, as amended, 53 FR 33041 *et seq.* (August 29, 1988)), and Part 201, subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: February 1, 1989.

FOR FURTHER INFORMATION CONTACT: Debra Baker (202-252-1180), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—Effective October 28, 1988, the Commission instituted a final countervailing duty investigation on certain steel wheels from Brazil (53 FR 48320, November 30, 1988). It planned to establish a schedule for the conduct of the investigation when the Department of Commerce made a preliminary determination in the currently ongoing antidumping investigation on steel wheels from Brazil. The date of that determination was originally scheduled to be January 5, 1989. On December 20, 1988, Commerce, at the request of the petitioner Kelsey Hayes Company,

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[1] The products covered by this investigation are steel wheels currently classifiable in *Harmonized Tariff Schedule (HTS)* subheading 8708.70.80 and provided for in item 692.3230 of the *Tariff Schedules of the United States Annotated (TSUSA)*. The merchandise includes steel wheels, assembled or unassembled, consisting of a disc and a rim, designed to be mounted with both tube type and tubeless pneumatic tires, in wheel diameter sizes ranging from 13.0 inches to 16.5 inches, inclusive, and generally for use on passenger automobiles, light trucks and other vehicles.

extended its preliminary antidumping duty determination to not later than February 24, 1989. To date, the petitioner has not requested that Commerce's final subsidy determination be delayed to conform with the final antidumping determination. The Commission is therefore establishing a schedule for the conduct of the countervailing duty investigation on certain steel wheels.

Staff report.—The prehearing staff report in this investigation will be placed in the nonpublic record on April 7, 1989, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing.—The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on April 20, 1989 at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on April 11, 1989. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on April 14, 1989 at the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is April 17, 1989.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonbusiness proprietary summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any business proprietary materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2))).

Written submissions.—All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22).

Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on April 17, 1989. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before April 27, 1989.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended, 53 FR 33041 *et seq.* (August 29, 1988)) may comment on such information in their prehearing and posthearing briefs, and may also file additional written comments on such information no later than May 2, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the posthearing briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: February 7, 1989.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 89-3578 Filed 2-14-89; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-55 (Sub-No. 274X)]

CSX Transportation, Inc.; Abandonment Exemption; In Sumter County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc., of 3.9 miles of rail line in Sumter County, FL, subject to standard labor protective conditions and a 180-day public use condition.

DATES: Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on March 17, 1989. Formal expressions of intent to file an offer [1] of financial assistance under 49 CFR 1152.27(c)(2) must be filed by February 27, 1989, petitions to stay must be filed by March 2, 1989, and petitions for reconsideration must be filed by March 13, 1989.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 274X), to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Charles M. Rosenberger—J150, Senior Counsel, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245. TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.)

Decided: February 7, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-3421 Filed 2-14-89; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; Quemetco Inc., et al.

Notice is hereby given that a proposed Consent Decree in *United States* v. *Quemetco Inc., et al.*, Civil Action No. IP87-684C (S.D. Ind.) between the United States, on behalf of the Environmental Protection Agency ("EPA"), and Quemetco, Inc., RSR Corporation, and Quemetco Realty has been lodged on February 6, 1989 with the United States District Court for the Southern District of Indiana. The Consent Decree resolves claims of the United States against Quemetco, Inc., RSR Corporation, and Quemetco Realty under the Solid Waste Dispostal Act, *as*

[1] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987).

amended, 42 U.S.C. 6901 *et seq.* (also referred to as the Resource Conservation and Recovery Act "RCRA"). The United States' claims relate to RCRA violations and the release of hazardous lead-contaminated waste into the environment at a smelting facility located at 90 Quemetco Drive, Indianapolis, Indiana. Under the settlement reflected in the Consent Decree, Quemetco, Inc., RSR Corporation, and Quemetco Realty will pay a civil penalty of $54,000 to the United States and will undertake various actions to ensure compliance with RCRA regulations and to investigate and correct contamination attributable to the Indianapolis facility.

The Department of Justice will receive comments relating to the proposed Consent Decree for 30 days following the publication of this Notice. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Quemetco Inc.*, D.J. Ref. No. 90-7-1-368. The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Indiana, U.S. Courthouse, 46 East Ohio Street, 5th Floor, Indianapolis, Indiana 46204, and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 6317, Tenth and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained 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 $2.70 (10 cents per page for reproduction costs), payable to the Treasurer of the United States.

Donald A. Carr,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 89-3567 Filed 2-14-89; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT

Meeting

AGENCY: National Advisory Commission on Law Enforcement.

ACTION: Notice of Commission meeting.

SUMMARY: Notice of Commission Meeting on the Methods and Rates of Compensation of Federal Law Enforcement Officers as well as Comparisons with Their Nonfederal Counterparts.

DATES: The first Commission meeting is scheduled for Wednesday, February 22, 1989, from 2:00 to 4:00 p.m.

ADDRESSES: The meeting will be held in room 7313, at GAO Headquarters, 441 G Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Drew Valentine, Staff Director, or Patrick Mullen, Deputy Staff Director, at (202) 275-1777.

SUPPLEMENTARY INFORMATION: The National Advisory Commission on Law Enforcement (ACLE) was created by the Anti-drug Abuse Act of 1988 (Pub. L. 100-690, Sec. 6160). The Commission was created to study "the methods and rates of compensation, including salary, overtime pay, retirement policies, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned."

Among the items to be discussed are: (1) the number and type of law enforcement personnel to be surveyed, (2) the need for and the number of public hearings to be held, (3) the basic approach to the study, (4) the use of outside consultants to supplement the Commission staff, and (5) issues to be addressed in the study. Members of the public wishing to attend the Commission meeting should notify the Commission staff on 275-1777 by close of business on February 20, 1989.

Charles A. Bowsher,

Chairman, National Advisory Commission on Law Enforcement.

[FR Doc. 89-3671 Filed 2-14-89; 8:45 am]

BILLING CODE 1610-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Advisory Committee on Preservation; Meeting

Notice is hereby given that the National Archives Advisory Committee on Preservation will meet on March 30-31, 1989. The meeting will be held from 10 a.m. to 4 p.m. on Thursday, March 30, 1989 and 9 a.m. to 1 p.m. on March 31, 1989, in Room 105 of the National Archives Building, 7th and Pennsylvania Avenue NW., Washington, DC 20408.

The agenda for the meeting will be:

1. Plans for a new Archives building.
2. Review of technology developments for storage of permanently valuable records.
3. Discussion of options for Archives facilities.

This meeting is open to the public. For further information, contact Alan Calmes on (202) 523-1546.

Notice of the meeting is made in accordance with the Federal Advisory Committee Act.

Dated: February 10, 1989.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 89-3568 Filed 2-14-89; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL SCIENCE FOUNDATION

Applications for Advanced Technologies Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Applications for Advanced Technologies Panel meeting.

Date and Time: Friday, March 17, 1989 from 6-9 p.m. Saturday, March 18, 1989.

Place: National Science Foundation, Room 1242, 1800 G Street NW., Washington, DC.

Type of Meeting: Closed.

Contact Person: Dr. Andrew R. Molnar, Applications for Advanced Technologies, Room 635A, Phone: (202) 357-7064.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposal as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exceptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

February 10, 1989.

[FR Doc. 89-3477 Filed 2-14-89; 8:45 am]

BILLING CODE 7555-01-M

Earth Sciences Proposal Review Panel; Meeting

The National Science Foundation announces the following meeeting

Name: Earth Sciences Proposal Review Panel

Date: March 8, 9 and 10, 1989
Time: 8:00 a.m. to 6:00 p.m. each day
Place: The National Science Foundation, Room 543, 1800 G Street, NW., Washington, DC 20550
Type of Meeting: Closed
Contact Person: Dr. Alan Gaines, Section Head, Division of Earth Sciences, Room 602, National Science Foundation, Washington, DC 20550; Telephone: (202) 357–9591.
Summary Minutes: May be obtained from the Contact Person at the above address.
Purpose of Meeting: To provide advice and recommendations concerning support for research in Earth Sciences.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,
Committee Management Officer.
February 10, 1989.
[FR Doc. 89–3479 Filed 2–14–89; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee for Polar Programs; Meeting

The National Science Foundation announces the following meeting:
Name: Advisory Committee for Polar Programs.
Date and Time: March 13, 1989, 8:30 a.m.–5:00 p.m.; March 14, 1989, 8:30 a.m.–5:00 p.m.; March 15, 1989, 8:30 a.m.–3:00 p.m.
Place: National Science Foundation, Rooms 643 and 540, 1800 G Street, NW., Washington, DC 20550.
Type of Meeting: Closed—March 13, 1989, 8:30 a.m.–5:00 p.m., Room 540. Open—March 13, 1989, 8:30 a.m.–5:00 p.m.; Room 643; March 14, 1989, 8:30 a.m.–5:00 p.m.; March 15, 1989, 8:30 a.m.–3:00 p.m.
Contact Person: Dr. Peter E. Wilkniss, Division Director, Division of Polar Programs, Room 620, National Science Foundation, Washington, DC 20550. Telephone: 202/357–7766.
Purpose of Committee: Serves to provide expert advice to the U.S. Antarctic Program and the Arctic Program, including advice on science programs, polar operations support, budgetary planning, and polar coordination and information.
Agenda: March 13, 1989
—8:30 am–5:00 pm, Room 540, Subcommittee for the External Peer Oversight Review of the Polar Glaciology Program.
—8:30 am–5:00 pm, Room 643, Subcommittee for Polar Science Long Range Plans.
—8:30 am–5:00 pm, Room 540, Subcommittee for External Peer Review of Polar Operations Section.
March 14, 1989
—8:30 a.m. Welcome, Introductions, Announcements.
—8:45 a.m. Minutes of July 1988 (Eleventh) meeting—review DAC report and DPP response.
—9:00 a.m. Subcommittee report—review of Polar Glaciology.
—9:30 a.m. Discussion.
—10:00 a.m. Coffee Break.
—10:15 a.m. Briefing on fiscal year 1990 Budget Review.
—10:30 a.m. Oversight review of Polar Operations.
—11:30 a.m. Lunch Break.
—1:00 p.m. Subcommittee report—Polar Science Long Range Plan and Discussion.
—2:00 p.m. Recent developments in Polar Science.
—3:30 p.m. DAC Tasking and Plans.
—5:00 p.m. Adjourn.
March 15, 1989
—8:30 a.m. Briefing on USAP Safety and Environment Budget and Implementation Plans.
—9:30 a.m. Discussion on Recent Development in Arctic Sciences, ARCSS (GISP, Oceans).
—10:30 a.m. Discussions on Recent Developments in Antarctic Sciences.
—11:30 a.m. Lunch Break.
—1:00 p.m. Curatorial Facilities.
—1:30 p.m. DAC Tasking and Plans.
—3:00 p.m. Adjourn.
Reason for Closing: The meeting will deal with a review of grants and declinations in which the Committee will review materials containing the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This meeting will also include a review of peer review documentation pertaining to applicants. Any non-exempt materials that may be discussed at this meeting (proposals that have been awarded) will be inextricably intertwined with the discussion of exempt materials and no further separation is practical.

M. Rebecca Winkler,
Committee Management Officer.
February 10, 1989.
[FR Doc. 89–3480 Filed 2–14–89; 8:45 am]
BILLING CODE 7555-01-M

Advisory Committee to the Directorate for Science and Engineering Education; Meeting

Name: Advisory Committee to the Directorate for Science and Engineering Education.
Date and time: Monday, March 6, 1989, 8:30 a.m.–5:00 p.m.
Place: National Science Foundation, Room 540, Washington, DC.
Type of Meeting: Open.
Contact Person: Mr. James G. Cook, Executive Secretary, Directorate for Science and Engineering Education, National Science Foundation, Washington, DC 20550, (202) 357–7926.
Summary Minutes: May be obtained from contact person listed above.
Purpose of Committee: To provide advice and recommendations concerning NSF support for science and engineering education.
Agenda: Review of FY 1989 Programs and Initiatives Review of FY 1990 Programs and Initiatives Strategic Planning for FY 1991 and Beyond.

February 10, 1989.
M. Rebecca Winkler,
Committee Management Officer.
[FR Doc. 89–3478 Filed 2–14–89; 8:45 am]
BILLING CODE 7555-01-M

Task Force on Women, Minorities and the Handicapped in Science and Technology; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Task Force on March 14, 1989.
Name: Task Force on Women, Minorities and the Handicapped in Science and Technology.
Date: March 14, 1989.
Time: 9:00 a.m. to 1:00 p.m.
Place: U.S. Department of Education, 400 Maryland Avenue, SW., Room 3000, Washington, DC 20202.
Type of Meeting: Open.
Purpose: Discussion (1) dissemination of the task force interim report; (2) progress on data collection by agencies; and (3) status of each agency's plans for

implementation of the task force interim report.

Sue Kemnitzer,

Executive Director.

February 3, 1989.

[FR Doc. 89-3481 Filed 2-14-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-316]

Indiana Michigan Power Co.; Donald C. Cook Nuclear Plant, Unit No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-74 issued to Indiana Michigan Power Company (the licensee) for operation of the Donald C. Cook Nuclear Plant, Unit 2, located at the licensee's site in Berrien County, Michigan.

Environmental Assessment

Identification of Proposed Action

The proposed amendment would revise the provisions in the Technical Specifications (TSs) relating to moderator temperature coefficient, shutdown margin and engineered safeguards actuation requirements to reflect the steamline break analysis performed by Advanced Nuclear Fuels Corporation for D.C. Cook Unit 2.

The proposed action is in accordance with the licensee's application dated August 15, 1988.

The Need for the Proposed Action

The proposed amendment would revise the moderator temperature coefficient, shutdown margin and engineered safeguards actuation requirements to reflect the steamline break analysis performed by Advance Nuclear Fuels Corporation the D.C. Cook Unit 2. The analysis was performed for the Cycle 6 reload and is bounding for the current Cycle 7 reload. The proposed amendment is needed to change the Technical Specifications to reflect the characteristics of the new fuel for Cycle 7.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed amendment. The safety considerations associated with the steamline break analysis and the proposed amendment have been evaluated by the Commission's staff. The staff has concluded that such changes would not adversely affect plant safety. The proposed changes have no adverse effect on the probability or consequences of any accident. No changes are being made in the types or amounts of any radiological effluents that may be released offsite. There is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, the Commission concludes that this proposed action would result in no significant radiological impact.

With regard to potential nonradiological impacts, the proposed amendment involves systems located within the restricted area, as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendment.

The Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on November 25, 1988 (53 FR 47782). No request for hearing or petition for leave to intervene was filed following this notice.

Alternatives to the Proposed Action

Since the Commission has concluded that there are no significant environmental effects that would result from the proposed action, any alternative with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the Donald C. Cook Nuclear Plant, Units 1 and 2, dated August 1973.

Agencies and Persons Consulted

The Commission's staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed license amendment.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for amendment dated August 15, 1988, which is available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC, and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Dated at Rockville, Maryland this 10th day of February 1989.

For the Nuclear Regulatory Commission.

Theodore R. Quay,

Acting Director, Project Directorate III-1, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 89-3637 Filed 2-14-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-425]

Georgia Power Co. et al, Vogtle Electric Generating Plant, Unit 2; Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued Facility Operating License No. NPF-79 to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and City of Dalton, Georgia, (the licensees) which authorizes operation of the Vogtle Electric Generating Plant, Unit 2, at reactor core power levels not in excess of 3411 megawatts thermal in accordance with the provisions of the license, the Technical Specifications, and the Environmental Protection Plan with a condition limiting operation to five percent of full power (170 megawatts thermal).

The Vogtle Electric Generating Plant, Unit 2, is a pressurized water reactor located in Burke County, Georgia, approximately 25 miles south of Augusta, Georgia.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on December 28, 1983 (48 FR 57183). The power level authorized by this license and the conditions contained therein are encompassed by that prior notice.

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of exemptions included in this license will have no significant impact on the environment (53 FR 49363, 53 FR 52879, 54 FR 5562).

For further details with respect to this action, see (1) Facility Operating License No. NPF–79; (2) the Commission's Safety Evaluation Report, dated June 1985 (NUREG–1137), and Supplements 1 through 8; (3) the Final Safety Analysis Report and Amendments thereto; (4) the Environmental Report and supplements thereto; (5) the Final Environmental Statement, dated March 1985 (NUREG–1087); (6) the Partial Initial Decision of the Atomic Safety and Licensing Board, dated August 27, 1986; and (7) the Concluding Partial Initial Decision dated December 23, 1986.

These items are available at the Commission's Public Document Room, 2120 L Street, NW., Washington, DC 20555, and at the Burke County Library, 412 Fourth Street, Waynesboro, Georgia 30830. A copy of Facility Operating License NPF–79 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects I/II. Copies of the Safety Evaluation Report and its supplements (NUREG–1137) and the Final Environmental Statement (NUREG–1087) may be purchased through the U.S. Government Printing Office by calling (202) 275–2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013–7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5282 Port Royal Road, Springfield, Virginia 22161.

Dated at Rockville, Maryland, this 9th day of February 1989.

For the Nuclear Regulatory Commission.

Jon B. Hopkins,

Project Manager, Project Directorate II–3, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 89–3542 Filed 2–14–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–336]

Northeast Nuclear Energy Co., et al. Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–65, issued to Northeast Nuclear Energy Company (the licensee), for operation of the Millstone Nuclear Power Station, Unit 2, located in New London County, Connecticut.

The proposed amendment would allow operation of Millstone Unit 2 for Cycle 10. The changes to the Technical Specifications (TS) are required to reflect a revised safety analysis that includes the use of fuel designed and fabricated by Advanced Nuclear Fuels Corporation (ANF). Fuel designed and fabricated by ANF has not been previously utilized for Millstone Unit 2. The proposed changes to the TS also reflect the effects of reduced reactor coolant system flow, from 340,000 to 325,000 gpm for Cycle 10.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

As part of the licensee's submittal dated February 1, 1989, the licensee/ (or NNECO) has addressed the various technical issues related to the "No Significant Hazards Consideration" criteria of 10 CFR 50.92. The licensee has stated that the proposed changes to the TS would not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

ANF reviewed all SRP Chapter 15 postulated accidents and transients to determine which events needed to be reanalyzed for Cycle 10, assuming the proposed minimum RCS flow [associated] compensating Technical Specification changes. As a result, ANF identified and reanalyzed the three non-LOCA events in which DNBR could be impacted by a decrease in RCS flow rate or the reduction in F_r^T ANF also reanalyzed small break LOCA and large break LOCA scenarios. On the basis of this review and reanalysis, NNECO concludes that there is no significant increase in the probability or consequences of any of these events.

With respect to calculated consequences, the proposed changes were determined to have no significant impact on protective boundaries. Therefore, there will be no significant change in any dose consequences related to the [Standard Review Plan] SRP Chapter 15 anticipated operations occurrences and postulated accidents. However, with respect to consequences. ANF also specifically reanalyzed the impact of the events on the relevant key parameters associated with the plant response to the event.

The analysis showed that there are some instances in which there is a small increase in the limiting value of the relevant plant parameter. In all cases, however, the values of the parameters remain within acceptable acceptance criteria and there are no impacts on protective boundaries. NNECO therefore concludes that the proposed amendment does not involve a significant increase in the consequences of any event previously analyzed.

More specifically, the relevant non-LOCA event critieria that could be impacted by a decrease in RCS flow rate are RCS pressurization, fuel centerline melt, and DNBR. However, ANF determined that, of these, only DNBR consequences could be significantly impacted by decrease in RCS flow rate and/or reduction in F_r^T. The three limiting DNB events considered are the loss of flow, the locked rotor, and the rod ejection events.

The loss of flow event is the limiting DNB event and a determination of margin to the DNB limit for this event demonstrates sufficient margin for the other events. For this event, the reduced flow analysis demonstrated a decrease in deterministic MDNBR from 0.98 to 0.93. However, a statistical evaluation showed that this analysis remains within applicable acceptance criteria and the small change does not represent a significant increase in consequences of the event.

The locked rotor event was reanalyzed because the original analysis showed no fuel failures, based on the DNB margin available in the original loss of flow analysis. Deterministic MDNBR was calculated to change from 0.96 to 0.91. As for the previous event, this MDNBR change does not represent a significant increase in consequences. Nevertheless, the previous locked rotor analysis for Millstone Unit No. 2 showed that there would be no DNB in the core. The corresponding reduced flow analysis performed by ANF to support this amendment application does not show the potential for some DNB occurring. However, the locked rotor event is a limiting fault and the DNB limits are not applicable. The predicted fuel failures are instead bounded

by the consequencs of the rod ejection accident. This bounding of consequences of a locked rotor event by the consequences of the rod injection accident is acceptable because the rod ejection consequences meet the more restrictive infrequent event criteria.

With respect to control rod ejection, this event is the limiting event with regard to predicted fuel failures. As a result of the proposed changes to Technical Specifications, the predicted number of cladding failures for the rod ejection accident increased from 11.5% to 11.7%. This small increase is not considered to involve a significant increase in consequences of the previously analyzed event.

The LOCA analyses for reduced flow conditions show a reduction in both of the key plant parameters: calculated peak clad temperatures and calculated amount of clad oxidation. This results because the effects of the reduced flow are more than compensated for by the reduction in LHR limits. Therefore, the proposed amendment does not result in an increase in consequences of any LOCA event previously analyzed.

The peak postaccident containment temperature is also potentially increased by this change. However, the values remain below the 289 °F containment design temperature. The 0.7 °F increase is not considered significant relative to the 287.9 °F peak temperature previously calculated.

With respect to the probability of occurrence of an accident previously analyzed, there will be no change in the probability of any design basis accident. There are no hardware modifications associated with the proposed Technical Specification changes and there is no significant impact on the performance of any safety system. As a result, there is no change to the probability of any of the initiating events for design basis accidents. There are also no changes or new failure modes associated with the changes that will increase the probability of an accident or transient to the point where it should be considered to be within the design basis. In this respect, therefore, NNECO concludes that no significant hazards consideration is involved.

2. Create the possibility of a new or different kind of accident from any previously analyzed.

As a result of the proposed Technical Specification changes, there will be no changes to plant hardware or response. The plant will respond for all events in a manner similar to that assumed for the previous analyses. The only changes identified in the reanalysis of the SRP Chapter 15 events relate to the impact of certain transients on parameters related to boundary performance. There are no changes to the basic trends the transients follow.

There are no failure modes associated with the proposed amendment that could represent a new unanalyzed accident. Therefore, NNECO concludes that the proposed amendment does not create any new or different kind of accident from those previously analyzed.

3. Involve a significant reduction in any margin of safety.

As discussed under the first criterion above, ANF specifically reviewed all SRP Chapter 15 postulated accidents and anticipated operational occurrences to determine any potential impact as a result of the proposed amendment. ANF specifically reanalyzed the three non-LOCA events in which DNBR could be impacted by a decrease in RCS flow rate or a reduction in FTR. ANF also reanalyzed small break and large break LOCA scenarios for impact on calculated peak clad temperature and on the calculated amount of clad oxidation. On the basis of this review and reanalysis, NNECO concludes that the proposed amendment does not involve a significant reduction in any margin of safety.

As discussed above, the proposed Technical Specification changes do involve some nonsignficant changes in plant parameters related to boundary performance. However, in all cases, the limiting value of the parameter remains within applicable acceptance criteria and therefore the changes will have no impact on the ability of the boundary to perform its function. Moreover, in all cases where margin to the acceptance criterion is reduced, the reduction is not significant.

The changes in limiting values of relevant parameters calculated in the reanalysis of SRP Chapter 15 events, assuming lowered RCS flow rate, are discussed in detail above. The three cases in which there will be a small reduction in margin are the three non-LOCA events involving DNBR. These may be summarized as follows:

- The loss of flow event in the limiting DNB event. For this event the reduced flow analysis demonstrated a decrease in deterministic MDNBR from 0.98 to 0.93. This change of only 0.05, is not considered to represent a significant reduction in the margin of safety.
- For the locked rotor event, DNB margin was also reduced by 0.05, as calculated deterministic MDNBR changed from 0.96 to 0.91. This change also is not considered to represent a significant reduction in the margin of safety. Fuel failures in this scenario are bounded by fuel failures for the rod ejection event.
- For the rod ejection event, the number of rods potentially experiencing cladding failures was increased from 11.5% to 11.7%. This is not considered to represent a significant reduction in the margin of safety.

For the LOCA scenarios reanalyzed, margins with respect to limits for peak clad temperature and clad oxidation actually increased.

The reduction in RCS flow will result in an increase in the hot leg temperatures by up to 2.5 °F, with a new maximum temperature of 608.5 °F. However, this remains well below the RCS design temperature of 650 °F. In summary, the proposed amendent does not involve any significant reduction in a margin of safety and, therefore, does not involve a significant hazards consideration.

In summary, the proposed amendment does not involve any significant reduction in a margin of safety and, therefore, does not involve a significant hazard consideration.

The NRC staff has reviewed and concurs in the licensees "No Significant Hazard Consideration" findings; therefore, based on the above considerations, the Commission has made a proposed determination that the amendment request involves no significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration and Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room P–216, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene are discussed below.

By March 17, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted

with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made 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 alist 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 amendments 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 participated as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards considerations. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendment involves no significant hazards considerations, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 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 promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram identification Number 3737 and the following message addressed to John F. Stolz: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and Gerald Garfield, Esquire, Day, Berry and Howard, One Constitution Plaza, Hartford, Connecticut 06103.

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 of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated February 1, 1989, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Local Public Document Room.

Dated at Rockville, Maryland, this 10th day of February, 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. 89–3543 Filed 2–14–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–282 and 50–306]

Northern States Power Co.; Issuance of Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (the Commission) has issued Amendments Nos. 86 and 79 to Facility Operating Licenses Nos. DPR–42 and DPR–60, issued to the Northern States Power Company (the licensee), which revised the Technical Specifications (TSs) for operation of the Prairie Island Nuclear Generating Plant, Units Nos. 1 and 2, located in Goodhue County, Minnesota. The amendments are effective as of the date of issuance.

The amendments change the Technical Specifications by revising the surveillance test frequency of the turbine stop valves, the governor valves and the intercept valves associated with the turbine overspeed protection.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings, as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Opportunity for Hearing in connection with this action was published in the **Federal Register** on April 13, 1988 (53 FR 12209). No request for hearing or petition to intervene was filed following this notice.

Also in connnection with this action, the Commission prepared an Environmental Assessment and Finding of No Significant Impact which was published in the **Federal Register** on February 6, 1989 at 54 FR 5706.

For further details with respect to this action, see (1) the application for amendments dated September 28, 1987, as supplemented by letters dated October 15, 1987, and June 24, 1988, (2) Amendments Nos. 86 and 79 to Licenses Nos. DPR–42 and DPR–60, and (3) the

Commission's related Safety Evaluation and Supplemental Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and at the Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland, this 7th day of February 1989.

For the Nuclear Regulatory Commission.

Dominic C. DiIanni,

Project Manager, Project Directorate III–1, Division of Reactor Projects—III, IV, V & Special Projects.

[FR Doc. 89–3544 Filed 2–14–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 9999004 (General License Authority of 10 CFR 40.22) ASLBP No. 89–582–01–SC]

Wrangler Laboratories, et al.; Prehearing Conference

Before Administrative Judges: Charles Bechhoefer, Chairman Dr. Jerry R. Kline Frederick J. Shon.

In the Matter of Wrangler Laboratories, Larsen Laboratories, Orion Chemical Company, and John P. Larsen.

February 9, 1989.

Notice is hereby given that a prehearing conference in this proceeding involving the Order Revoking Licenses issued by the NRC Staff on August 15, 1988 (53 FR 32125, August 23, 1988) will commence on Wednesday, February 22, 1989, at 9:00 a.m., at Brigham Young University, J. Reuben Clark Law School, Room 306, Provo, Utah 84602. Among matters to be considered at the conference will be the delineation of the key issues and subissues in the proceeding, discovery, possibilities of stipulating various facts or settlement of various issues, further schedules for the proceeding, and such other matters as may aid in the orderly disposition of the proceeding.

Members of the public are invited to attend the conference. Limited appearance statements, as authorized by 10 CFR 2.715(a), will not be taken at this session of the proceeding. Documents relating to this proceeding are on file at the Commission's Public Document Room, 2120 L St. NW., Washington, DC 20555, and at the Commission's Region IV Office, Parkway Central Plaza Building, 611 Ryan Plaza Drive, Suite 1000, Arlington, Texas 76011.

For the Atomic Safety and Licensing Board. Dated at Bethesda, Maryland this 9th day of February 1989.

Charles Bechhoefer,

Chairman, Administrative Judge.

[FR Doc. 89–3545 Filed 2–14–89; 8:45 am]

BILLING CODE 7590–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–26532; File No. SR–DTC–89–2]

Self-Regulatory Organizations; Depository Trust Co.; Filing and Immediate Effectiveness of Proposed Rule Change; Fee Schedule

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), notice is hereby given that on January 26, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission a proposed rule change. The proposal alters DTC's fee schedule to include a surcharge for the deposit of certain custodial receipts. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

Under the proposal, DTC participants depositing custodial receipts identified by the same CUSIP number [1] will be assessed a $3.25 per deposit surcharge if those receipts: (1) Are backed by different issues of U.S. Treasury securities; or (2) have different issue dates. According to DTC, these custodial receipts are not treated as fungible for transfer purposes by transfer agents. To ensure that requests for the transfer of these custodial receipts will be honored by transfer agents, DTC represents that it must implement special examination and handling procedures. DTC believes that the proposed surcharge is necessary to cover the cost of those procedures and therefore is consistent with section 17A(b)(3)(D) of the Act, which requires a clearing agency to provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of 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.

Interested persons are invited to submit written data, views, and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. SR–DTC–89–2.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC. Copies of the filing (SR–DTC–89–2) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: February 9, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–3571 Filed 2–14–89; 8:45 am]

BILLING CODE 8010–01–M

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[1] Custodial receipts having the same maturity date are identified by the same CUSIP number.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

February 9, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Shawmut National Corp.
Common Stock, $.01 Par Value (File No. 7–4201)

Century Communications
Common Stock, $.01 Par Value (File No. 7–4202)

Dixon Ticonderoga
Common Stock, $1.00 Par Value (File

No. 7–4203)
Galaxy Carpet Mills, Inc.
Common Stock, $.10 Par Value (File No. 7–4204)
Reynolds & Reynolds Co.
Common Stock, $.625 Par Value (File No. 7–4205)
Sterling Electronics Corporations
Common Stock, $.50 Par Value (File No. 7–4206)
Worthen Banking Corporation
Common Stock, $1.00 Par Value (File No. 7–4207)
American Government Term Trust
Common Stock, $.01 Par Value (File No. 7–4208)
Franklin Principal Maturity Trust
Shares of Beneficial Interest, $.01 Par Value (File No. 7–4209)
Kemper Multimarket Income Trust
Common Shares of Beneficial Interest $.01 Par Value (File No. 7–4210)
Lyondell Petrochemical Co.
Common Stock, $1.00 Par Value (File No. 7–4211)
Medchem Products, Inc.
Common Stock, $.01 Par Value (File No. 7–4212)
Magma Cooper Co.
Warrants expiring 11/30/95 No Par Value (File No. 7–4213)
Van Kampen Merritt Intermediate Term High Income Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–4214)
Royal Dutch Petroleum Co.
5 Netherland Guilders Par Value (File No. 7–4215)
Allstate Municipal Premium Income Trust
Common Shares of Beneficial Interest, $.01 Par Value (File No. 7–4216)
California Energy
Common Stock, $.0675 Par Value (File No. 7–4217)
Gaylord Container Corp.
Common Stock, $.01 Par Value (File No. 7–4218)
Halsey Drug
Common Stock, $.01 Par Value (File No. 7–4219)
Halsey Drug
Warrants expiring 3/6/91, No Par Value (File No. 7–4220)
OMI Corporation
Common Stock, $.50 Par Value (File No. 7–4221)

These securities are listed and registered on one or more other national securities exchange and reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 3, 1989, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–3569 Filed 2–14–89; 8:45 am]

BILLING CODE 8010–01–M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

February 9, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Donaldson Company, Inc., Common Stock, $5 Par Value (File No. 7–4222).
MNC Financial Inc., Common Stock, $2.50 Par Value (File No. 7–4223).
Reynolds & Reynolds Company, Class A Common Stock, $.625 Par Value (File No. 7–4224).
Manville Corporation, Common Stock, $.01 Par Value (File No. 7–4225).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before Mach 3, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–3570 Filed 2–14–89; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–18552]

Application and Opportunity for Hearing; Federated Department Stores, Inc

February 9, 1989.

Notice is hereby given that Federated Department Stores, Inc. (the "Company") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the trusteeship of Manufacturers Hanover Trust Company under three indentures, all heretofore qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Manufacturers Hanover Trust Company from acting as trustee under any of such indentures.

Section 310(b) of the Act provides, *inter alia*, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall within ninety days after ascertaining that it has conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee is deemed to have a conflicting interest if it is acting as trustee under another indenture of the same obligor.

Federated alleges as follows:

1. Federated has entered into, among others, the following indentures (the "Federated Indentures"):

(a) An indenture, dated as of September 15, 1970 (the "First Indenture"), between Federated and First National City Bank ("First National") as trustee, pursuant to which Federated issued its 8⅜% Sinking Fund Debentures Due September 15, 1995 (the "First Debentures") of which $19,959,000 aggregate principal amount is presently outstanding. The First Indenture was an exhibit to Registration Statement No. 2–38373 filed in connection with the registration of $50,000,000 aggregate principal amount of the First Debentures;

(b) An indenture, dated as of March 15, 1972 (the "Second Indenture"), between Federated and First National, as trustee, pursuant to which Federated

issued its 7⅛% Sinking Fund Debentures Due March 15, 2002 (the "Second Debentures") of which $35,000,000 aggregate principal amount is presently outstanding. The Second Indenture was an exhibit to Registration Statement No. 2–43209 filed in connection with the registration of $50,000,000 aggregate principal amount of the Second Debenture; and

(c) An indenture, dated as of January 15, 1987 (the "Third Indenture"), between Federated and Manufacturers Hanover Trust Company ("Manufacturers") as Trustee, which provides for the issuance of an unlimited amount of unsecured Debt Securities and pursuant to which Federated has, to date, issued its 9⅜% Notes due to 1992 (the "Notes") of which $200,000,000 aggregate principal amount is presently outstanding. The Third Indenture was an exhibit to Registration Statement No. 2–11346 filed in connection with the registration of $200,000,000 aggregate principal amount of the Notes.

2. Subsequent to its execution of the First Indenture and the Second Indenture, First National changes its name to Citibank, N.A. ("Citibank"). Citibank gave written notice of its intention to resign as trustee under the First Indenture and the Second Indenture on April 28, 1988. Federated has requested that Manufacturers accept appointment as successor trustee under both the First Indenture and the Second Indenture.

3. Federated is not in default under any of the Federated Indentures. The Company's obligations under the Federated Indentures are wholly unsecured and rank *pari passu*.

4. The Federated Indentures contain the provisions required by section 310(b) of the Trust Indenture Act. The appointment of Manufacturers as successor trustee under the First Indenture and the Second Indenture, is "not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting" as trustee under the Federated Indentures.

Federated has waived notice of hearing, hearing and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with the matter referred to herein.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, File No. 22–18552, Judiciary Plaza, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than March 6, 1989, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application, upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–3572 Filed 2–14–89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC–16803; 812–6998]

The Thai Fund, Inc.; Application

February 8, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicant: The Thai Fund, Inc.

Relevant 1940 Act Sections: Exemption requested under section 6(c) from the provisions of section 12(d)(3) of the 1940 Act.

Summary of Application: Applicant seeks an order permitting it to purchase securities issued by Thai companies listed on the Securities Exchange of Thailand ("SET") that are engaged in securities-related businesses ("SET-Listed Securities Companies").

Filing Dates: The application was filed on February 26, 1988, and amended on June 17, 1988. A notice of application was issued on June 24, 1988 (Investment Company Act Release No. 16453), but an order was not issued. The application was further amended on January 27, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on March 6, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. The Thai Fund, Inc., c/o John E. Baumgardner, Jr., Esq., Sullivan & Cromwell, 125 Broad Street, New York, NY 10004.

FOR FURTHER INFORMATION CONTACT: James E. Banks, Staff Attorney, (202) 272–2190, or Brion R. Thompson, Branch Chief, (202) 272–3016 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application as amended; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier, which may be contacted at (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. Applicant, a corporation organized under the laws of the State of Maryland, is a non-diversified, closed-end management investment company registered under the 1940 Act. Applicant filed a registration statement under the Securities Act of 1933 and the 1940 Act on October 1, 1987 and filed amendments thereto on December 8, 1987, January 22, 1988, February 5, 1988 and February 15, 1988. The SEC declared the amended registration statement effective on February 17, 1988.

2. Applicant's investment objective is long-term capital appreciation through investment primarily in equity securities of Thai companies. It is the policy of Applicant to invest under normal circumstances, at the conclusion of the initial investment period, at least 80% of its net assets in equity securities of Thai companies. During defensive periods, Applicant may reduce its holdings in equity securities of Thai companies and increase its holdings in bonds, short-term debt obligations, money market instruments or cash, all denominated in Baht,[1] which could bring the amount of net assets invested in Thai equity securities below 80%.

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[1] As of February 12, 1988, the Noon Buying Rate of the Federal Reserve Bank was 25.33 Baht to $1.00.

3. In order to meet or anticipate its operating expenses and distribution requirements and during defensive periods when the value of the Baht is expected to depreciate against the dollar or when there are either negative developments in the markets for Thai securities or in Thailand, Applicant may invest in non-Baht denominated investments, including obligations issued or guaranteed by the United States Government and other dollar-denominated securities, non-Baht denominated prime grade finance company or corporate commercial paper, and certificates of deposit or banker's acceptances of United States commercial banks. After the Applicant's initial investment period, however, such non-Baht denominated investments are limited by the Bank of Thailand to 20% of the Fund's net assets invested through the investment plan (the "Investment Plan").

4. Applicant's investment advisers are Morgan Stanley Asset Management Inc. ("MSAM" or "U.S. Adviser"), a Delaware corporation, and The Mutual Fund Company Limited ("Thai Adviser"), a Thai limited company (together, "Advisers"). Applicant's administrators are MSAM and The Vanguard Group, Inc., a Pennsylvania corporation, ("Vanguard", together with MSAM, "Administrators"). Each Adviser is a registered investment adviser under the Investment Advisers Act of 1940. Their advisory activities are governed by an investment contract ("Investment Contract") establishing the Investment Plan and a related Technical Assistance and Seconding Agreement ("Seconding Agreement") which, during the time the Investment Plan is in existence, together serve as investment advisory agreements between Applicant, MSAM and the Thai Adviser. Under these two agreements MSAM provides staff to the Thai Adviser to make investment decisions for Applicant ("Seconded Staff") and the Thai Adviser, through such Seconded Staff, makes investment decisions for the Investment Plan. During the existence of the Investment Plan, MSAM, pursuant to the MSAM Administration Agreement, has agreed to provide administrative services to Applicant, directly or through third parties such as Vanguard. Vanguard has agreed to provide administrative services to the Fund pursuant to the Vanguard Administration Agreement between MSAM and Vanguard.

5. Thai laws permit SET-Listed Securities Companies to act as securities brokers, securities dealers, underwriters or investment advisers. Most SET-Listed Securities Companies are members of the SET, and all engage in securities-related businesses. Currently, there are twenty SET-Listed Securities Companies, seventeen of which are also members of the SET.

6. As of December 31, 1987, market capitalization of corporate equity securities (excluding unit trusts) ("Corporate Equity Securities") for the SET was 135.37 billion Baht, compared to 74.46 billion Baht as of December 31, 1986. In 1987, SET-Listed Securities Companies represented 22.95% of the SET's Corporate Equity Securities market, which includes major industrial, transport, service, insurance, financial and utility stocks. In addition, as of December 31, 1987, finance and securities companies comprised the SET's single largest sectoral group in terms of number of companies quoted.

7. Applicant submits that the securities of SET-Listed Securities Companies that it intends to purchase have at least the degree of investor interest and depth and breadth of market as certain securities traded in the U.S. over-the-counter market which have been designated as "OTC margin stock." Applicant further submits that its investment in securities of SET-Listed Securities Companies would have no adverse effect on, but rather would enhance, the liquidity of its portfolio.

8. Applicant further represents that the public information available in Thailand about SET-Listed Securities Companies is at least as extensive as information available in Thailand about Thai issuers in other industries in which Applicant intends regularly to invest. Applicant submits that the disclosure required by Thai laws and regulations, while not in all respects as comprehensive as U.S. securities laws, provides significant disclsoure in connection with the issuance of securities which is the "substantial equivalent" of the disclosure required by the Securities Act of 1933.

Applicant's Legal Conclusions

1. Applicant's proposed investment in SET-Listed Securities Companies would be subject to the prohibitions of section 12(d)(3) of the 1940 Act against registered investment companies purchasing securities of isuers engaged in securities-related businesses. With respect to the exemptive relief from section 12(d)(3) of the 1940 Act provided by Rule 12d3-1, Applicant recognizes that SET-Listed Securities Companies derive more than 15% of their gross revenues from securities-related activities for any given period, and Applicant has assumed for the purposes of this application that investment in SET-Listed Securities Companies would be subject to the conditions of Rule 12d3-1(b).

2. Applicant has reviewed all the conditions set forth in Rule 12d3-1(b) under the 1940 Act and represents or undertakes that it will be able to satisfy all but one of the conditions. Applicant cannot satisfy the condition that any equity security acquired must be a "margin security" as defined in Regulation T promulgated by the Board of Governors of the Federal Reserve System. Because the equity securities of SET-Listed Securities Companies are not listed on a United States securities exchange or traded in the United States in the over-the-counter market, they cannot be "margin securities." Because Applicant is unable to satisfy all of the conditions of Rule 12d3-1 and thus cannot avail itself of the exemption provided by such rule, it is unable to take advantage of good investment opportunities and to increase the diversification of its portfolio, particularly its diversification within the financial sector of the Thai economy.

3. Applicant asserts that the granting of the requested exemptive order is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. The SEC's concern about the entrepreneurial risk of investing in securities related businesses is not relevant to the Applicant because the Applicant intends to purchase interests in Thai limited companies, which are analogous to shares of corporate stock and are unlike partnerhsip interests. Further, the SEC's concern about possible conflicts of interest arising out an investment company purchasing shares in a broker-dealer as a reward for selling the investment company's shares also is not relevant to the Applicant, a closed-out investment company.

4. Finally, the SEC's concern that an investment company might direct brokerage business to a broker-dealer in which the investment company has invested in order to enhance such broker-dealer's profitability or to assist it during financial difficulty is not relevant to the Applicant. The Thai entities in which Applicant would invest are institutions of substantial size while the Applicant possesses total assets which are unlikely, in light of investment management policies, to be able to effect such a result.

5. Based on the foregoing, Applicant respectfully requests an exemption from the provisions of section 12(d)(3) of the 1940 Act to the extent necessary to

permit it to invest in securities of SET-Listed Securities Companies, which are listed on the SET.

Applicant's Conditions

Applicant agrees that if the requested order is granted it will be expressly conditioned on the following conditions:

11. Applicant undertakes to invest in only SET-Listed Securities Companies' securities that would meet the criteria concerning total market value, earning power and share distribution and would, based on these grounds, be eligible for listing on one or more of the following: The New York Stock Exchange, The American Stock Exchange or The NASDAQ National System.

2. The investments in SET-Listed Securities Companies will comply with all the requirements of Rule 12d3–1 under the 1940 Act, except the requirement that such equity securities be "margin securities."

3. Applicant undertakes that, prior to the acquisition of the equity securities of a SET-Listed Securities Company, the Advisers will determine that such SET-Listed Securities Company satisfies each of the following standards:

(a) Daily quotations are available for both bid and asked prices;

(b) The company's stock has been publicly traded for at least six months;

(c) The company or a predecessor in interest has been in existence for at least three years;

(d) The company has at least $10 million of capital, surplus, and undivided profits;

(e) The company is required by exchange or governmental regulation publicly to file (i) reports of any important financial or structural corporate changes, (ii) semi-annual profit and loss statements and (iii) annual reports of independently audited assets and liabilities, profits and losses and changes in financial position;

(f) The company has a minimum market capitalization of $20 million; and

(g) The Company's equity securities have (i) an average daily trading volume of at least 500 shares and (ii) an average daily trading volume equal in value to at least $25,000.

4. Applicant will not invest more than 2% of its assets, determined as of the time of purchase, in the securities of any SET-Listed Securities Company.

5. Applicant will maintain in one place all of the necessary documentation relating to its investment decisions regarding securities issued by the SET-Listed Securities Companies and to employ an independent third party to review periodically Applicant's compliance with the terms of the Order issued.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 89–3497 Filed 2–14–89; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA) Special Committee 159—Minimum Aviation System Performance Standard for GPS; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given for the eleventh meeting of RTCA Special Committee 159 on Minimum Aviation System Performance Standard for GPS to be held March 7–8, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's remarks; (2) approval of minutes of the Tenth Meeting, RTCA Paper No. 404–88/SC159–194; (3) review of the revised terms of references; (4) review of the Minimum Aviation System Performance Standards for Global Positioning System, (RTCA/DO–202); (5) review of EUROCAE and other comments; (6) development of committee work program and schedule; (7) establishing working groups and define tasks on integrity implementation WG, operations WG, and test requirements WG; (8) assignment of tasks: (9) other business; (10) date and place of next meeting; and (11) working group organizational meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on February 8, 1989.

Geoffrey R. McIntyre,

Acting Designated Officer.

FR Doc. 89–3502 Filed 2–14–89; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: February 10, 1989.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.

Form Number: None.

Type of Review: New Collection.

Title: Customer Service/Quality Initiative Baseline Survey for Returns Processing and Accounting Division.

Description: The date collection will be used to establish baseline estimates of taxpayer satisfaction with RP&A Division's Underreporter Branch and Adjustments Function. This information will be used by the areas to determine if current programs are meeting taxpayers' needs. This information will indicate where the areas should focus any quality initiatives that RP&A may wish to institute.

Respondents: Individuals or households.

Estimated Number of Respondents: 4,000.

Estimated Burden Hours Per Response: 15 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,000 hours.

Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3001, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 89–3558 Filed 2–14–89; 8:45 am]

BILLING CODE 4810–25–M

Income Tax Treaty; U.S. and Portugal

The Treasury Department today announced that negotiations of a proposed income tax treaty between the United States and Portugal are scheduled to take place in Washington during the week of April 3–7, 1989.

There is not now an income tax treaty in effect between the United States and Portugal. The negotiations will take as their starting point the model draft texts published by the United States and the Organization for Economic Cooperation and Development. They will also take into account the U.S. Tax Reform Act of 1986 and recent treaties concluded by each country. The issues to be discussed include the taxation of income from business, investment, and employment derived in one coutnry by residents of the other, provisions to ensure nondiscrimination and the avoidance of double taxation, and provisions for administrative cooperation between the tax authorities of the two countries.

Interested persons are invited to send written comments concerning the forthcoming negotiations to Leonard Terr, International Tax Counsel, U.S. Treasury, Room 3064, Washington, DC 20220.

Dennis E. Ross,

(Acting) Assistant Secretary (Tax Policy).

[FR Doc. 89–3494 Filed 2–14–89; 8:45 am]

BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Voluntary Service National Advisory Committee; Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Voluntary Service National Advisory Committee has been renewed for a two year period beginning January 24, 1989 through January 24, 1991.

Dated: January 30, 1989.

By direction of the Acting Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89–3476 Filed 2–14–89; 8:45 am]

BILLING CODE 8320–01–M

Advisory Committee on Cemeteries and Memorials; Meeting

The Veterans Administration gives notice that a meeting of the Advisory Committee on Cemeteries and Memorials, authorized by 38 U.S.C. 1001, will be held at the Scottsdale Hilton Hotel, 6333 N. Scottsdale Road, Scottsdale, Arizona 85253, on April 14, 1989.

The session will begin at 1:30 p.m. to conduct routine business. The meeting will be open to the public up to the seating capacity which is about twenty persons. Those wishing to attend should contact Mrs. Ann Stone, Staff Assistant, National Cemetery System, (phone 202–233–2396) not later than 12 noon, EST March 24, 1989.

Any interested person may attend, appear before, or file a statement with the Committee. Individuals wishing to appear before the Committee should indicate this in a letter to the Director, National Cemetery System (40) at 810 Vermont Avenue, NW., Washington, DC 20420. In any such letters, the writers must fully indentify themselves and state the organization or association or person they represent. Also, to the extent practicable, letters should indicate the subject matter they want to discuss. Oral presentations should be limited to 10 minutes in duration. Those wishing to file written statements to be submitted to the Committee must also mail, or otherwise deliver, them to the Director, National Cemetery System.

Letters and written statements as discussed above must be mailed or delivered in time to reach the Director, National Cemetery System by 12 noon EST March 24, 1989. Oral statements will be heard only between 1:30 p.m. and 2:00 p.m.

Dated: February 7, 1989.

By direction of the Acting Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89–3474 Filed 2–14–89; 8:45 am]

BILLING CODE 8320–01–M

VETERANS ADMINISTRATION

Veterans' Advisory Committee on Environmental Hazards; Meeting

The Veterans Administration gives notice under Pub. L. 92–463, section 10(a)(2), that a meeting of the Veterans Advisory Committee on Environmental Hazards will be held at the Veterans' Administration Central Office, 810 Vermont Avenue NW., Washington, DC 20420 on April 25 and 26, 1989. The purposes of the Committee are to review the scientific and medical literature relating to the possible health effects resulting from exposure to dioxin and ionizing radiation and to assist in the development of Agency policy with respect to veterans' claims for compensation based upon exposure.

The meeting will convene at 9:00 a.m. both days in the Omar Bradley Conference Room. This meeting will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Ms. Sylvia Arrington, Veterans Administration Central Office (phone 202/233–2115) prior to April 17, 1989.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Mr. Frederic L. Conway, Special Assistant to the General Counsel, Room 1034, Veterans Administration Central Office. Submitted material must be received at least five days prior to the meeting. Such members of the public may be asked to clarify submitted material prior to consideration by the Committee.

Dated: February 7, 1989.

By direction of the Acting Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 89–3475 Filed 2–14–89; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 30
Wednesday, February 15, 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).

UNITED STATES INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, February 22, 1989 at 12:00 noon.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints:
   a. Certain wire electrical discharge machining apparatus and components thereof (Docket No. 1484).
   b. Certain insulated security chests (Docket No. 1485).
   c. Certain novelty teleidoscopes (Docket No. 1486).
5. Inv. No. 731-TA-429 (P) (Mechanical transfer presses from Japan)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 252-1000.

Kenneth Romason,

Secretary.

February 9, 1989.

[FR Doc. 89-3581 Filed 2-10-89; 4:54 pm]

BILLING CODE 7020-02-M

NEIGHBORHOOD REINVESTMENT CORPORATION

Regular Meeting of the Board of Directors

TIME AND DATE: 4:00 p.m.—Tuesday, February 21, 1989.

PLACE: Neighborhood Reinvestment Corporation, 1325 G Street NW., Eighth Floor—Large Conference Room, Washington, DC 20005.

STATUS: Open.

CONTACT PERSON FOR MORE INFORMATION: Martha A. Diaz-Ortiz, Assistant Secretary 376-2400.

AGENDA:

I. Call to Order and Remarks of Chairman
II. Approval of Minutes, November 22, 1988
III. Executive Director's Activity Report—General Update
IV. Budget Committee Report—Approval of FY 1989 Budget Allocations
V. Audit Committee Report
   a. Acceptance of Outside Audit Report
   b. Review of Investment and Banking Policies
VI. Treasurer's Report

Carol J. McCabe,

Secretary.

[FR Doc. 89-3630 Filed 2-13-89; 1:29 pm]

BILLING CODE 7570-02-M

RAILROAD RETIREMENT BOARD

Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on February 22, 1989, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion Open to the Public

(1) Proposed Changes in the RUIA Regulations (Status Report)
(2) Appeal of the Employer Status of the Trustees of Galveston Wharves

Portion Closed to the Public

(A) Appeal from Referee's Denial of Disability Annuity, Harold J. Blevins.

The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312-751-4920, FTS No. 386-4920.

Dated: February 10, 1989.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 89-3615 Filed 2-13-89; 1:28 pm]

BILLING CODE 7905-01-M

Corrections

Federal Register
Vol. 54, No. 30
Wednesday, February 15, 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.

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/41C] (FRL-3510-3)

Linuron; Conclusion of the Special Review

Correction

In notice document 89-1935 appearing on page 4072 in the issue of Friday, January 27, 1989, make the following correction:

In the first column, under **SUPPLEMENTARY INFORMATION**, in the third line, "dichlorophenyl" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/48A; FRL-3509-3]

Preliminary Determination To Cancel Registrations of Carbofuran Products, Availability of Technical Support Document and Draft Notice of Intent To Cancel

Correction

In notice document 89-1584 beginning on page 3744 in the issue of Wednesday, January 25, 1989, make the following correction:

On page 3748, in the third column, in the first column of the table, in the second entry, "10G" should read "15G".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 163

[Docket No. 86P-0297/CP]

Cacao Products; Proposal To Amend the Standards of Identity

Correction

In proposed rule document 89-1561 beginning on page 3615 in the issue of Wednesday, January 25, 1989, make the following corrections:

1. On page 3616, in the third column, in item C, in the first paragraph, in the eighth line, "present" should read "percent".

§ 163.111 [Corrected]

2. On page 3619, in the 3rd column, in § 163.111(c)(1), in the 10th line, "filed" should read "filled".

§ 163.112 [Corrected]

3. On page 3620, in the second column, in § 163.112(d), in the fourth line, "label" was misspelled.

§ 163.117 [Corrected]

4. On the same page, in the third column, in § 163.117(a), in the second line, "manufacturing" was misspelled.

§ 163.123 [Corrected]

5. On the same page, in the third column, in § 163.123(a), in the fifth line, "sweeteners" was misspelled.

§ 163.140 [Corrected]

6. On page 3621, in the third column, in § 163.140(b), in the fourth line, "or" was misspelled.

§ 163.153 [Corrected]

7. On page 3622, in the second column, in § 163.153(a), in the second line, remove "and".

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

[Project Announcement No. SSA-OP-89-1]

Federal Old-Age, Survivors, and Disability Insurance

Correction

In notice document 89-2684 beginning on page 5682 in the issue of Monday, February 6, 1989, make the following corrections:

1. On page 5684, in the second column, in the last paragraph, in the second line, after "the" insert "limits of".

2. On the same page, in the 3rd column, in the 20th line from the bottom, "date" should read "data".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK-932-09-4214-10; A-061696]

Conformance to Survey; Alaska

Correction

In notice document 89-1312 beginning on page 3151 in the issue of Monday, January 23, 1989, make the following correction:

On page 3152, in the first column, under **Seward Meridian, Alaska**, in the third line, "50°14'" should read "55°14'".

BILLING CODE 1505-01-D

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 122

[T.D. 89-24]

Customs Regulations Amendments Concerning Overflight Exemptions for Private Aircraft

Correction

In rule document 89-2576 beginning on page 5427 in the issue of Friday, February 3, 1989, make the following corrections:

PART 122—[CORRECTED]

1. On page 5429, in the third column, in the **Authority** citation, in the second line "1456" should read "1459".

§ 122.25 [Corrected]

2. On the same page, in the same column, in § 122.25(b), in the third line, after "which", insert "the".

3. On page 5430, in the second column, in § 122.25(c)(6), in the second line, "application" was misspelled.

NOTE: For a Department of the Treasury correction to this document see the Rules section of this issue.

BILLING CODE 1505-01-D

federal register

Wednesday
February 15, 1989

Part II

Department of Agriculture

Food and Nutrition Service

7 CFR Part 271 et al.

Food Stamp Program; Food Stamp Issuance and Issuance Liability; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 274, 275 and 276

[Amdt. No. 271]

Food Stamp Program; Food Stamp Issuance and Issuance Liability Rule

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This Food Stamp Program rule makes final a proposed rule which constitutes the first comprehensive review of the Food Stamp Program's issuance and State agency issuance liability rules since they were first published in 1978 following enactment of the Food Stamp Act of 1977. The rule implements a reorganization of some sections of the current regulations, changes some current policies, and edits current language. Areas in which major policy changes are found include: current regulatory requirements for replacement of benefits, issuance reconciliation requirements, liabilities related to direct mail issuance of benefits and liabilities related to the use of authorization-to-participate (ATP) cards. This rule also implements provisions of the Food Security Act of 1985 (Pub. L. 99–198) regarding staggered issuance of benefits, photographic identification, and alternative issuance systems for State agencies. The effect of these changes will be to make specific provisions easier to locate, agency policies and statutory provisions more clearly stated, issuance liabilities more fully outlined and the regulatory language, in general, easier to understand.

EFFECTIVE DATE: This rule becomes effective April 1, 1989. For information on implementation dates see "Implementation" in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Marilyn Carpenter, Chief, State Administration Branch, Program Accountability Division, Food Stamp Program, Food and Nutrition Service (FNS), USDA, 3101 Park Center Drive, Room 904, Alexandria, Virginia 22302, telephone: (703) 756–3383.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order No. 12291

This action has been reviewed in relation to the requirements of Executive Order No. 12291 and Secretary's Memorandum No. 1512–1, and it has been determined that the action will not result in an annual effect on the economy of $100 million or more or a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Additionally, this action will not result in 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. Therefore, this action has been classified as "not major."

Executive Order No. 12372

This Program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notice(s) to 7 CFR 3015, Subpart V (cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this Program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act.

This action has also been reviewed in relation to the requirements of the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). Anna Kondratas, Administrator of the Food and Nutrition Service (FNS), has certified that this action will not have a significant economic impact on a substantial number of small entities. This final rule streamlines and simplifies coupon issuance and State agency liability rules. No new requirements are being placed on small businesses or organizations. Some new requirements are being placed on State agencies. However, the requirements will not have a significant economic impact on local governments.

Reporting and Recordkeeping

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping burden required by a revision to the Form *FNS–46,* Issuance Reconciliation Report, and contained in § 274.4 of this rule has been approved by the Office of Management and Budget (OMB) under OMB No. 0584–0080. The other reporting and recordkeeping requirements (as shown below) contained in the rule are also approved by OMB. The requirements are simply being redesignated and remain unchanged by this rule.

7 CFR section where requirements are described	Current OMB control number
274.1(c)	0584–0009
274.3(d)	0584–0009, 0584–0069, 0584–0080
274.4(a)	0584–0080
274.4(b)	0584–0009, 0584–0015, 0584–0080, 0584–0081
274.4(f)	0584–0009, 0584–0053
274.6(a), (b) and (e)	0584–0080, 0584–0081
274.7(a)	0584–0009
274.7(c)	0584–0022
274.8 (a)–(c)	0584–0009
274.8(e)	0584–0053
274.9 (a)–(d)	0584–0009
274.11	0584–0009
276.2(b)	0584–0015

Reorganization of Part 274—Issuance and Use of Coupons

Part 274 of the food stamp regulations has been extensively revised and restructured. In order to help the reader relate previous provisions of this Part to the same provisions in this final rule, the following table of redesignations has been compiled:

TABLE OF REDESIGNATIONS (PART 274)

Previous section	New section
274.1(a)	274.1(a) and 274.2(a).
274.1(b)	274.1(b).
274.1(b)(3)	274.1(b)(3).
274.1(b)(4)	274.1(b)(3) (i), (ii) (A) and (B).
274.1(b)(5)	274.1(b)(4).
274.1(b)(6)	274.1(b)(5).
274.1(c)(1)	274.1(c).
274.1(c)(2)	274.1 (c)(1) and (c)(2)
274.1(d)	272.4(f).
274.2(a)	274.3(a).
274.2(b)	274.1(e).
274.2(c)	274.3(d)(1)(i).
274.2(d)(1)	274.3(d)(1).
274.2(d)(2)	274.3(d)(1)(i).
274.2(d)(3)	274.3(d)(1)(iii).
274.2(e)(1)	274.3(a)(1).
274.2(e)(2)	274.2 (c), (c)(1) and (c)(3).
274.2(e)(3)	274.3(e)(1).
274.2(e)(4)	274.7(e)(2).
274.2(e)(5)	274.3(d)(6).
274.2(e)(6)	274.7(g).
274.2(e)(7)	274.5(b) and 274.10(c)(1), (2).
274.2(e)(8)	Unnecessary.
274.2(e)(9)	274.3(d)(4).
274.2(e)(10)	274.4(a)(1)(i).
274.2(e)(11)	274.6(a)(1) and 274.6(f)(4)(i).
274.2(f) (1), (2), (3), (4)	274.3(d)(2).
274.2(f)(5)	Redundant.
274.2(f)(6)	274.2(c)(1).
274.2(f)(7)	274.3(e)(1) and 274.6(f)(4)(1).
274.2(g)(1)	Redundant.
274.2(g)(1)(i)	274.3(d)(2).
274.2(g)(2)	274.3 (d)(1)(ii) and (d)(3).
274.2(g)(3)	Redundant.
274.2(h)(1)	274.6 (c), (d), and (e).
274.2(h)(2)	274.6(i)(1).
274.2(h)(3)	274.6(g).
274.2(i)	274.2(e).

TABLE OF REDESIGNATIONS (PART 274)—Continued

Previous section	New section
274.2(j)	Deleted; provision expired.
274.3(a)	274.3(a)(3).
274.3(b)	274.3(d).
274.3(c)(1)	274.6 (a), (b) and (e).
274.3(c) (2) and (3)	Redundant.
274.3(c)(4)	276.2(b)(4).
274.3(d)	274.4(b)(1)(iv).
274.4	274.7.
274.5	274.8.
274.6	274.4(a).
274.7	274.11.
274.8(a)	274.4(b).
274.8(b)	274.4(f).
274.9	274.9.
274.10(a)	274.10(a).
274.10(b)	274.10(a)(4)(i).
274.10(c)	274.10(a)(4)(iii).
274.10(d)	Redundant.
274.10(e)	Redundant.
274.10(f)	274.10(a)(4)(iii).
274.10(g)	274.10(a).
274.10(h)	Redundant.
274.10(i)	Redundant.
274.11 (a), (b), (c) and (d).	Deleted; provision expired.
274.11(e)	274.7(h).

Amendments and Analysis

On April 9, 1986, the Department published in the **Federal Register** at 51 FR 12268 a proposed rule comprising a comprehensive revision of the Food Stamp Program's current issuance and State agency issuance liability rules. The publication proposed a reorganization of the current rules, changes in some policies, a clarification of current language to make the rules easier to understand and proposed to implement some provisions of the Food Security Act of 1985 (Pub. L. 99–198). The reader is referred to the April 9, 1986 publication for review and consultation in order to ensure a complete background and understanding of this document. All comments received on the proposed rule have been considered in the formulation of this final rule.

1. Definitions

The Department proposed adding definitions for "Authorization document" and "Claims collection point." Those proposed definitions have been adopted in this final rule without comment. One commenter suggested that the term "authorization to participate (ATP) card" be removed from the definitions list. Even though the Department is working to eliminate distinctions for separate types of issuance systems, in favor of "generic" descriptions and documents which would apply to many different issuance systems, the suggestion has not been accepted. Since the term "ATP" is still used throughout the regulations, the definition must remain in § 271.2. Another commenter proposed that the terms "Master issuance file", "Record-for-issuance", "Direct access system" and "Authorization document system" be added to the definitions list, since the terms were newly defined in the proposed rule, and are crucial to the description and understanding of current and yet-to-be-developed issuance systems. We think the suggestion will make the terms easier to locate and understand, and have, therefore, included the terms, with the exception of "authorization document *system*" in § 271.2 The definition for "authorization document" was included in the proposed rule and has not changed. One State agency suggested that a definition for household disaster be included. A disaster is a declared emergency for natural events such as tornadoes and floods, affecting a large number of households. An individual household may experience a misfortune such as a power outage or water damage from a storm, in which case benefits may be replaced under the replacement provisions. The above examples are merely guidelines, and since declared disasters and individual household misfortunes are treated separately, one definition for both would not be appropriate. The regulations which would be applicable in any particular situation would best be determined by the State agency. (§ 271.2)

2. Plan of Operation

The proposed timetable required State agencies to submit their unit level of reporting mail issuance losses by the 15th of August following publication of this final rule and by that date in succeeding years if the unit level of reporting is to change for their following fiscal year. Two State agencies commented that the August 15 date was impractical because their fiscal years started on July 1. However, the Department believes that the logical time for state agencies to submit changes would be with Budget Projection Statements, when costs and liabilities in other areas are being reviewed. Therefore, the Department has set May 15, 1989 as the deadline for an initial report (if a State agency is changing its level of reporting), and subsequent changes to be reported by August 15 in years thereafter. (§ 272.2(d)(1)(vi))

3. State Monitoring of Duplicate Participation

In reference to the Department's proposal for a reorganizational change by moving the provisions requiring State agencies to check for duplicate participation from § 274.1 to § 272.4, two comments favoring the move were received. The reorganizational change is adopted as final. (§ 272.4)

4. Issuance Agents

The proposal to exclude issuance agents from retail and wholesale food firms drew responses from 14 commenters. Four respondents agreed with the proposal, one was noncommittal, and nine were opposed, stating that there would be great inconvenience to disabled and elderly recipients, that the provision may eliminate Saturday issuance, that we have insufficient reason for discontinuing issuance in stores, and that recipients in some areas would be disadvantaged because of a lack of public transportation to "downtown" issuance offices. The Department has reviewed the situation and has decided to retain the current policy, but with some modifications to control its use. Coupon issuance will be permitted in retail food firms by two exceptions to the generally–proscriptive rule. First, coupons may be issued in a retail food firm if the issuance functions are performed by a bank, credit union, or other financial institution unrelated to the food firm; second, a retail food firm may issue coupons on its premises if the State agency presents adequate documentation that without the availability of on-site store issuance at a particular location there would be not merely an inconvenience, but a hardship, to recipients in obtaining coupons. In such a case, the State agency shall contract directly with the retail food firm and shall strictly supervise such entity for security, reporting and accountability. Without the hardship documentation, a retail food firm may perform the issuance functions itself, but only as a subcontractor to a bank, credit union or other financial institution, and with strict oversight by the financial institution. Retail food firms do not have to be authorized to accept and redeem food coupons from recipients in order to perform issuance. In addition banks and credit unions do not have to be chartered under Federal or State law. (§ 274.1(b))

5. State Agency Issuance Responsibility

In reference to the Department's proposal to require State agencies to

report changes of location or activity of food stamp offices, three commenters voiced concern about what changes should be reported and the time frame in which the reports should be made. Two commenters stated that whenever a mail issuance or replacement point, issuance point and bulk storage point, as well as a project area, reconciliation point or coupon shipment receiving point, is added, changed or terminated, the action should be reported. The comment is accepted.

The third commenter voiced concern that State agencies were being required to report the change to FNS no later than 30 days prior to the effective date of the action, and thinks that State agencies "should" report the actions within that period. The Department feels that for efficient administration of the Program in the many areas involved, it is mandatory that the Department have at least a 30-day period in which to make necessary adjustments, such as changing mailing lists, delivery routes and possible leasing of new space. It will be incumbent on all State agencies which have local administration of the Program to make sure the aforementioned actions are reported to the State agencies on a timely basis. Therefore, the suggestion is not accepted, and the proposed amendment is retained. (§ 274.1(d))

6. Receipt of Benefits

A provision from the Food Security Act of 1985 requires that, for households applying for and receiving benefits in the last fifteen days of a month, benefits for the first full month of participation must be issued no later than the eighth day of the month following the month of application. (The current provision for expedited service requires benefits for the first full month to be issued by the first calendar day of the month after the month of application.) Six comments were received concerning this provision; two commenters thought that "the eighth day" should be changed to "the tenth day" to be consistent with other Federal and State Programs. Two other commenters expressed concern that if the State agency were allowed the option of issuing (prorated) benefits to a household which applied after the 15th day, within the month in which the application was made, State agencies would not issue benefits in the month of application, but would simply make one issuance by the eighth day of the following month. That issuance would be one full month and a partial allotment representing a period in the month of application. This is an option Congress made available to the State agencies. Another commenter was concerned that an automated issuance system could not handle a manual issuance in the second month (by the eighth day). The last commenter thought that a recipient may think he is to get issuance twice a month if, for example, he receives a prorated allotment on the 29th and a full allotment on the 6th. Since the eighth day is mandated by legislation, it remains in this final rule. (§ 274.2(b))

One commenter requested clarification of "* * * the eighth calendar day * * *" as it applies to Saturdays, Sundays and holidays. For households entitled to receive benefits for the first full month of participation by the eighth of the month after the month of application, the coupons or an ATP must be available to the households on that date. Regardless of the system used to meet this delivery standard, the State agency shall provide a reasonable opportunity for the negotiation of an ATP no later than the eighth calendar day. There are no exceptions to this requirement for weekends or holidays. This rule does not include the issuance provision from section 203 of the Hunger Prevention Act of 1988 (Pub. L. 100–435), which will be addressed in a separate rulemaking.

7. Staggered Issuance

Twenty-nine commenters addressed this provision from the Food Security Act of 1985, which permits the staggering of coupon issuance throughout an entire month and limits the interval between regular or supplemental issuances to 40 days. Eighteen comments were supportive of the provision as proposed. Six commenters expressed opposition to the 40-day maximum period between issuances, with all but one stating that the maximum should be no more than 35 days. Another commenter thinks that the State agencies' use of supplemental issuances would be confusing to recipients, who may assume they are to receive benefits twice a month. Three comments concerned the fact that if the proposed option for State agencies to use a supplemental issuance for applicants certified after the 15th of the month were retained, the State agencies would avoid issuing any benefits in the month of application, and would instead make one issuance between the first and eighth of the following month. Even though this is an option allowed by the legislation, it is hoped that State agencies will use it to get benefits to recipients on a timely basis, and not to unduly delay benefits. Six State agencies voiced concern about the impact of the change on current computer operations, especially since the systems cannot now handle a supplemental issuance made manually in the second month. Several commenters thought that those recipients receiving ATPs after the 15th should have as much time to redeem them as do those receiving ATPs prior to the 15th. A State agency opposed the staggered issuance change because it did not correspond to the direct-mail schedule for households not reporting monthly.

A commenter questioned whether or not the issuance of benefits under expedited service takes precedence over retrospective budgeting requirements. In a one-month retrospective system, the issuance of benefits under expedited service takes precedence over the monthly reporting requirement; that is, the second month's issuance must be made on the first calendar day of the month and not held pending receipt of the monthly report. The State agency must make an eligibility and allotment determination based on the best available information.

Another comment concerned the fact that at least one State agency has a "cyclical" issuance system based on the date of application, and that the "eighth calendar day" is not relevant to that system. In every issuance system there has to be an "issuance month", although it may not start on the first day of the calendar month; therefore, there has to be an eighth day (of the issuance month). Since the aforementioned changes are mandated by legislation, they are retained in this final rule. (§ 273.2)

All currently-approved waivers pertaining to increased or decreased staggered issuance will automatically be cancelled April 1, 1989. Any State agency which wants to continue a current waiver after that date must reapply to FNS.

8. Providing Benefits to Recipients

The Department proposed to move the provisions pertaining to delivery standards for issuing benefits to newly-certified households from Part 273 to Part 274, because the provisions are not certification related but are standards for the actual issuance of benefits. One commenter stated concern about the provision, since that part of the provision dealing with households which have not provided complete verification is a certification concern, not an issuance concern. The Department believes that the provision has more applicability and importance for the distribution of benefits than with the certification of the households to receive benefits. These provisions of the

proposed rule are retained in the final rule. (§ 274.2)

Another commenter objected to the Department's proposed revision which stated that issuance authorization documents should be valid only in the geographic area that is encompassed by the reconciliation system through which the document will be processed. The commenter stated that the provision would present a hardship to recipients in rural areas. The Department has reviewed the provision and has decided to encourage its use so as to keep the reconciliation process from becoming needlessly complicated, but at the same time make it a State agency option in order to eliminate hardship for recipients who may be located nearer issuance offices outside their county or project area. ATPs may not, however, be negotiated across State lines. (§ 274.2(d))

9. Issuance Systems

The current regulations which define three types of issuance systems (ATP, HIR card, and mail) were developed in 1978 and, since that time, new systems have been developed which do not fit the definitions of the three basic systems. Also, the reporting and accountability requirements were based on the unique features of these systems. Therefore, the Department proposed to establish new generic classifications for issuance systems so that newly-developed systems can be accommodated by the rules.

Six comments were received on the first new classification, authorization document systems; three supported the classification as proposed and three wanted changes or clarifications. One commenter suggested that authorization documents show a project area identifying code, plus the number of each denomination book of coupons to be issued. The Department has no objection to either item being shown, but thinks they should be State agency options rather than regulatory requirements. A State agency commented that a description of the ATP system should not be in the regulations since the system is fast becoming a minor or secondary system nationwide. As of January 1986, 30 States used an ATP issuance system to some degree, with 10 States using ATPs for one hundred percent of issuance. Therefore, the Department does not consider it a minor issuance system at this time, although it may be replaced in the future. The description of an ATP system is being retained, but is being included as an example of the more general authorization document systems.

Another commenter suggested that rather than showing the "expiration date" on an authorization document, the "benefit month" should be shown. The Department believes that the "expiration date" would be more useful to recipients, since a date represents a definite end to the validity of the document. Such a date would also be less confusing for issuance cashiers. The same commenter stated that there should be four classifications of issuance systems, adding the classification "authorization issuance list." The Department considers the "authorization issuance list" and the "authorization document" systems to be the same since both require the signature of the recipient in order for the recipient to receive benefits. Three commenters thought it would be helpful if there were an explanation of exactly what constitutes an authorization document system. Such a system is one in which the recipient must sign a document (form, printout, register) in order to receive the issuance. A direct access system (manual household issuance record (HIR) or access to master file directly or through a computer terminal) does not usually require a signature on a document. The last comment concerned whether or not multiple files (physically separate) may constitute the master issuance file; multiple files may be used as long as the files are clearly identified as part of the master issuance file and contain all the required data.

There were no separate comments on the second new classification, direct access, or the third classification, mail issuance, as classifications *per se*. Comments regarding liability in mail issuance are reviewed later in this section.

Two commenters expressed concern that we were eliminating the permissibility of one-person mail issuance functions. This provision was mistakenly omitted from the proposed rule. If these functions are performed by one person, a second-party review shall be made to verify coupon inventory, the reconciliation of the mail issuance log, and the number of mailings prepared. This provision in the current rules has been retained in § 274.3(d)(2) of this final rule. A commenter wondered why the master issuance file must have data on disqualified households. The data on disqualified households does not need to be retained on the master issuance file, and may be kept in a separate file, automated or manual. The data is required on the revised Form *FNS–366B*, Program and Budget Summary Statement—Program Activity Statement.

10. Alternative Issuance System for a State Agency

The proposed rule, based upon section 1519 of the Food Security Act of 1985 (Pub. L. 99–198), states that the Secretary, in consultation with the Office of the Inspector General, shall require State agencies to change their systems of issuance if those systems are resulting in a loss of Program integrity (significant dollar losses). Sixteen comments were received and all were against the legislative change. If a change in a State agency's issuance system becomes necessary because of continuing issuance losses, the mandate to actually change the system will be made after discussions involving the Department's Office of the Inspector General, FNS and the State agency. Such discussions will be concerned with the type(s) of losses being experienced by the State agency, prior corrective action, local concerns and needs, resources available to the State agency, and the cost of a system change. Under this final rule, the cost of making such a change will be shared by the State agency and the Department.

Several comments wanted guidelines or a definition for "Program integrity", and an explanation of how the loss of Program integrity would require a system change. The loss of integrity could result from a large and continuing issuance loss. An exact percentage or dollar-amount threshhold which would trigger the requirement to change systems cannot be made across the board. Each situation regarding a large and continuing loss would need to be evaluated separately, and as such, there is not an "exact" threshhold which could be applied to all cases.

Other commenters expressed belief that in each case of a required change, the State agency should not be liable for losses from the new system, that there should be a definite time frame for when a new system has to be implemented and that there should be limits on conversion costs to protect State agencies' funds. The Department is unable to exempt a State agency from liability since the law specifically states that State agencies will be held liable for specific losses. A definite timetable for implementation of a new system cannot be set in advance; again, each situation will have to be reviewed independently. The Department does not want to set limits on conversion costs, but is willing to share the costs.

There were two comments centering on the belief that State agencies should have appeal rights when confronted with an order to change issuance

systems. The appeal process exists only for actions in which the Department has billed State agencies; there is no statutory provision allowing appeal of an order to change an issuance system. However, an order to a State agency to change its issuance system may be negotiated if the State agency is able to provide information showing that it's losses are decreasing or are not as great as first indicated. (§ 274.3(c))

11. Validity Period for ATPs

In this area, the Department proposed to amend the regulations to clarify that a household would lose its right to a particular month's benefits if the benefits were not obtained during the validity period of the benefits for that month. This is a clarification and not a change in policy. Second, the proposed rule expanded the current requirements on validity periods to issuances made from Direct Access Systems, in that the protection afforded to recipients and State agencies using other systems would be applied to all recipients who do not have coupons delivered directly to them. Third, State agencies would be permitted to apply the 20-day addition or subsequent-month provision, at their option, to issuances made after the 20th day of the issuance month. Finally, if a State agency is experiencing excessive losses, it may institute a system which reduces or limits the validity period provided in this rule.

Eleven comments were received concerning the validity period for issuances; all supported the proposed amendment. The proposed changes are made final. The current provision allowing State agencies to add an additional 20 days to the validity period for authorization documents issued after the 20th day of the issuance month, as described in the proposed rule's preamble, was inadvertently omitted from the regulatory language, and has been inserted into this final rule. (§ 274.3(d)(7))

12. Reconciliation and Reporting

The Department proposed several revisions to the current reconciliation and reporting requirements which would tighten those requirements and ensure that they fit the proposed issuance system classification described above. The major change is the requirement that all issuance systems reconcile their issuance activity against their master issuance files and report the results to FNS monthly. Only State agencies operating ATP systems had been required to do this. This required report would be a revised version of the Form *FNS–46,* Issuance Reconciliation Report, currently submitted monthly for authorization document systems. In mail issuance systems, a record-for-issuance is created from the master issuance file; however, there is no accounting for problems that may occur in the creation of the record-for-issuance. In direct access systems there is no required report on issuance activity other than the Form *FNS–250,* Food Coupon Accountability Report. While the nature of such a system is that there is virtually no reason for additional reconciliation, there are other problems, such as replacements, for which accounting is necessary. The new Form *FNS–46* is being redesigned to be adaptable to the different types of systems, and will have new items as well as some of the current ones.

In addition to the above requirements, all systems would also continue to be required to reconcile inventory levels against issuances each month on the Form *FNS–250.* The remaining reconciliation requirements are directly related to the nature of the individual issuance systems. Direct access systems will have no other requirements, and the current requirement in § 274.6(d) that for HIR card systems, State agencies do a semiannual comparison of 20 percent of their case files against the master issuance file, would be eliminated. In authorization document systems, State agencies would need to take additional steps to reconcile the authorization documents against the record-for-issuance, in order to check for problems in issuance that occur in, or after, the generation of authorization documents from the record-for-issuance. The additional steps are the same as those required under current rules; the additional data would be reported on the revised Form *FNS–46.* In mail issuance systems, the steps required to report mail loss data on the Form *FNS–259* would still have to be taken. There were no proposed changes other than the new loss reporting levels and tolerance levels described in § 276.2, State Agency Liabilities. (§ 274.4(a))

Nineteen comments were received concerning the new reconciliation and reporting provisions for issuance systems; eleven commenters were opposed. Several of those opposed thought that a new "layer" of reconciliation was being created to add a new liability for which State agencies could be billed for errors. The primary purpose of the change was to emphasize the necessity for those State agencies which already have a record-for-issuance file to use the file in the reconciliation process; the proposal was not intended to require State agencies which did not already have a record-for-issuance file, to create one. In an authorization document system, the authorization document is reconciled against the master issuance file. In those systems in which there is no authorization document, but for which there is a record-for-issuance, the record-for-issuance file would be reconciled against the master issuance file.

Four commenters expressed the opinion that reconciliation of a record-for-issuance file with the master issuance file is duplicative. To some extent that is correct. However, since a record-for-issuance file contains only those households which are to be issued benefits, rather than all households which are (eligible) on the master issuance file, there is less data subjected to possible errors because not all households receive benefits each month and, therefore, would not be on the record-for-issuance file. To reconcile each issuance with the master issuance file increases the chance of an unintentional altering of the data on individual household records due to computer error. Another commenter wanted to know if batch reconciliation could be done, since it was thought that the proposed regulation implied that each individual issuance document had to be reconciled against an individual household record in the master issuance file. Regardless of whether or not a particular issuance system has a record-for-issuance file, batch reconciliation may still be used.

Another commenter wanted a clarification of the term "original allotment" as it pertains to replacements in § 274.6(b)(1)(iv). In reference to replacements, the term means the first benefits issued for a particular month to an on-going household, as opposed to "initial allotment" which refers to the first benefits issued a newly-certified household. The term "current month", also used in § 274.4(b)(1)(iv), refers to original allotments which are recovered in the same month they are issued. The sarne commenter asked what should be done with original allotments that are recovered after the current month of issuance. The allotments should be returned to inventory and the replacement allotment reported on the Form *FNS–46,* unlike the situation in which an original allotment is issued, returned and replaced, all in the same month. The same commenter also requested that the wording in § 274.4(b)(4)(i) be modified to cover methods other than telephoning for transmitting the data for the Form *FNS–388,* State Coupon Issuance and Participation Estimates. The comment is

accepted and the wording has been changed to indicate that the data may be telephoned or electronically transmitted to FNS. (§ 274.4(b)(4)(i))

One comment received suggested that the reconciliation requirements be made more generic so that they could apply to any issuance system, and that there should be a more detailed relationship between files and records. The Department believes that it has done this to the extent that the requirements have not lost meaning by becoming too generic or general. As new issuance systems are developed, it may become necessary to redefine terms or requirements to make them applicable to all existing systems. However, the Department feels that the requirements which will become applicable with this rule are general enough for the foreseeable future. Concerning the relationship between files and records, we believe that the distinction has been made since State agencies are being urged to use a record-for-issuance, rather than a master issuance file for reconciliation. By so doing, there is less chance for creating errors in individual household records, and there are fewer records involved in reconciliation.

The Office of the Inspector General requested that the submission of the Form *FNS–46,* Issuance Reconciliation Report, by State agencies be limited to the initial report each month, and that revised reports be permitted only under unusual circumstances and with prior approval from FNS. The Department feels that State agencies should be given the opportunity to correct posting and transcription errors which may have been made on initial reports. Allowing revised reports could result in more accurate reconciliation and, therefore, reduced liabilities for State agencies.

A commenter stated that issuance systems using direct access should also report on issuance activity, since such a system is subject to undetected software errors. Direct access systems will have to report on replacements. With an audit trail prepared within the computer itself, and the Form *FNS–250,* Food Coupon Accountability Report, accounting for discrepancies in inventory, no additional reconciliation is needed.

One of several suggestions by a commenter was that, in the reconciliation of issuance in authorization document systems, discrepancies should be resolved by reviewing case files, if necessary, as well as by a review conducted with the coupon issuer. Since all methods of resolving any discrepancies should be used, the suggestion is accepted and the wording "* * * and/or a review of the case file" is added to § 274.4(a)(4)(ii).

The same commenter asked that the regulations define "participating household". For the purpose of State agency reporting on the Form *FNS–388,* State Coupon Issuance and Participation Estimates, a participating household is one that is certified and has been, or will be, issued benefits (whether or not the benefits are used), and on that has met the eligibility requirements, but will receive zero benefits. The definition will be added to § 274.4(b)(4)(iv).

Another question concerned how there could be a replacement in a Direct Access System. There would be no replacements for unreceived benefits, but there may be a replacement for coupons which are improperly manufactured or which are destroyed in a household disaster, or a replacement of an "access" card in an electronic issuance system.

Another commenter stated that a review of benefits indicated on the master issuance file should not be included in quality control. As stated previously, the master issuance file must contain the amount issued. This amount may be posted directly back to the master issuance file, as should be done in a direct access system, or indirectly, using a record-for-issuance file, as is usually done with mail issuance. If a record-for-issuance file is used, the actual issuance (posted to the record-for-issuance file) would then be posted to, and compared with, the master issuance file. Only by having the actual issuance amounts posted to the master issuance file can issuance errors be detected. If the posting of actual issuance stopped at the record-for-issuance, an issuance which was greater than that authorized on the master issuance file may be detected only in inventory reconciliation. If a mistake had been made during the creation of the record-for-issuance file from the master issuance file, and the record-for-issuance had been discarded, the only fact that would remain is that there was an overissuance; however, the overissuance could not be assigned to a specific household. If a record-for-issuance file is used, reconciliation must not stop with that file, but must be carried back to the master issuance file. Quality control reviews would then be concerned with the matching of benefits authorized to benefits issued, through a review of the record-for-issuance (as defined by this rule). With the use of a record-for-issuance, errors resulting in incorrect issuance could be correctly assigned to certification or issuance activity.

The same commenter suggested that, for HIR systems, the issued amounts shown on the cashiers' daily reports and receptionists' daily tally sheets must be reconciled against the household issuance records. The Department believes that this is a logical and needed part of the reconciliation process, especially since HIR systems do not have master issuance or record-for-issuance files, per se. The commenter also expressed the opinion that all types of issuances should be identified in the accountability system. Since all issuances, including manual issuances involving prorated and restored benefits, are to be posted to the master issuance files, these issuances will be included in reconciliation and accountability. Wording has been added to the regulatory text to indicate this fact more clearly. (§ 274.4(a)(1))

13. Authorized Representatives

As part of the effort to organize the rules so that all the rules pertaining to the issuance of coupons are grouped together, the Department proposed to move some of the provisions related to authorized representatives to Part 274. The provisions moved are those relating to the use of authorized representatives to obtain benefits on behalf of recipients, as well as those relating to the use of benefits to purchase food for Program recipients. By moving these provisions, currently found in § 273.1(f), a certain degree of redundancy is introduced into the regulations, since some provisions, such as those pertaining to the participation of disqualified individuals as authorized representatives, are found in both §§ 273.1 and 274.2. However, the Department believes that the advantage of having all rules regarding issuance grouped together outweighs the disadvantage of repetition. In order to reduce the overall volume of rules so that the rules would be more concise and easier to use, the Department proposed to eliminate the redundant provisions. Further, the provisions currently in the section that are not redundant have been moved to other places in the body of rules. No comments were received on this reorganizational change. Therefore, the proposal is adopted without change. (§ 274.5)

14. When a Replacement Issuance will be Provided

In the area of replacement issuances, the Department proposed to consolidate the rules pertaining to replacements and to simplify the provisions for easier understanding and application. Concerning policy changes, the Department proposed to establish a two-in-six months replacement policy for all

categories (benefits destroyed, stolen or not received) of allowable replacements. State agencies would no longer have to track separate limits for different types of losses. In addition, it was proposed to use the concept of "countable replacement", meaning that a replacement would be applied toward the limit only if there existed a possibility of Program loss.

Twenty-one comments were received on this provision of the replacement rules. Ten approved of the provision as proposed, while five commenters expressed concern about the tracking required to distinguish "countable" from "noncountable" replacements. Under current rules, State agencies are keeping track of two limits for three categories of replacements; now there is one limit for two categories, with confirmed disasters having no limit. The Department thinks that the addition of a code to denote a "non-countable" replacement could be made in any system, and that the burden of making the change does not outweigh the advantage which the code would provide, especially considering the fact that all replacements should be considered "countable" unless proven and noted otherwise.

Five commenters thought that our proposal not to count replacements which resulted from State agencies' errors was not justified and/or warranted a definition of State agency error. State agency error, in this context, refers to incorrect data in the case file which affects the issuance and/or receipt of benefits (as opposed to eligibility and certification) by that household. An example may be a situation in which a recipient's address is incorrect, or in which a replacement issuance is made even though information in the case file indicates it should not have been. It is believed that any late or non-receipt of benefits which may have been caused by an inadvertent State agency error, should not result in a liability for the recipient. Therefore, the proposal is adopted without change. (§ 274.6(b)(2)(iv))

Another commenter thinks that the proposed rule presumes that if benefits are received by a particular household, it is that household that uses the benefits. The commenter suggests that the wording be changed to state that in order for a replacement to be countable, there must not only be the probability of a Program loss, but also an additional gain for the particular household. It is true that the Department does make the underlying assumption that the household which receives benefits uses those benefits. A State agency would be unable to prove whether or not any particular household, or someone else, redeemed certain coupons, unless food firms which accept coupons were required to match the identity of coupons presented to documents which noted the specific identity of the coupons issued to any particular household. Such a requirement is not feasible and would be impossible to monitor. Therefore, only the probability of Program loss is being retained as the reason for making a replacement countable, and the proposal is adopted without change. (§ 274.6(a))

Two comments received concerned the fact that State agencies should be able to deny replacements when certified, as well as registered, issuance is signed for by someone living with, or visiting, the household. Since the majority, if not all, of mail issuance which requires a signed receipt by the household is sent by certified mail, the suggestion is accepted and the wording in § 274.6(a)(2) has been changed to indicate either type of signature-required mailing. The Postal Service generally will not accept coupons for registered mail, since that type of mail service permits a declared value for insurance against losses. However, coupons sent by certified mail may be able to be designated for restricted delivery, meaning that only those individuals designated by the State agencies may receive and sign for the coupons. The reference to registered mail has been retained for those issuance offices which are able to use that type of mail delivery. (§ 274.6(a)(2))

There was also a request for a definition of what is meant by the phrase "* * * or otherwise recouped by the State agency * * *" in reference to replacement issuances which should not be considered countable (§ 274.6(b)(2)(iv)(A)). The phrase refers to a replacement being made in a situation in which the household later notifies the State agency that the household has received the original allotment. If the original allotment is not returned, the State agency may recoup the replacement by a voluntary cash or coupon reimbursement from the household, or through the reduction of subsequent allotments under terms worked out with the household. Until the State agency receives full reimbursement for the original allotment, the replacement should be deemed countable. (§ 274.6(b)(2)(iv)).

One respondent believes that the one-limit replacement policy for authorization documents stolen after receipt should remain, since in most jurisdictions a stolen property report can be filed based solely on the complainant's word. Since the State agency can later check to see who redeemed the original ATP and can compare signatures and/or reconciliation numbers appearing on the replacement ATP, the State agency would have recourse in filing a claim against the household, if necessary. While we continue to encourage the State agencies to reconcile ATPs and to aggressively pursue claims, we want to ease the State agencies' burdens by having them track only one limit. Therefore, we have not accepted the comment and have made no change in the proposal. (§ 274.6(b)(2)(i))

Another commenter on the same provision requested that the words "* * * or a serialized ID area" be added to the third sentence of § 274.6(f)(1) to cover all situations in which numbered IDs are used. However, there are areas which use "serialized" IDs voluntarily, and the annotation of the ID number on the reverse of the ATP is not required. Therefore, the suggested wording was not accepted.

Two commenters requested that State agencies not be held liable for replacement issuances made beyond the six-month or two-replacement limits if the State agencies have been unable to determine the countability of previous replacements within the same period. The intent of the provision is that all replacements are to be considered countable unless verified otherwise. Beyond that, the Department thinks that the six-month period is sufficient time for State agencies to determine the countability of a replacement through the reconciliation of the original authorization document or the receipt of a signed proof-of-receipt card for certified or registered mail delivery. In a situation of a third request for a replacement before all previous replacements had been reconciled, action on the third replacement shall be held until the State agency can determine that the limit on countable replacements has not been reached even if such a determination requires an administrative hearing or judicial proceeding. There may be a delay past the 10-day limit on providing replacements until that verification can be made. If a previous replacement is verified as non-countable, replacement benefits shall be issued to the household. (§ 274.6(d)(1)(ii))

Commenting on mail losses, another individual expressed the point that losses of certified mail should not be considered countable when there is no record of receipt and the coupons are not returned to the State agency. If such a situation happens, the State agency

shall request from the Postal Service either the proof of delivery or the return of the coupons. In the meantime, the replacement shall be determined countable, since the household could possibly have received the coupons without the required signature, or the signed receipt could have been lost prior to being returned to the State agency. (§ 274.6(b)(2)(iv))

In response to the proposed § 274.6(h)(2), a commenter expressed concern that the Department was requiring State agencies to maintain Statewide listings of replacements. It is the commenter's opinion that tracking could best be done at the local level. There is no requirement for Statewide listings; the term "State agency" is used only to denote responsibility for compliance with the provisions. Even in those States that have mail issuance from one control point, there need not be one centralized replacement listing since the regulations permit a notation about replacements in case files. The requirement is for an accessible list or notation for each replacement.

A commenter questioned what the correct action would be in a situation in which a replacement was issued after the completion of the Form *FNS–259* for the quarter in which the original issuance was made. The replacement should be shown for the month the replacement is actually made, as stated in the instructions on the form, rather than the rnonth in which the request is received by the State agency, since there is not an actual decrease in coupon inventory until the replacement is issued. Another commenter questioned whether or not a replacement issued later than the 10- or 15-day allowable period due to the inability of the State agency to determine the countability of a previous replacement should be considered restored benefits. A justified delay in making a replacement is not grounds for having the issuance considered restored benefits. However, if a State agency denies a third replacement request because it would be countable and the household had obtained the limit of two in six months and the State agency later determines a previous replacement to be noncountable, the benefits issued as a result would be restored benefits. (§ 274.6(a))

15. Time Frames for Requesting Replacements

The Department proposed to amend the regulations which required that the replacement of a non-received issuance must be requested during the period of intended use of the original issuance. Since there had been many questions raised about the policy of "period of intended use", the rules were re-examined and it was proposed that all requests for replacements be made within 10 days of the normal receipt date (ATPs or coupons not received in the mail) or 10 days from the occurrence of a particular incident (theft of ATP, receipt of partial allotment, or destruction of ATP, coupons or food in a household disaster).

Eighteen commenters responded to this portion of the replacement rules. Only two comments supported the 10-day limit for requesting replacements. The majority felt that the change from "period of intended use" to 10 days was far too restrictive, especially in mail issuance where there can be so much variation in the delivery date of benefits, particularly in the first few months of certification. Also, it seems reasonable that by allowing households more time to request a replacment, the State agency is allowing more time for the household to receive the original allotment, whether it was lost in the mail, or lost, but not destroyed, in a household disaster. In addition, there may be instances in which a household may not be physically able to make the request for replacement for the non-receipt of benefits within a 10-day limit, such as those households which have elderly or disabled members.

The Department has reconsidered the proposal in light of these comments and has decided to retain the two-part standard. For authorization documents and coupons lost in, or stolen from, the mail, the request for replacements must be made during the period of intended use, which means the month for which the benefits were not received. If the original issuance was made after the 20th of the month, the recipient would have until the end of the following month to obtain a replacement. In instances of theft of an authorization document from a household, or the accidental destruction of an authorization document in the possession of a household or the loss of coupons or food purchased with food stamps in a household misfortune, the report and request for replacement must be made within 10 days of the specific incident. (§ 274.6(b))

16. The Amount of the Replacement

Previous regulations did not address setting any specific limit on the amount that could be replaced for stolen, nonreceived or destroyed authorization documents, or nonreceived coupons. The rules did set a maximum of one month's allotment on the replacement of coupons and food (or a combination thereof) destroyed in a household misfortune. Subsequent interpretation, however, extended the limit of one month's benefits to authorization document replacements also. This limit was applied regardless of whether the issuance included restored benefits.

The Department proposed, with one change, to place the interpretation noted above into the rules. Thus, State agencies would issue replacements, within the required time frame, in the maximum of one month's benefits. The exception arises if the replacement is for restored benefits. In such a case, a replacement shall be made for the full value of the restored benefits not received by a household. To minimize losses, State agencies are encouraged to provide alternative forms of issuance, such as certified or registered mail or direct delivery, when substantial restored benefits are involved. There was one positive comment. The proposed wording is retained in the final rule. (§ 274.6(b)(3))

17. Time Limits for Issuing Replacements

Seven commenters responded to this portion of the rule which proposed to modify the requirement that State agencies issue replacements within 10 days of the requests in all situations. The proposed rule modified the rule to permit State agencies to delay the issuance of a third replacement beyond the 10-day limit, if need be, in order to determine whether or not the previous two replacements were countable. The Department also proposed to specify that the issuance of a replacement would not be made until the household submitted a signed statement of non-receipt. If the statement were not submitted to the State agency within 10 days of the request, no replacement would be issued. Finally, the proposed rule would have allowed State agencies which use certified/registered mail, a maximum of 15 days from the date of the request for a replacement to issue the replacement. This was seen as necessary since the Postal Service, on some occasions, is unable to provide the State agencies with signed receipts in time for the State agencies to verify receipt of benefits prior to issuing replacements. Requiring State agencies to issue replacements before verification would negate the added protection afforded by certified/registered mail. (§ 274.6(d)(1))

Of the seven comments received, six supported the proposed changes. One commenter stated that a third replacement within a six-month period should be made automatically, within the 10-day period, if the household

requesting the replacement had requested an alternative issuance delivery method after the second replacement, but the State agency had not yet made the change. The Department thinks that this would unnecessarily complicate the replacement provision, especially if the second and third replacements were in successive months. For example, if a second replacement were requested on the 20th of the month and a third requested on the 10th of the following month, the time period between the two replacements may be too short to allow the State agency to implement an alternative issuance method, considering that replacements may be requested anytime during the month. If the second replacement had not yet been determined to be non-countable, the third request would also have to be delayed until the State agency could make that determination. Therefore, the proposed rule is implemented in this final rule. (§ 274.6(d))

18. Replacement of Mutilated Coupons and ATPs

Four comments were received, all but one of which supported the proposal which added authority for the replacement of improperly manufactured or mutilated authorization documents. The adverse commenter objected to the use of the "three-fifths" requirement for the replacement of mutilated coupons. This is a security requirement from the Department of the Treasury and, therefore, cannot be changed or eliminated. It is applicable to currency as well as food stamps, and is designed to prevent coupons from being torn approximately in half, with each half subsequently being redeemed or replaced at face value. The final rule has been clarified to state that households cannot receive a replacement for stolen coupons, and that improperly manufactured or mutilated authorization documents must be surrendered to the State agency. (§ 274.6(f)(4))

19. Alternate Issuance System for a Household

That portion of the proposed rule which required a State agency to offer a household an alternate issuance system after the first report of non-receipt, to automatically place the household in an alternate system after a second report of non-receipt, and to retain the household in that system for a minimum of six months, prompted five comments. Two commenters were opposed to the six-month period, stating that State agencies should be able to determine the length of time for the alternate system. Another commenter thought that in those areas that have only one form of issuance, the provision for an alternate system should be waived. In any issuance system, there are always options which are available, even though they may have to be accomplished manually. The Department has reviewed the comments and has decided to retain the current policy which permits State agencies to retain a household in an alternative issuance system for a length of time the State agency determines to be necessary, since that policy affords flexibility for individual situations. (§ 274.6(g))

20. Documentation and Reconciliation of Replacement Issuances

All four of the comments received were opposed to the part of the proposed rule requiring that replacements be reconciled to the month they are issued for, as well as the month in which they are actually issued. Commenters felt that "double posting" creates additional complications for the reconciliation process. Since in the majority of replacement situations there is already some notation and reconciliation for the initial issuance when the replacement is requested, making an additional notation and reconciliation for the same benefits when issued later does seem to be duplicative. Therefore, the requirement for posting the replacement to the month issued for, as well as for the month actually issued, has been finalized as an option for those State agencies which find it useful. All other proposed provisions are retained in this final rule. (§ 274.6(h))

21. Coupon Management

The Department proposed four changes in this area of the current rules. First, it was proposed to consolidate within Part 274 the destruction requirement at § 273.18(i) for coupons used to pay State agency claims against households, and the requirement at § 274.8(b) regarding coupons that are mutilated or improperly manufactured. A second proposal pertaining to the destruction of coupons eliminated the limit of $500 which was placed on the amount of coupons a State agency could destroy without prior approval from FNS. The one exception to this revision was whole boxes of improperly manufactured coupons. Third, the Department proposed to add the requirement that unusable coupons be disposed of within 30 days from the close of the month in which they were received from a household or identified as being mutilated or improperly manufactured. Finally, it was proposed to clarify and revise destruction reporting procedures by allowing State agencies, at their option, to consolidate destruction reporting for unusable coupons acquired through claims collections.

The Department received eight comments on this proposed change. A majority agreed with the provision, yet offered specific comment. There were no comments related to the consolidation of the destruction requirements currently found in two separate sections in the rules. There also were no comments regarding the elimination of the dollar limit on the value of coupons that could be destroyed without prior approval from FNS.

Another commenter was concerned with the provision that requires replacements for improperly manufactured and mutilated coupons to be made at issuance points. Rather than replacing the coupons, the commenter suggests that the coupons be examined by the State agency prior to issuance, and then reported on the *FNS–471*, Coupon Account and Destruction Report. The State agency (coupon issuer) should try to eliminate improperly manufactured and mutilated coupons from issuance. However, in those situations where it is not feasible to do so, such as mail issuance or direct delivery of benefits by an entity other than the State agency, the replacements must be made and the improperly manufactured or mutilated coupons returned to the State agency and destroyed. (§ 274.6(a)(1)(i))

Another commenter thought there should be guidelines for the retention of the information of coupon shipments within a State (routes to be taken, shipment departure time and estimated arrival time), as required in § 274.7(c)(iii). Since the information is "before the fact" with respect to the actual shipping, once the coupons have arrived at the designated point, the State agency may dispose of the information. Wording is added to the final version of § 274.7(c)(iii) to clarify the option.

One comment was received regarding the use and destruction of specimen coupons, in which the commenter thought there should be more specific instructions as to who may use specimen coupons. Specimen coupons may be provided upon written request, to any State or local agency concerned with the administration of the Program or enforcement of its rules, and to authorized food firms for the education and training of employees on Program operations. Specimen coupons may not be provided to individuals for purposes of display or collection. This specific instruction concerning who may use

specimen coupons is not new with this rule. However, clarifying wording has been added. (§ 274.7(d))

The same commenter expressed the opinion that the destruction of specimen coupons should be done at the FNS regional offices for purposes of accountability. There is no accountability, as such, for specimen coupons. A perpetual record is maintained for the distribution of specimen coupons, for the purpose of determining to whom any particular specimen coupons were issued, in case it is determined that specimen coupons have been presented for redemption. The wording in the proposed rule is retained as final. (§ 274.7(d)(2))

Two comments were received regarding the time limit for destruction of unusable coupons. One commenter suggested that State agencies be allowed 30 days after FNS approval, rather than 30 days from the end of the month, in which to destroy boxes of improperly manufactured coupons. The Department is concerned about the security aspects of storing boxes of unusable coupons for an extended period. Therefore, the proposal places an explicit time limit on required actions by the State agency and an implicit time limit on FNS. In any situation dealing with boxes of improperly manufactured coupons, the State agency must destroy the box of coupons if the 30-day period is reached without the State agency receiving destruction approval from FNS, and document the manufacturing irregularity and the book numbers, and retain a copy of the State agency's request to FNS for permission to destroy. Another commenter thought that the time limit for destruction should correspond to the time limit for the submission of the *FNS–250* and *FNS–209* reports, and should not be more stringent. Again, the Department is concerned about the storage of unusable coupons for any extended period; therefore, the requirement of 30 days after the end of the month is retained as final. (§ 274.7(f))

There was one comment received concerning the use of coupons returned to State agencies as payment of claims, and coupons returned as undeliverable to the intended households. The commenter stated that returning such coupons to inventory creates accountability problems. The Department believes that the automatic destruction of returned coupons is wasteful if the coupons are in book form, complete, with original and unsigned covers. Therefore, the provisions of the proposed rule are retained in the final rule. (§ 274.7(g))

A final comment in this area questioned the type and extent of the documentation required for reports sent to the State agency concerning improperly manufactured and mutilated coupons. The documentation is not required if the State agency inspects the coupons at the issuance or storage points. If a report is prepared for submission to the State agency, it should contain enough information to enable the State agency to identify the coupons to FNS and the manufacturer. Dependent upon the extent of the damage, the beginning and ending numbers of the books involved should be noted. In addition, the specific problem should be noted in detail, such as a specific denomination coupon omitted from a book and staples not penetrating the entire book. The comprehensiveness of the content of the documentation is determined by the State agencies. No changes in the proposed rule resulted from this comment. (§ 274.8(e))

22. Return and Exchange of Coupons

The Food Stamp Act of 1977 eliminated the requirement that Program recipients pay cash for a portion of their benefits. Because there was a phase-in period for this provision, the rules that were issued to implement the provision contained provisions explaining how certain qualified households could obtain refunds for the cash requirement they had paid. The provisions for refunds were contained in § 274.11. Since the time for obtaining refunds has ended, the Department proposed to eliminate the rules governing them. Thus, the provisions of § 274.11 (a) through (d) have been eliminated by this rule. The provision pertaining to the exchange of old-series coupons has been relocated to § 274.7(h) and has been revised to eliminate sole reference to the previously-issued 50-cent coupon, and made applicable to any coupon denomination no longer used, now and in the future. No comments were received on this editorial change.

The Department is also making a technical amendment concerning the return and exchange of coupons by recipients and non-recipients. In the proposed rule, paragraphs (a), (b), (c) and (d) of § 274.11 of the current rules were removed, since the paragraphs concerned requests for refunds of the purchase requirement. In paragraph (c), there is reference to Form *FNS–287,* Request for Reimbursement or Notification of Return of Unused Food Coupons for Refund. When the purchase requirement was eliminated, the Form *FNS–287* was discontinued, and the new Form *FNS–135,* Affidavit of Return or Exchange of Food Coupons, was put into use. The new form covers not only the return of unused coupons but also the exchange of old-series coupons, coupons received in payment of a recipient claim, and the exchange of mutilated or improperly manufactured coupons. However, reference to the Form *FNS–135* was unintentionally omitted from the current rules and the April 9, 1986 proposed rule. This rule reinstates the provision in the rules. The Form *FNS–135* was designed to be a receipt for, as well as verification of, the person returning or exchanging coupons, and is to accompany the Form *FNS–471,* Coupon Account and Destruction Report, as proof of receipt of the coupons by the State agency. The two forms together serve as documentation by the State agency for coupons destroyed upon receipt, and coupons which are returned to inventory. Therefore, reference to the Form *FNS–135* has been added to the sections of this rule which concern the return or exchange of coupons. The amendment does not change the principle nor the policy intent of the provisions affected. (§§ 274.6(f)(4) and 274.7(f))

23. Identification Cards

One commenter misunderstood the wording in § 274.10(a)(1) which states in part that "all persons listed on the identification (ID) card shall sign the card prior to its use." The commenter thought that the provision meant that all persons listed on the card had to sign the card before the card could be used by any of those listed. The wording has been clarified to indicate that, before a person listed on the ID card may use the ID card, the person must sign the card. (§ 274.10(a)(1))

24. Photo IDs

The comment received on the use of photo IDs concerned their use by authorized representatives for elderly/homebound/disabled recipients. The commenter felt that because the authorized representatives for these recipients are usually home-health aides who change frequently as authorized representatives, they should not have to use the photo IDs. In those areas in which the photo ID is mandated, it is done so because of the risk of theft and fraud involved in a populous area and not because of who may be authorized to use an ID. Therefore, in those areas where photo IDs are required, the photo ID (of the authorized representative) must be used, regardless of the fact that the authorized representative may change frequently. (§ 274.10(b))

25. Identification Card Requirements and Substitution

Proposed § 274.10 contained only a minor change in the current ID card rules, specifically concerning photo IDs. The change is mandated by section 1528 of the Food Security Act of 1985, Pub. L. 99–198. Also, the proposed rulemaking consolidated and restructured current ID card requirements contained in § 273.10 (f) and (g), § 274.2 (e) and (f), and § 274.7(c). Therefore, these sections were removed from their current locations in the rules, combined, and inserted as § 274.10 of the proposed rules. In the change regarding photo IDs, Congress allowed State agencies to permit a member of a household to comply with the FNS photo ID card requirement by presenting a photo ID used to receive benefits under a public welfare or public assistance Program. Congress also wanted FNS to consider the cost effectiveness in determining where photo IDs must be used. Since the agency currently does this, no regulatory change is required. No comments were received on this change. (§ 274.10(b)(3)(iii))

26. Issuance Record Retention

A suggestion was made to add "rosters and lists" to those issuance and reconciliation documents which should be retained by the State agencies for three years. Since rosters and lists are commonly produced in issuance systems, the wording is accepted and added to § 274.11(a)(1).

27. Quality Control

The Department proposed to revise the provision pertaining to active-case reviews to specify that such reviews must not only determine if the household was entitled to receive benefits, but also whether or not the household was issued the correct allotment, by comparing the eligibility data and the amount authorized on the master issuance file with the amount shown on the record-for-issuance file. By making this comparison, the reason for any incorrect issuance which may have occurred could be determined, and the liability correctly assigned to either certification or issuance activities.

All four comments received on this provision were opposed. One comment stated that there was no convincing evidence that error rates would not increase as a result of this provision, and that there are methods other than quality control to check for issuance errors. With the new definition for issuance and the creation of the record-for-issuance, a clear demarcation has been made between certification and issuance. The only way to determine if there has been an issuance error in any particular situation is to compare the record-for-issuance against a file on the other side of the "line", which would be the master issuance file. What was proposed was a check of the amount on the master issuance file, which is accomplished by matching the eligibility data against the master issuance file. If the amount authorized by the eligibility data does not match the amount on the master issuance file in any specific case, there is a certification error covered by quality control. If a record-for-issuance amount does not match the corresponding amount of the master issuance file, there is an error covered by issuance liability. The Department believes that error rates will not be affected significantly with the additional check of the individual case records against the master issuance file, especially considering that most automated issuance systems are currently employing this check. (§ 275.10)

Another commenter was concerned about the fact that data entry errors resulting in subsequent replacement issuance errors would be counted as issuance errors and would not be covered by quality control or negligence billings. If such replacement errors were the result of data entry errors from information on eligibility, the resultant error, causing the issuance of an incorrect replacement amount, would still be classified as a certification error since it was during the certification process that an error was first made. Again, an issuance error is not concerned with the correctness of the amount of benefits authorized as determined by eligibility standards. Issuance liability is concerned with whether or not the amount issued matches the amount authorized for a particular household. (§ 275.10)

We have discovered that the language in the proposed rule did not fully conform with our intentions for the rule as correctly stated in the preamble. In order to clarify that quality control (QC) reviews will continue to determine whether a given household received the correct issuance, given its circumstances as of the review date, we have modified the proposed language. Therefore, the Department is revising the provision concerning active cases to specify that such reviews must still determine if the household was entitled to receive, and did receive, the correct allotment by comparing the eligibility data against the amount authorized on the master issuance file.

28. State Agency Liabilities

Another commenter expressed belief that the proposed rule which held State agencies liable for transacted ATPs which had been altered or which were counterfeit was too strict, stating that this was too great a responsibility to be placed on issuance cashiers. The Department did not mean to imply that cashiers would be personally liable. However, the State agency must be held responsible, since ATPs are procured, transacted and reconciled by the State agency. State agency personnel, and contract personnel, must be familiar with negotiable forms involving food stamps. Therefore, the provisions of the proposed rule are retained in the final rule. (§ 276.2(b)(1)(iii))

A second commenter stated that the Department should review the court's decision in *Perales v. Block*, 751 F.2d 95 (2nd Cir. 1984), concerning the question of a State agency's liability in the negotiation of expired ATPs. The court decision cited by the commenter applied to eight-day ATPs previously issued in New York City. This short-term ATP was used to decrease the number of invalid replacements. However, the court indicated that if an original of an eight-day ATP were presented for redemption after eight days, the ATP had to be honored, or the recipient issued another ATP valid for a total of 30 days. The court did not invalidate the Department's policy of holding State agencies liable as the policy applies to a regular, or 30-day, ATP. Therefore, the Department is finalizing the proposed liability provision. (§ 276.2(b)(2)(iii))

The Department's current policy on issuance documentation has been clarified to state that all coupon issuance has to be documented, and that the documentation has to be available to the Department. If a situation arises in which the primary documentation is unavailable, such as the loss of transacted ATPs in transit from an issuance agent to the State agency, the State agency should try to immediately reconstruct the documentation from other sources, if possible. (§ 276.2(a))

Wording has also been added to clarify the policy that State agencies are liable for losses of coupon issuance which occur during Federal, State and local investigations unless the investigations have been reported *directly* to FNS prior to the losses and FNS agrees to accept any losses which may occur. (§ 276.2(b)(2))

In issuance systems which utilize a record-for-issuance file, it is the responsibility of the issuance unit to obtain from the master issuance file

only those households which are certified to receive benefits for the current month. We have clarified this policy by stating specifically that State agencies will assume an issuance liability for benefits issued to households not currently certified. (§ 276.2(b)(2)(vi))

29. Mail Issuance Liability

The Department proposed permitting State agencies to choose from a three-level reporting and liability assessment system. State agencies could report mail losses at the project-area level, with a loss tolerance of one-half (.5) percent; at an administrative-unit level, with a loss tolerance of thirty-five hundreths (.35) percent; or, at a Statewide level, with a tolerance of three-tenths (.3) percent. Each State agency would be allowed to choose (or change) its reporting level once a year.

Concerning the proposed three-level system for reporting and assessing liabilities, thirteen comments were received; six commenters agreed with the proposed change, and seven opposed it. Of those opposing the change, five commenters felt the tolerance levels (percentages) were too low, and that they were unrealistic and punitive. One commenter stated that the tolerance levels should be forty-five hundreths (.45) percent for administrative units and forty hundreths (.40) percent for project areas (lower than the proposed tolerance). Another commenter thought that the tolerance level for administrative units should be forty-five hundreths (.45) percent, since many administrative units are smaller than project areas. Another commenter stated that the tolerance level of thirty-five hundreths (.35) percent is too high for densely-populated areas. The last commenter who suggested different tolerance levels thought that the level for State reporting should be forty-five hundreths (.45) percent, and for administrative and project area levels, fifty hundreths (.50) percent. The tolerance percentage proposed for the project area level was the same as that which had been in effect since 1983. The percentages proposed for the administrative unit and State levels were commensurate with the larger issuance bases they represent. The project area reporting level was established to enable FNS to identify areas experiencing high losses of coupons in the mail. Responding to State agencies that wanted flexibility in their reporting, since some had Statewide mail issuance from one point and others were administered on an administrative unit basis, the Department proposed the other two levels for reporting. However, it was still a concern of the Department that areas experiencing high losses might be "hidden" when combined with larger reporting units. The Department feels that the proposed tolerance levels represent a fair balance between mail losses, regardless of fault, and the Department's obligation to seek reimbursement for those losses. Therefore, so as not to conceal and compensate for high loss areas, the tolerance level was decreased with each increase in reporting unit size. The Department feels that the tolerance levels selected are reasonable, and the proposed tolerance levels are retained as final. (§ 276.2(b)(3))

Another commenter thinks that State agencies should not be limited to the use of current administrative units for reporting losses, but should be allowed to change the units when needed, such as grouping postal jurisdictions for easier investigations of mail losses. Again, the Department is concerned that allowing changes in administrative units, for the purpose of reporting losses, may lead to the absorbing of higher losses by the Department. If a State agency chooses to report losses by project area or Statewide level the first year of the new tolerance levels, the State agency may, during that time, form administrative units for the purpose of Program administration. If the State agency decides to report by administrative-unit level for the second year, it may do so, but it may not create any new or changed administrative units during that year, for the sole purpose of reporting mail losses, without prior approval. By keeping administrative units stable, FNS will be able to more accurately track losses in particular areas over a period of time. If administrative units were to change during a reporting year, continued losses in a particular area might go unnoticed. (§ 276.2(b)(3))

The focus of another comment was that State agencies should be able to choose their reporting and assessment levels semi-annually, rather than annually, for more flexibility. The Department feels that permitting changes more frequently than annually would result in confusion in reporting. Further, State agencies should do everything to resolve and reduce the losses while in a current plan before simply changing to a lower tolerance and a larger geographic area. The Department thinks that six months is too short a period to review the problems, decide on solutions and implement the necessary actions.

A comment from another source was a request for definitions of "project area level" and "administrative unit level". Project-area level is reporting mail issuance losses for individual project areas which most commonly are counties or independent cities. An administrative unit is usually larger than a project area but smaller than Statewide. The unit may have been created for governmental purposes and adopted by the State agency for Program administration purposes. Such a unit might be a welfare district, a Postal Service zone, or an area which has been created specifically for administration of the Food Stamp Program.

The same commenter asked how State agencies would handle two project areas which are currently being reported singly, with the rest of the State reported as one separate unit. In such a situation, the State agency may continue to report the two project areas singly, and combine the remaining project areas into an administrative unit. Administrative units may not be created by the State agencies for the sole purpose of reporting mail issuance losses.

Concerning that portion of the proposed rule which dealt with the State agencies' liabilities for losses incurred by the Postal Service, seven comments were received, with only one in agreement. Those opposed unanimously stated that the Postal Service must be held accountable for its own losses, especially if State agencies have paid for premium service (certified or registered mail).

While the Postal Service will be requested to account for all food stamps it handles, the Department realizes that not all food stamp mail losses are the fault of the Postal Service, since there are thefts from mail boxes involving coupons sent by regular mail. When there is a loss of coupons from regular mail service, it is not always possible to determine whether it involves theft after delivery, or loss before delivery. Therefore, rather than automatically assigning each loss to a particular party, the Department has decided to absorb losses below specific tolerance levels, regardless of where liability is assigned. Even though State agencies are being relieved of some losses, the Department expects State agencies to make sure that benefits are received on time, that more secure delivery methods are employed when losses occur, and that the Postal Service is requested to account for benefits which are sent by premium service, but not received by households. (§ 276.2(b)(3))

30. Rescission of Proposed Provision

On April 2, 1982, the Department published a proposed rule at 47 FR 14160 (Administrative Flexibility Rule) which contained a provision allowing State agencies increased flexibility in the staggered issuance of ATPs and coupons. The provision was later determined to be more involved with issuance provisions than with certification and administration provisions, and the proposed regulatory change was omitted from the final rule published at 47 FR 53309 on November 26, 1982. The same regulatory change was later incorporated into the Food Stamp Issuance and Issuance Liability Rules published April 9, 1986, as a result of the same provision in the Food Security Act of 1985. The provision from the April 2, 1982 rule should have been rescinded with publication of the April 9, 1986 rule, but was inadvertantly omitted. The April 2, 1982 provision is rescinded with this final rule, and the staggererd issuance provision from the April 9, 1986 rule becomes final with this rule.

31. FNS Shipment of Coupons

The Department's proposal to have State agency coupon receiving points approved by FNS received no comments. Therefore, the amendment is adopted without change. (§ 274.7(c)(3))

32. Miscellaneous

In § 273.2, the proposed amendment to paragraph (g)(1) consisted only of the addition of the reference to § 274.2(b) in the first sentence. Since that was the only change, the paragraph has been replaced with simply the reference to that addition.

Implementation

All provisions shall be implemented April 1, 1989, with the following exceptions:

a. October 1, 1989—The new provisions on replacement issuances shall be implemented *by* this date. (§ 274.6)

b. October 1, 1989—The new liabilities for State agencies using authorizations document issuance systems shall be implemented on this date. The liabilities specifically include authorization documents lost in transit (§ 276.2(b)(1)(ii)); single unmatched issuances, replacements not made in accordance with § 274.6, and altered and counterfeit authorizations negotiated (§ 276.2(b)(1)(iii)); undocumented issuances (§ 276.2(b)(2)(v)); issuances made to non-certified households (§ 276.2(b)(2)(vi)); and, issuance loss during an investigation if the investigation was not reported directly to FNS prior to the loss (§ 276.2(b)(2)(vii)).

c. October 1, 1989—The new mail issuance reporting and liability assessments shall be implemented *on* this date. (§ 276.2(b)(4)) A State agency which wants to change from its current unit-level of reporting to either an administrative unit or Statewide basis shall submit a Mail Issuance Loss Reporting Plan, indicating its initial choice of reporting, *by* May 15, 1989, and by August 15 in years thereafter.

d. The new provision which requires reviews to be conducted on active cases to determine if households are eligible and are receiving the benefit amount authorized on the master issuance file shall be implemented for federal Fiscal Year 1990. (§ 275.10(a))

e. October 1, 1989—State agencies shall begin to use the revised Form *FNS–46*, Issuance Reconciliation Report, to report figures for that month.

f. Provisions pertaining to staggered issuance contained in any currently-approved waivers will automatically be cancelled April 1, 1989.

List of Subjects

7 CFR Part 271

Administrative practice and procedure, Food stamps, Grant programs-social programs.

7 CFR Part 272

Administrative practice and procedure, Aliens, Claims, Food stamps, Fraud, Grant programs-social programs, Penalties, Reporting and recordkeeping requirements, Social security, Students.

7 CFR Part 273

Alaska, Civil rights, Food stamps, Grant programs, Social programs, Reporting and recordkeeping requirements.

7 CFR Part 274

Administrative practice and procedure, Food stamps, Grant programs-social programs, Reporting and recordkeeping requirements.

7 CFR Part 275

Administrative practice and procedure, Food stamps, Reporting and recordkeeping requirements.

7 CFR Part 276

Administrative practice and procedure, Food stamps, Fraud, Grant programs-social programs, Penalties.

Therefore, 7 CFR Parts 271, 272, 273, 274, 275 and 276 are amended as follows:

1. The authority citation for Parts 271, 272, 273, 274, 275 and 276 continues to read:

Authority: 7 U.S.C. 2011–2029.

PART 271—GENERAL INFORMATION AND DEFINITIONS

2. Section 271.2, Definitions is amended by adding the new definitions of "Authorization document", "Claims collection point", "Direct access system", "Master issuance file", and "Record-for-issuance file" in alphabetical order, to read as follows:

§ 271.2 Definitions.

* * * * *

"Authorization document" means an intermediary document issued by the State agency and used in an issuance system to authorize a specific benefit amount for a household.

* * * * *

"Claims collection point" means any office of the State agency or any person, partnership, corporation, organization, political subdivision or other entity with which a State agency has contracted, or to which it has assigned responsibility for the collection of claims.

* * * * *

"Direct access system" means an issuance system in which benefits are issued directly to the household, without the use of an intermediary document, based on the issuance agent's direct access to information in the household's individual record on the master issuance file, which may be a card document or an on-line computer system.

* * * * *

"Master issuance file" means a cumulative file containing the individual records and status of households, and the amount of benefits, if any, each household is authorized to receive.

* * * * *

"Record-for-issuance file" means a file which is created monthly from the master issuance file, which shows the amount of benefits each eligible household is to receive for the issuance month, and the amount actually issued to the household.

* * * * *

2a. In § 271.8:

a. The paragraph designations and corresponding OMB Control Numbers for PART 274 are revised; and

b. A paragraph designation and corresponding OMB Control Number for § 276.2, paragraph (b), is added in numerical order.

The revisions and addition read as follows:

§ 271.8 Information collection/ recordkeeping—OMB assigned control numbers.

7 CFR section where requirements are described	Current OMB control No.
* * * * *	
274.1(c)	0584-0009.
274.3(d)	0584-0009, 0584-0069, 0584-0080.
274.4(a)	0584-0080.
274.4(b)	0584-0009, 0584-0015, 0584-0080, 0584-0081.
274.4(f)	0584-0009, 0584-0053.
274.6 (a), (b) and (e)	0584-0080, 0584-0081.
274.7(a)	0584-0009.
274.7(c)	0584-0022.
274.8(a)-(c)	0584-0009.
274.8(e)	0584-0053.
274.9(a)-(d)	0584-0009.
274.11	0584-0009.
* * * * *	
276.2(b)	0584-0015.
* * * * *	

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

3. In § 272.1, a new paragraph (g)(105) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) Implementation * * *

(105) Amendment No. 271. This rule becomes effective April 1, 1989, and the State agencies shall implement all provisions on that date, with the exception of the following provisions: the new provisions on replacement issuances shall be implemented *by* October 1, 1989; the new liabilities for State agencies using authorization document issuance systems shall be implemented *on* October 1, 1989; the new mail issuance reporting and liability assessments shall be implemented *on* October 1, 1989; State agencies wanting to change their current unit-level of mail issuance loss reporting must submit their initial plans *by* May 15, 1989; the new provision on quality control case reviews shall be implemented for federal Fiscal Year 1990; State agencies shall begin to use the revised Form *FNS-46,* Issuance Reconciliation Report, to report figures for the month of October 1989; and, provisions pertaining to staggered issuance contained in any currently-approved waivers will automatically be cancelled April 1, 1989.

4. In § 272.2, paragraph (a)(2) is amended by adding a sentence at the end of the paragraph, and a new paragraph (d)(1)(viii) is added.

The amendment and addition read as follows:

§ 272.2 Plan of operation.

(a) *General purpose and content:* * * *

(2) *Content.* * * * The Plan's attachments shall also include the Mail Issuance Loss Reporting Level Plan.

* * * * *

(d) *Planning documents.*

(1) * * *

(viii) Mail Issuance Loss Reporting Level Plan required by § 276.2(b)(3), for the State agency using mail issuance, shall contain the unit level of reporting mail issuance losses for the upcoming fiscal year as elected by the State agency. If a State agency does not revise its Plan by August 15 in any given year, FNS shall continue to require reporting and to assess liabilities for the next fiscal year at the level last indicated by the State agency. If the agency has selected the unit provided for in § 276.2(b)(3)(ii), a listing of the issuance sites or counties comprising each administrative unit within the State agency shall also be included in the Plan.

* * * * *

5. In § 272.4, a new paragraph (f) is added to read as follows:

§ 272.4 Program administration and personnel requirements.

* * * * *

(f) *State monitoring of duplicate participation.* (1) Each State agency shall establish a system to assure that no individual participates more than once in a month, in more than one jurisdiction, or in more than one household within the State in the Food Stamp Program. To identify such individuals, the system shall use names and social security numbers at a minimum, and other identifiers such as birth dates or addresses as appropriate.

(i) If the State agency detects a large number of duplicates, it shall implement other measures, such as more frequent checks or increased emphasis on prevention.

(ii) If the State agency provides cash assistance in lieu of coupons for SSI recipients or for households participating in cash-out demonstration projects, the State agency shall check to assure that no individual receives both coupons and other benefits provided in lieu of coupons. Checks to detect individuals receiving both food coupons and cash-out benefits, or any other form of duplicate benefits, shall be made at the time of certification, recertification, and whenever a new member is added to an existing household. However, if the State agency can show that these time frames are incompatible with its system, the State agency shall check for duplicate benefits when necessary, but no less often than annually.

(2) Processing standards for duplicate participation checks at certification and recertification shall not delay the issuance of benefits.

(i) If the State agency chooses to check at the time of certification and recertification, the check for duplicates shall not delay processing of the application and provision of benefits beyond the normal processing standards in § 273.2(g).

(ii) If a duplicate is found in making such a check, the duplication needs to be resolved in accordance with § 273.2(f)(4)(iv) before the application can be processed and benefits provided. Delays in processing caused by this resolution shall be handled in accordance with § 273.2(h).

(3) State agencies shall develop follow-up procedures and corrective action requirements, including time frames within which action must be taken, to be applied to data obtained from matching for duplicate participation. Follow-up actions shall include, but not be limited to, the adjustment of benefits and eligibility, filing of claims, disqualification hearings, and referrals for prosecution, as appropriate.

(4) FNS reserves the right to review State agencies' use of data obtained from matching for duplicate participation and may require State agencies to take additional specific action to ensure that such data is being used to protect Program integrity.

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

6. In § 273.1, paragraph (f) is amended as follows:

a. Introductory text is added after the heading *"Authorized representatives".*

b. Introductory paragraph (f)(1), the last sentence of paragraph (f) (1)(i) and paragraphs (f)(1)(i)(A) and (f)(1)(i)(B) are removed, and paragraphs (f)(1)(i), (f)(1)(ii) and (f)(1)(iii) are redesignated as introductory paragraph (f)(1) and paragraphs (f)(1)(i) and (f)(1)(ii), respectively.

c. The last sentence of paragraph (f)(2)(i) is removed.

d. The sixth sentence of paragraph (f)(2)(ii), beginning with: "If the resident applies", is removed.

The addition reads as follows:

§ 273.1 Household concept.

* * * * *

(f) *Authorized representatives.* The head of household, spouse, or any other responsible member of the household may designate an authorized

representative to act on behalf of the household in making application for the Program, in obtaining benefits, and/or in using benefits at authorized retail food firms and meal services. Rules pertaining to the use of authorized representatives to obtain household benefits or to use household benefits are in § 274.5. Rules pertaining to designating authorized representatives to apply for the Program are specified in this section.

* * * * *

§ 273.2 [Amended]

7. In § 273.2, paragraph (g) is amended as follows:

a. In the first sentence of paragraph (g)(1), the words "(as defined in § 274.2(b))", are added after the word "participate".

b. Paragraph (g)(2) is removed.

c. Paragraph (g)(3) is redesignated paragraph (g)(2).

§ 273.10 [Amended]

8. In § 273.10, paragraph (g)(3) is removed.

§ 273.11 [Amended]

9. In § 273.11, paragraph (k) is removed, and paragraph (l) is redesignated as paragraph (k).

10. In § 273.18, paragraphs (i) (1) and (2) are removed and the last sentence in paragraph (i) is revised to read as follows:

§ 273.18 Claims against households.

* * * * *

(i) * * * The State agency shall destroy any coupons or coupon books which are not returned to inventory in accordance with the procedures outlined in § 274.7(f).

* * * * *

PART 274—ISSUANCE AND USE OF COUPONS

11. Part 274 is revised in its entirety and reads as follows:

Sec.

Authority: 7 U.S.C. 2011–2029.

§ 274.1 State agency issuance responsibility.

(a) *Basic issuance requirements.* State agencies shall establish issuance and accountability systems which ensure that only certified eligible households receive benefits; that coupons are accepted, stored, and protected after delivery to receiving points within the State; that Program benefits are timely distributed in the correct amounts; and that coupon issuance and reconciliation activities are properly conducted and accurately reported to FNS.

(b) *Contracting or delegating issuance responsibilities.* State agencies may assign to others such as banks, savings and loan associations, the Postal Service, community action and migrant service agencies, and other commercial businesses, the responsibility for the issuance and storage of food coupons. State agencies may permit contractors to subcontract assigned issuance responsibilities.

(1) Any assignment of issuance functions shall clearly delineate the responsibilities of both parties. The State agency remains responsible, regardless of any agreements to the contrary, for ensuring that assigned duties are carried out in accordance with these regulations. In addition, the State agency is strictly liable to FNS for all losses of coupons, even if those losses are the result of the performance of issuance, security, or accountability duties by another party.

(2) All issuance contracts shall follow procurement standards set forth in Part 277.

(3) The State agency shall not assign the issuance of coupons to any retail food firm unless the State agency provides evidence that such an arrangement is needed to maintain or increase the efficient and effective operation of the Program, as described below.

(i) Coupons may be issued inside or within a retail food store, if the issuance is performed by a bank, credit union or other financial organization independent of the retail food store.

(ii) Coupons may be issued on-site by a retail food store under the following conditions:

(A) The State agency adequately documents that unless the retail food store is permitted to issue coupons on-site there will be a hardship, not just an inconvenience, to recipients. The State agency shall contract directly with the retail food firm and shall provide oversight to such entity; or

(B) In the absence of the hardship documentation, a retail food firm itself may perform issuance as a subcontractor to a bank, credit union or other independent financial organization, with strict oversight by the financial organization.

(4) The State agency may contract with the U.S. Postal Service for the issuance of benefits. The Department and the Postal Service have signed an agreement which governs benefit issuance by the Postal Service. A State agency's contract with the Postal Service does not exempt the State agency from the requirement that it comply with these regulations. However, State agencies may negotiate contracts with the Postal Service on all terms and conditions as long as such provisions do not conflict with these regulations.

(5) In project areas or parts of project areas where FNS has required a Photographic identification (Photo ID) system to be used, the State agency shall include in any contract or agreement with an issuing agent a provision establishing the agent's liability to the State agency for the face value of coupons issued in any authorization document transaction where the authorization document is found to have been stolen or otherwise not received by the household certified as eligible, if the cashier has not fulfilled the requirements contained in § 274.10. This same provision shall apply to issuance contracts in project areas or parts of project areas where FNS has granted a waiver or waivers of any provision(s) of the Photo ID requirements based on a determination that State agency alternatives will not compromise the security of the ID system.

(c) *State monitoring of coupon issuers.* The State agency's accountability system shall include procedures for monitoring coupon issuers to assure that the day-to-day operations of all coupon issuers comply with these regulations, to identify and correct deficiencies, and to report violations of the Act or regulations to FNS.

(1) The State agency shall conduct an onsite review of each coupon issuer and bulk storage point at least once every three years. All offices or units of a coupon issuer are subject to this review requirement. The State agency shall base each review on the specific activities performed by each coupon issuer or bulk storage point. A physical inventory of coupons shall be taken at each location and that count compared with perpetual inventory records and the monthly reports of the coupon issuer or bulk storage point. This review may be conducted at branch sites as well as the main offices of each issuer and bulk storage point that operates in more than one office. Except in unusual

circumstances, the Postal Inspection Service will conduct onsite reviews of Postal Service issuance operations.

(2) This review requirement may be fulfilled in part or in total by the performance reporting review system, Part 275. The State agency may delegate this review responsibility to another unit of the State government or contract with an outside firm with expertise in auditing and accounting. State agencies may use the results of reviews of coupon issuers by independent audit or accounting firms as long as the food coupon issuance operations of the coupon issuer are included in the review.

(d) *Changes.* The State agency shall inform FNS whenever a project area, issuance point, reconciliation point, replacement point, bulk storage reporting point or coupon shipment receiving point is created, relocated, or terminated. The State agency shall report the change at least 30 days prior to the effective date of the change. Initial notification may be made by telephone but the State agency shall confirm the information in writing as soon as possible.

(e) *Advance planning documentation.* State agencies must comply with the procurement requirements of Part 277 for the acquisition, design, development, or installation of automated data processing (ADP) equipment. With certain exceptions detailed in Part 277, State agencies must receive prior approval for the design and acquisition of ADP systems through submission of advance planning documents (APD's).

§ 274.2 Providing benefits to participants.

(a) *General.* Each State agency is responsible for the timely and accurate issuance of benefits to certified eligible households in accordance with these regulations. Those households comprised of elderly or disabled members which have difficulty reaching issuance offices, and households which do not reside in a permanent dwelling or of a fixed mailing address shall be given assistance in obtaining their regular monthly benefits. State agencies shall assist these households by arranging for the mail issuance of coupons to them, by assisting them in finding authorized representatives who can act on their behalf, or by using other appropriate means.

(b) *Newly-certified households.*

(1) All newly-certified households, except those that are given expedited service, shall be given an opportunity to participate no later than 30 calendar days following the date the application was filed. An opportunity to participate consists of providing households with coupons or authorization documents and having issuance facilities open and available for the households to obtain their benefits. State agencies must mail authorization documents or coupons in time to assure that the documents can be transacted, or the coupons spent after they are received but before the 30-day standard expires. A household has not been provided an opportunity to participate within the 30-day standard if the authorization document or benefits are mailed on the 29th or 30th day. Neither has an opportunity to participate been provided if the authorization document is mailed on the 28th day but no issuance facility is open on the 30th day.

(2) Households which apply for benefits during the last 15 days of the month, which fulfill *all* eligibility requirements, and which are issued benefits during this period, must be issued benefits for their first full month of participation no later than the close of business on the eighth calendar day of that month. The full month's benefits may be issued in a lump sum or may be divided, with an initial and supplemental issuance; the supplemental issuance shall not provide the households more benefits than the household is entitled to receive.

(3) Newly-certified households that are given expedited service shall have benefits provided as explained in § 273.2(i). Households for which verification has been postponed shall *not* be given the first full month's benefits by the eighth calendar day of that month unless the postponed verification is provided prior to the eighth day, and shall be handled under the provisions contained in § 273.2(i).

(c) *Ongoing households.* All households shall be placed on an issuance schedule so that they receive their benefits on or about the same date each month. The date upon which a household receives its initial allotment after certification need not be the date that the household must receive its subsequent allotments.

(1) State agencies may stagger the issuance of benefits to households throughout the entire month. In doing so, however, State agencies shall not allow more than 40 days to elapse between any two issuances provided to a household. State agencies that use direct mail issuance shall stagger issuances over at least ten days of the issuance month and may stagger issuances over the entire issuance month. No matter what issuance schedule a State agency adopts, it shall adhere to the reporting requirements specified in § 274.4.

(2) When a participating household is transferred from one issuance procedure to another, which would result in more than 40 days elapsing between issuances of benefits, the State agency may divide the first issuance under the new procedure into two parts, with one part issued within the 40-day limit, and the second part, or supplemental issuance, issued on the established issuance date of the new procedure; the supplemental issuance cannot provide the household more benefits than the household is entitled to receive.

(3) Notwithstanding the above provisions, in months in which benefits have been suspended under the provisions of § 271.7, State agencies may stagger issuance to certified households following the end of the suspension. In such situations, State agencies may, at their option, stagger issuance from the date issuance resumes through the end of the month or over a five-day period following the resumption of issuance, even if this results in benefits being issued after the end of the month in which the suspension occurred.

(d) *Issuance services.* State agencies are responsible for determining the location and hours of operation of issuance services. In doing so, State agencies shall ensure that the issuance schedules set forth in paragraphs (b) and (c) of this section are met. In addition, issuance authorization documents, such as ATP cards, should be valid only in the geographic area within the State that is encompassed by the reconciliation system through which the issuance will be processed; however, the validity area may be extended within the State at the State agency's option. State agencies may also restrict the validity of these documents to smaller areas or particular issuance sites with minimal practicable inconvenience to affected households.

(e) *Issuance of coupons to households.* The State agency shall issue coupon books in accordance with a table for coupon-book issuance provided by FNS, except as provided in paragraphs (e)(1), (e)(2), and (e)(3) of this section. The State agency shall issue the coupon books in consecutive serial number order whenever possible, starting with the lowest serial number in each coupon book denomination. The household member whose name appears on the ID card shall sign the coupon books; if more than one name appears, any named member may sign the books.

(1) The State agency may deviate from the table if the specified coupon books are unavailable.

(2) Exceptions from the table are authorized for blind and visually-handicapped participants who request that all coupons be of one denomination.

Recipients who have no fixed address (homeless), and residents of shelters for battered women and children, as defined in § 271.2, and which are not authorized by FNS to redeem through wholesalers, may request that all or part of their coupons be of the $1 denomination. State agencies are authorized to grant this request when feasible.

(3) If a household is eligible for an allotment of $1, $3, or $5, the State agency shall adjust those allotments to $2, $4, or $6, respectively.

§ 274.3 Issuance systems.

(a) *System classification.* State agencies may issue benefits to households through any of the following three systems:

(1) An authorization document system that uses a document produced for each month's issuance. The intermediary document, such as an ATP, may be distributed on a monthly basis to each household and surrendered by the household to the coupon issuer, or provided monthly to issuers with either single household authorizations or multiple household authorizations on each (such as a computer-generated listing). For reconciliation and identification purposes, the authorization document shall contain the following:

(i) Serial number;

(ii) Case name and address;

(iii) Case number;

(iv) Allotment amount;

(v) Benefit month or expiration date;

(vi) Name of issuing project area; and,

(vii) Space for signature of household member. An additional space for an authorized representative may be included.

(2) A direct access system that directly accesses a master issuance file at the time that benefits are issued to households. This system shall use manual card access or an automated access to the master issuance file. Systems of this type include the manual Household Issuance Record (HIR) card system and on-line issuance terminals.

(3) A mail issuance system that directly delivers coupons through the mail to households.

(b) *Other systems.* A State agency may develop an issuance system which cannot be readily categorized into one of the three systems described in paragraph (a) of this section. FNS shall prescribe the reporting and reconciliation requirements which apply to that system.

(c) *Alternative benefit issuance system.* (1) If the Secretary, in consultation with the Office of the Inspector General, determines that Program integrity would be improved by changing the issuance system of a State, the Secretary shall require the State agency to issue or deliver coupons using another method. The alternative method may be one of the methods described in paragraph (a) of this section, or the Secretary may require a State agency to issue, in lieu of coupons, reusable documents to be used as part of an automated data processing and information retrieval system and to be presented by, and returned to, recipients at retail food firms for the purpose of purchasing food. The determination of which alternative to use will be made by FNS after consultation with the State agency. The cost of conversion will be shared by the Department and the State agency in accordance with the cost accounting provision of Part 277.

(2) The cost of documents or systems which may be required as a result of a permanent alternative issuance system pursuant to this section shall not be imposed upon retail food firms participating in the Program.

(d) *System requirements.* (1) The State agency shall establish a master issuance file which is a composite of the issuance records of all certified food stamp households. The State agency shall establish the master issuance file in a manner compatible with its system used for maintaining case record information and shall separate the information on the master issuance file into active and inactive case file categories. The master issuance file shall contain all the information needed to identify certified households, issue household benefits, record the participation activity for each household and supply all information necessary to fulfill the reporting requirements prescribed in § 274.4.

(i) The master issuance file shall be kept current and accurate. It shall be updated and maintained through the use of documents such as notices of change and controls for expired certification periods.

(ii) Before entering a household's data on the master issuance file, the State agency shall review the master issuance file to ensure that the household is not currently participating in, or disqualified from, the Program. If an authorization document is issued under the expedited service requirements of §§ 273.2(i) and 274.2(b), the State agency shall complete as much of the master issuance file review as possible prior to issuing the authorization document. Any uncompleted reviews shall be completed after issuance and appropriate corrective action shall be taken to recover overissuance.

(2) State agencies should divide issuance responsibilities between at least two persons to prevent any single individual from having complete control over the authorization of issuances and the issuances themselves. Responsibilities to be divided include maintenance of inventory records, assembly of benefits and preparation of envelopes for mailing. If issuance functions in an office are handled by one person, a second-party review shall be made to verify coupon inventory, the reconciliation of the mail log, and the number of mailings prepared.

(3) State agencies shall establish controls to prevent a household from concurrently receiving benefits through more than one issuance system.

(4) State agencies shall clearly identify issuances in their accountability systems as initial, original, supplemental, replacement, or restored benefits.

(5) State agencies shall establish a Statewide record of replacement issuances granted to households to prevent a household from receiving more than two countable replacement issuances as defined in § 274.6(b) in a six-month period.

(6) State agencies which issue benefits by mail shall, at a minimum, use first class mail and sturdy nonforwarding envelopes or packages to send benefits to households.

(e) *Validity periods.* (1) State agencies shall establish validity periods for issuances made in authorization document and direct access issuance systems. A validity period is the time frame during which a household may obtain benefits by transacting an authorization document or receiving the benefits directly at an issuance point. The validity period begins the day a household is issued its authorization document or the day a household is authorized to pick up its issuance at an issuance point. If such day is before the 20th day of the issuance month, the validity period shall last until the end of that issuance month. If the validity period begins on or after the 20th day of the issuance month, the State agency has the option of extending the validity period at least 30 days or until the end of the next issuance month. A household which does not transact its authorization document or pick up its authorized issuance during the issuance's validity period shall lose its entitlement to the benefits and the State agency shall not issue benefits to such a household for such a period.

(2) State agencies experiencing excessive issuance losses may develop systems that have authorization documents that expire in shorter time frames than those set forth in paragraph

(e) of this section. However, such systems shall include methods that allow households the opportunity to obtain their benefits for the full validity period of a month's issuance.

§ 274.4 Reconciliation and reporting.

(a) *Reconciliation.* State agencies shall account for all issuance through a reconciliation process. The manner in which this is done varies depending on the type of issuance system being used.

(1) Described below are the required reconciliation procedures for each type of system.

(i) In all issuance systems coupon issuers shall reconcile their issuances daily using daily tally sheets, cashiers' daily reports, tapes or printouts.

(ii) In systems where a record-for-issuance is used, all issuances authorized for the month shall be merged into one record-for-issuance at the end of each month. All issuances made during the month shall then be posted to the record-for-issuance. The record-for-issuance shall then be compared with the master issuance file. Findings from this comparison shall be reported on the Form *FNS–46* as prescribed in paragraph (b)(2) of this section.

(iii) In systems where no record-for-issuance is used, issuances made during each month shall be reconciled to the master issuance file. Findings from this reconciliation shall be reported on the Form *FNS–46* as prescribed in paragraph (b)(2) of this section.

(iv) In addition to the reconciliation activity prescribed in the paragraphs (a)(1)(i), (a)(1)(ii) and (a)(1)(iii) of this section, the following steps shall be followed in authorization document systems:

(A) The State agency shall determine and verify the transacted value of authorized coupon issuances.

(B) Any batches of transacted authorization documents that do not reconcile shall be maintained intact by the State agency until the discrepancy is resolved with the coupon issuer and/or a review of the case files.

(C) The State agency shall compare all transacted authorization documents with the record-for-issuance or master issuance file as appropriate. Any documents that do not match with the record-for-issuance or master issuance file shall be identified and reported as required in paragraph (b)(2) of this section.

(b) *Required reports.* The State agency shall review and submit the following reports to FNS on a monthly basis:

(1) Form *FNS–250,* Food Coupon Accountability Report.

(i) This report, executed monthly by coupon issuers and bulk storage points, shall be signed by the coupon issuer or appropriate official, certifying that the information is true and correct to the best of that person's knowledge and belief.

(ii) Coupon issuers and bulk storage points shall submit supporting documentation to the State agency which will allow verification of the monthly report. At a minimum, such documentation shall include documents supporting coupon shipments, transfers, issuances, and destruction.

(iii) For those State agencies which use an authorization document issuance system, coupon issuers shall submit transacted authorization documents batched according to each day's activity in accordance with a schedule prescribed by the State agency, but not less often than monthly.

(iv) All mail issuance activity, including the value of mail issuance replacements, shall be reported. Original allotments (first benefits issued for a particular month to an ongoing household) subsequently recovered by the issuance office during the current month shall be returned to inventory and noted on the mail issuance log. When the original allotment is returned to inventory and the replacement issuance is issued during the current month (month in which original benefits were issued), the "replacement" shall not be reported.

(v) The Form *FNS–250* shall be reviewed by the State agency for accuracy, completeness and reasonableness. The State agency shall attest to the accuracy of these reports and shall submit the reports so they will be received by FNS by the 45th day after the report month. Any revisions to the Form *FNS–250* for a given month shall be submitted to FNS within 105 days after the end of the report month.

(vi) FNS shall review each form, submitted through the State agency, for completeness, accuracy and reasonableness and shall reconcile inventory with shipping records, and shall review State agency verification of coupon issuer and bulk storage point monthly reports. FNS may supplement the above reviews by unannounced spot checks of inventory levels and coupon security arrangements at coupon issuers and at bulk storage points.

(2) Form *FNS–46,* Issuance Reconciliation Report, shall be submitted by each State agency operating an issuance system. The report shall be prepared at the level of the State agency where the actual reconciliation of the record-for-issuance and master issuance file occurs.

(i) The State agency shall identify and report the number and value of all issuances which do not reconcile with the record-for-issuance and/or master issuance file. All unreconciled issuances shall be identified as specified on this reporting document.

(ii) The final report shall be received by FNS no later than 90 days following the end of the report month.

(3) Form *FNS–259,* Food Stamp Mail Issuance Report.

(i) Form *FNS–259* reports shall be submitted by State agencies for each unit using a mail issuance system as specified in the Mail Issuance Loss Reporting Plan required in § 272.2(d)(1)(iv). The State agency shall submit the Form *FNS–259* reports so that they are received in FNS by the 45th day following the end of each quarter.

(ii) The State agency shall verify the issuance by a comparison with issuance on the appropriate coupon issuer's Form *FNS–250.*

(4) Form *FNS–388,* State Coupon Issuance and Participation Estimates.

(i) State agencies shall telephone or transmit by computer the Form *FNS–388* data and mail the reports to the FNS regional office no later than the 19th day of each month. When the 19th falls on a weekend or holiday, the Form *FNS–388* data shall be reported by telephone or transmitted by computer and mailed on the first work day after the 19th. The Form *FNS–388* report shall be signed by the person responsible for completing the report or a designated State agency official.

(ii) The Form *FNS–388* report shall provide Statewide estimated or actual totals of issuance and participation for the current and previous month, and actual or final participation totals for the second preceding month. In addition to the participation totals for the second preceding months of January and July, provided on the March and September reports, non-assistance (NA) and public assistance (PA) household and person participation breakdowns shall be provided. As an attachment to the March and September Form *FNS–388* reports, State agencies shall provide project area breakdowns of the coupon issuance and NA/PA household and person participation data for the second preceding months of January and July.

(iii) State agencies shall submit any proposed changes in their estimation procedures to be used in determining the Form *FNS–388* data to the FNS regional office for review and comment. FNS shall monitor the accuracy of the estimated dollar value of coupons issued as reported on the Form *FNS–388* against the Statewide total dollar value

of coupons as reported by the issuance agents on the Form *FNS–250*, Food Stamp Accountability Report, for the corresponding month. FNS shall monitor the accuracy of the Statewide estimated number of households and persons participating as reported on the Form *FNS–388* report against the Statewide actual total participation as reported on succeeding Form *FNS–388* reports and against the semiannual project area participation totals attached to the March and September Form *FNS–388* reports. The FNS accuracy standards for the issuance and participation estimates are that estimates for the current month be within (+) or (−) four (4) percent of actual levels, and the estimates for the previous month be within (+) or (−) two (2) percent of actual levels. State agencies shall explain any unusual circumstances that cause coupon issuance and/or participation data to not meet these accuracy standards. If a State agency fails to meet these accuracy standards, FNS shall notify the State agency and assist the State agency in revising its estimating procedures to improve its reporting.

(iv) A participating household is one that is certified and has been, or will be, issued benefits (whether or not the benefits are used), and households that have met the eligibility requirements, but will receive zero benefits.

§ 274.5 Authorized representatives.

(a) *Household representation.* The head of household, spouse or any other responsible member of the household may designate an authorized representative to act on behalf of the household in making application for the Program, in obtaining benefits and/or in using benefits at authorized firms. Rules pertaining to designating authorized representatives to apply for the Program on behalf of a household are in § 273.1(f). Specified below are the rules pertaining to the use of authorized representatives to obtain household benefits or to use household benefits:

(1) An authorized representative may be designated to obtain coupons. The designation shall be made at the time the application is completed and any authorized representative shall be named on the ID card. The authorized representative for coupon issuance may be the same individual designated to make application for the household or may be another individual. Even if a household member is able to make application and obtain benefits, the household should be encouraged to name an authorized representative for obtaining coupons in case of illness or other circumstances which might result in an inability to obtain benefits.

(2) The State agency shall ensure that authorized representatives are properly designated. The name of the authorized representative shall be contained in the household's case file. Limits shall not be placed on the number of households an authorized representative may represent. In the event employers, such as those that employ migrant or seasonal farmworkers, are designated as authorized representatives or that a single authorized representative has access to a large number of authorization documents or coupons, the State agency should exercise caution to assure that each household has freely requested the assistance of the authorized representative, the household's circumstances are correctly represented, the household is receiving the correct amount of benefits and that the authorized representative is properly using the benefits.

(3) State agency employees who are involved in the eligibility determination and/or issuance processes and employees of authorized food firms and meal services that are authorized to accept food coupons shall not be authorized representatives unless the State agency determines that no other representative is available.

(4) An individual disqualified for fraud shall not be an authorized representative during the period of disqualification unless the individual is the only adult in the household and the State agency is unable to arrange for another authorized representative. State agencies shall separately determine whether these individuals are needed to apply on behalf of the household, to obtain coupons for the household, and to use the household's coupons to purchase food.

(5) In the event the only adult living with a household is classified as a nonhousehold member as defined in § 273.1(b), that individual may be the authorized representative for the minor household members.

(6) Drug or alcohol treatment centers shall receive and spend the food stamp benefits for food prepared by and/or served to the residents of the center who are participating in the Food Stamp Program.

(7) The head of a group living arrangement which acts as the authorized representative for the residents, may either receive and spend the residents' benefits for food prepared by and/or served to each eligible resident or allow each resident to spend all or any portion of the benefits on his/her own behalf. Meal providers for the homeless may not be authorized representatives, as specified in § 273.1(f)(4)(iv).

(b) *Emergency representative for obtaining benefits.* The State agency shall develop a system by which a household may designate an emergency authorized representative to obtain the household's benefits for a particular month. At a minimum, the method developed by the State agency shall require that a household member whose signature is on the household's ID card sign a designation authorizing the particular emergency representative to receive the household's benefits and attesting to the validity of the emergency representative's signature which must also be on the designation. Households shall not be required to travel to a food stamp office to execute the designation. Additional provisions pertaining to the use of identification cards by emergency authorized representatives are contained in § 274.10(c).

(c) *Authorized representatives for using benefits.* A household may enlist any household member or a nonmember to use its ID card and benefits to purchase food or meals for the household. However, individuals disqualified from the Program because of their commission of an intentional Program violation may only act as authorized representatives for households if no other representative can be found.

(d) *Disqualification.* An authorized or emergency representative may be disqualified from representing a household in the Program for up to one year if the State agency has obtained evidence that the representative has misrepresented a household's circumstances and has knowingly provided false information pertaining to the household, or has made improper use of coupons. The State agency shall send written notification to the affected household and to the representative 30 days prior to the date of disqualification. The notification shall include the proposed action, the reason for the proposed action, the household's right to request a fair hearing, the telephone number of the office, and, if possible, the name of the person to contact for additional information. This provision is not applicable in the case of drug and alcohol treatment centers and to the heads of group living arrangements which act as authorized representatives for their residents. However, drug and alcohol treatment centers and the heads of group living arrangements that act as authorized representatives for their residents, and which intentionally misrepresent households' circumstances,

may be prosecuted under applicable State fraud statutes for their acts.

§ 274.6 Replacement issuances to households.

(a) *Providing replacement issuance.* (1) Subject to the restrictions in paragraph (b) of this section, State agencies shall provide replacement issuances to a household when the household reports that:

(i) Its authorization document was not received in the mail or was stolen from the mail, was stolen after receipt, was destroyed in a household misfortune, or was improperly manufactured or mutilated;

(ii) Its coupons were not received in the mail, were stolen from the mail, were destroyed in a household misfortune, or were improperly manufactured or mutilated;

(iii) Food purchased with food stamps was destroyed in a household misfortune; or

(iv) It received a partial coupon allotment.

(2) State agencies shall not provide replacement issuances to households when coupons are lost, stolen or misplaced after receipt, authorization documents are lost or misplaced after receipt, when authorization documents or coupons are totally destroyed after receipt in other than a disaster or misfortune, or when coupons sent by registered or certified mail are signed for by anyone residing with or visiting the household. In addition, replacement issuances shall not be made if the household or its authorized representative has not signed and returned the household statement required in paragraph (c) of this section, where applicable.

(3) Where FNS has issued a disaster declaration and the household is eligible for disaster food stamp benefits under the provisions of Part 280, the household shall not receive both the disaster allotment and a replacement allotment for a misfortune.

(4) In order for a replacement to be considered non-countable, the replacement must not result in a loss to the Program.

(b) *Replacement restrictions.* (1) Replacement issuances shall be provided only if a household timely reports a loss orally or in writing, and provides a statement of nonreceipt if the original authorization document or allotment has not been returned to the State agency at the time of the request for replacement. The report will be considered timely if it is made to the State agency within 10 days of the date an authorization document is stolen from the household, or an authorization document, coupons, or food purchased with food stamps is destroyed in a household misfortune. In mail issuance (ATPs or coupons), the report must be made within the period of intended use, unless the original issuance was made after the 25th of the month, in which case the period of intended use is 20 days from original issuance, or the last day of the next month (State agency option).

(2) The number of replacement issuances which a household may receive shall be limited as follows:

(i) State agencies shall limit replacement issuances to a total of two countable replacements in six months for authorization documents or coupons not received in, or stolen from, the mail; authorization documents stolen after receipt; and partial coupon allotments. However, no limit shall be put on the number of replacements of partial allotments if the partial allotments were due to State agency error. Separate limits shall not apply for each of these types of loss.

(ii) State agencies shall limit replacement issuances per household to two countable replacements in six months for authorization documents or coupons reported as destroyed in a household misfortune. This limit is in addition to the limit in paragraph (b)(2)(i) of this section.

(iii) No limit on the number of replacements shall be placed on the replacement of authorization documents or coupons which were improperly manufactured or mutilated or food purchased with food stamp benefits which was destroyed in a household misfortune.

(iv) The replacement issuance shall *not* be considered a countable replacement if:

(A) The original or replacement issuance is returned or otherwise recouped by the State agency;

(B) The original authorization document is not transacted;

(C) The replacement authorization document is not transacted; or

(D) The replacement is being issued due to a State agency issuance error.

(3) Replacement issuances shall be provided in the amount of the loss to the household, up to a maximum of one month's allotment, unless the issuance includes restored benefits which shall be replaced up to their full value.

(c) *Household statement of nonreceipt.* (1) Prior to issuing a replacement, the State agency shall obtain from a member of the household a signed statement attesting to the household's loss. This statement shall not be required if the reason for the replacement is that the original authorization document or coupons were improperly manufactured or mutilated, or if the original issuance has already been returned. The required statement may be mailed to the State agency if the household member is unable to come into the office because of age, handicap or distance from the office and is unable to appoint an authorized representative.

(2) If the signed statement or affidavit is not received by the State agency within 10 days of the date of report, no replacement shall be made. If the 10th day falls on a weekend or holiday, and the statement is received the day after the weekend or holiday, the State agency shall consider the statement timely received.

(3) The statement shall be retained in the case record. It shall attest to the nonreceipt, theft, loss or destruction of the original issuance and specify the reason for the replacement. It shall also state that the original or replacement issuance will be returned to the State agency if the original issuance is recovered by the household and that the household is aware of the penalties for intentional misrepresentation of the facts, including but not limited to, a charge of perjury for a false claim. In addition, the statement shall advise the household that:

(i) The household may request to be placed on an alternate issuance system after one report of nonreceipt;

(ii) After two reports in a six-month period of loss or theft prior to receipt, the household shall be placed on an alternate delivery system;

(iii) After two reports in a six-month period of loss or theft prior to receipt and/or theft of an authorization document after receipt the State agency may delay or deny further replacements for such causes; and

(iv) If the statement of nonreceipt is not signed and returned within ten (10) days of the date the loss was reported, the State agency shall not replace the coupons or authorization document.

(d) *Time limits for making replacements.* (1) Replacement issuances shall be provided to households within 10 days after report of nondelivery or loss (15 days if issuance was by certified or registered mail) or within two (2) working days of receiving the signed household statement required in paragraph (c) of this section, whichever date is later.

(i) Replacement of mutilated coupons shall be delayed until a determination of the value of the coupons can be made in accordance with paragraph (f)(3) of this section.

(ii) If the household has already been issued the maximum allowable number of countable replacements, subsequent replacements shall be delayed until the agency has verified that the original issuance was returned or the original authorization document was not transacted. In a system using authorization documents, due to the time it takes to post and reconcile all authorization documents, it may not be known at the time of the replacement request whether prior replacements are countable replacements and, therefore, whether the household has reached its limit. In such cases, the allotment shall be restored when the State agency verifies that the limit on countable replacements has not been reached.

(iii) The State agency shall deny or delay replacement issuances in cases in which available documentation indicates that the household's request for replacement appears to be fraudulent.

(2) The household shall be informed of its right to a fair hearing to contest the denial or delay of a replacement issuance. Replacements shall not be made while the denial or delay is being appealed.

(e) *Replacing issuances lost in the mail or stolen prior to receipt by the household.* State agencies shall comply with the following procedures in replacing issuances reported lost in the mail or stolen prior to receipt by the household:

(1) Determine if the authorization documents or benefits were validly issued, if they were actually mailed, if sufficient time has elapsed for delivery or if they were returned in the mail. If a delivery of a partial allotment is reported, the State agency shall determine the value of the coupons not delivered and determine whether the report of receipt of a partial allotment is corroborated by evidence that the coupon loss was due to damage in the mail before delivery or by a discrepancy in the issuance unit's inventory;

(2) Determine, to the extent possible, the validity of the request for a replacement. This includes determining whether the original issuance has been returned to the State agency and, in a system utilizing authorization documents, whether the original authorization document has been transacted and, if so, whether the recipient's signature on the authorization document matches the signature on the ID card. In a Photo ID area, the State agency shall determine if the ID serial number annotated on the authorization document matches the serial number on the recipient's ID card;

(3) Issue a replacement in accordance with paragraphs (b), (c) and (d) of this section if the household is eligible;

(4) Place the household on an alternate delivery system, if warranted, in accordance with paragraph (g) of this section; and

(5) Take other action, such as correcting the address on the master issuance file, warranted by the reported nondelivery.

(f) *Replacing issuances after receipt by the household.* Upon receiving a request for replacement of an issuance reported as stolen or destroyed after receipt by the household, the State agency shall determine if the issuance was validly issued. The State agency shall also comply with all applicable provisions in paragraphs (b), (c) and (d) of this section, as well as the following procedures for each type of replacement:

(1) Prior to replacing an authorization document which was reported stolen after receipt by the household, the State agency shall determine, to the extent possible, the validity of the request for replacement. For example, the State agency may determine whether the original authorization document has been transacted and, if so, whether the signature on the original authorization document matches that on the household statement. In a Photo ID or serialized area, the State agency shall determine if the ID serial number annotated on the authorization document matches the serial number on the recipient's ID card. Any replacement which results in duplicate participation shall be considered a household error, and the replacement countable, when the ID serial number shown on the authorization document matches the serial number on the recipient's card, unless the ID card was reported lost or stolen prior to the replacement. The State agency may require households, on a case-by-case basis, to report the theft to a law enforcement agency and to provide verification of such report.

(2) Prior to replacing destroyed coupons or authorization documents, or destroyed food that was purchased with food stamp benefits, the State agency shall determine that the destruction occurred in a household misfortune or disaster, such as, but not limited to, a fire or flood. This shall be verified through a collateral contact, documentation from a community agency including, but not limited to, the fire department or the Red Cross, or a home visit. The State agency shall provide replacements of coupons, authorization documents, and/or food in the actual amount of the loss, but not exceeding one month's allotment, unless the exception in paragraph (b)(3) of this section, applies.

(3) Households cannot receive a replacement for coupons lost or stolen after receipt.

(4) The State agency shall provide replacements for improperly manufactured or mutilated coupons or authorization documents as follows:

(i) Coupons received by a household, and subsequently mutilated or found to be improperly manufactured shall be replaced in the amount of the loss to the household. State agencies shall replace mutilated coupons when three-fifths of a coupon is presented by the household. The State agency shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced. If the State agency can determine the value of the improperly manufactured or mutilated coupons, the State agency shall replace the unusable coupons in a dollar-for-dollar exchange. After exchanging the coupons and completing a Form *FNS–135*, Affidavit of Return or Exchange of Food Coupons, the State agency shall destroy the coupons in accordance with the procedures contained in § 274.7(f). If the State agency cannot determine the value of the improperly manufactured or mutilated coupons, the State agency shall cancel the coupons by writing or stamping "canceled" across the face of the coupons and forward the coupons to FNS for a determination of the value by the U.S. Bureau of Engraving and Printing.

(ii) Authorization documents received by a household and subsequently mutilated or found to be improperly manufactured shall be replaced only if they are identifiable. "Identifiable" means that the State agency is able to determine the amount of the issuance and that the authorization document was validly issued to the household within the last 30 days. For example, if the authorization document serial number is legible, the State agency can determine from the record-for-issuance or manual authorization document log to which household the authorization document was issued, the date of issuance, and the amount. Similarly, if the case number and validity period are legible, the State agency may be able to determine to whom the authorization document was issued and the amount. If more than one authorization document was issued to the household and the State agency cannot determine which authorization document was mutilated, the replacement shall be issued in the lesser amount. Improperly manufactured

or mutilated authorization documents shall be surrendered to the State agency.

(g) *Alternate issuance system for a household.* The State agency shall offer to place a household in an alternate issuance system after the first report of nonreceipt, or when circumstances exist that indicate that the household may not receive its benefits through the normal issuance system, such as when a household has a history of reported nonreceipt of ATP's. After two requests for replacement of original or replacement ATP's reported as nondelivered in a six-month period, the State agency shall issue benefits to that household under an alternate issuance system. The two requests may be for either an original or a replacement ATP. The State agency shall keep the household on the alternate issuance system for the length of time the State agency determines to be necessary. The State agency may return the household to the regular issuance system if the State agency finds that the circumstances leading to the loss have changed and the risk of loss has lessened. The placement of a household on an alternate issuance system and the length of time the household is on this system is not subject to the fair hearing process.

(h) *Documentation and reconciliation of replacement issuances.* (1) The State agency shall document in the household's case file each request for replacement, the date, the reason, and whether or not the replacement was provided. This information may be recorded exclusively on the household statement required in paragraph (c) of this section.

(2) The State agency shall maintain, in readily-identifiable form, a record of the replacements granted to the household, the reason, the month, and whether the replacement was countable as defined in paragraph (b)(2)(iv) of this section. The record may be a case action sheet maintained in the case file, notations on the master issuance file, if readily accessible, or a document maintained solely for this purpose. At a minimum, the system shall be able to identify and differentiate among:

(i) Authorization documents or coupons not received in, or stolen from, the mail, and authorization documents stolen after receipt; and

(ii) Replacement issuances which are not subject to a replacement limit.

(3) Upon completion of reconciliation in a system utilizing authorization documents, the State agency shall update the record required in paragraph (h)(2) of this section to indicate whether both the original and replacement authorization documents were transacted. If both were not transacted, the record shall clearly indicate that the replacement authorization document was not a countable replacement.

(4) When a request for replacement is made late in an issuance month, the replacement will be issued in a month subsequent to the month in which the original authorization document was issued. All replacements shall be posted and reconciled to the month of issuance of the replacement and may be posted to the month of issuance of the original authorization document, so that all duplicate transactions may be identified.

(i) *Further action on replacement issuances.* The State agency shall take the following further actions on replacements:

(1) On at least a monthly basis, the State agency shall report to the appropriate office of the Postal Inspection Service all authorization documents reported as stolen or lost in the mail. The State agency shall assist the Postal Service during any investigation thereof and shall, upon request, supply the Postal Service with facsimiles of the original authorization document, if transacted, and the replacement authorization document and a copy of the nonreceipt statement.

The State agency shall advise the Postal Service if the original authorization document is not transacted.

(2) When a duplicate replacement authorization document is transacted, the State agency shall, at a minimum:

(i) Compare the handwriting on the authorization documents to documents contained in the household's case file, including the nonreceipt statement;

(ii) Establish a claim in accordance with § 273.18, where it appears that the household has transacted, or caused both authorization documents to be transacted; and

(iii) Refer the matter to the State agency's investigation unit, where indicated.

§ 274.7 Coupon management.

(a) *Coupon inventory management.* State agencies shall establish coupon inventory management systems which ensure that coupons are requisitioned and inventories are maintained in accordance with the requirements of these regulations.

(1) State agencies shall monitor the coupon inventories of coupon issuers and bulk storage points to ensure that inventories are neither excessive nor insufficient to meet the issuance needs and requirements. In determining reasonable inventory needs, State agencies shall consider, among other things, the ease and feasibility of resupplying such inventories from bulk storage points within the State. The inventory levels at coupon issuers and bulk storage points should not exceed a six-month supply, taking into account coupons on hand and on order.

(2) State agencies shall establish accounting systems for monitoring the inventory activities of coupon issuers. State agencies shall review the Form *FNS–250,* from coupon issuers and bulk storage points, to determine the propriety and reasonableness of the inventories. Forms *FNS–261,* Advice of Shipment, Forms *FNS–300,* Advice of Transfer (or an approved State agency form), and reports of returned mail-issued coupons, reports of replacements of mail-issued coupons, reports of improperly manufactured or mutilated coupons, reports of shortage or overage of food coupon books and physical inventory controls shall be used by State agencies to assure the accuracy of monthly reports, issuers' compliance with required inventory levels, and the accuracy and reasonableness of coupon orders.

(b) *Coupon controls.* State agencies shall establish control and security procedures to safeguard coupons that are similar to those used to protect currency. The exact nature of security arrangements will depend on State agency evaluation of local coupon issuance and storage facilities. These arrangements must permit the timely issuance of coupons while affording a reasonable degree of coupon security. The State agencies, as well as all persons or organizations acting on their behalf, shall:

(1) Safeguard coupons from theft, embezzlement, loss, damage, or destruction;

(2) Avoid unauthorized transfer, negotiation, or use of coupons;

(3) Avoid issuance and transfer of altered or counterfeit coupons; and

(4) Promptly report in writing to FNS any loss, theft, or embezzlement of coupons.

(c) *Coupon requisitioning, shipping and transferring.* (1) State agencies shall arrange for the ordering of coupons on the Form *FNS–260,* Requisition for Food Coupon Books, and the prompt verification and written acceptance of each coupon shipment. FNS shall be furnished with appropriate delivery hours and the names of the persons authorized to sign delivery acknowledgements.

(2) FNS shall assess the reasonableness and propriety of food stamp requisitions submitted by State agencies based on prior inventory

changes and shall notify the State agency of any adjustments made to requisitions.

(3) FNS shall ship coupons, in such denominations as it may determine necessary, directly to State agency receiving points approved by FNS. FNS shall promptly advise the State agency in writing when coupons are shipped to receiving points using Form *FNS–261*, Advice of Shipment. Coupons shall be considered delivered to the State agency when FNS or its carrier has a signed receipt.

(4) Once coupons have been accepted by receiving points within the State, any further movement of the coupons between coupon issuers and bulk storage points within the State is at the risk of the State agency. To minimize the risk of loss, coupons should be shipped by armored vehicle or some other method of transportation that affords the State agency the maximum security available.

(5) In every instance when coupons are transported within a State, the person(s) transporting coupons shall:

(i) Acknowledge in writing the receipt of the coupons;

(ii) Provide as much protection for the coupons as is reasonable;

(iii) Advise issuance supervisors of the routes to be taken, the shipment departure time and the estimated arrival time. This information, if in written form, may be destroyed after the coupons have been received.

(d) *Specimen coupons.* FNS may provide upon written request, non-negotiable specimen coupons to State agencies for the administration of the Program and enforcement of the rules, and to authorized food firms for the purpose of educating and training employees on Program operations.

(1) The State agency or firm shall store specimen coupons in secure storage with access limited to authorized personnel. The State agency or firm should maintain a record of specimen coupons received.

(2) Specimen coupons that are mutilated, improperly manufactured, or otherwise unusable, shall not be distributed by the State agency. Such coupons shall be destroyed by the State agency and the destruction shall be witnessed by two persons and noted on the perpetual inventory records maintained by the FNS regional offices for specimen coupons.

(3) Specimen coupons shall not be issued to private individuals or firms for the purpose of collection or display.

(e) *Replacement and destruction of coupons and authorization documents by issuance points.* (1) The State agency shall provide for the replacement to issuers of improperly manufactured or mutilated coupons as provided below. Replacement provisions pertaining to households are contained in § 274.6.

(i) The State agency shall examine the improperly manufactured or mutilated coupons to determine the validity of the claim and the amount of coupons to be replaced.

(ii) If the State agency can determine the value of an improperly manufactured or mutilated coupon, the State agency shall replace the unusable coupon, dollar for dollar, when at least three-fifths of the coupon is presented by the issuer. After the exchange, the State agency shall destroy the unusable coupon in accordance with the procedures contained in paragraph (f) of this section.

(iii) If the State agency cannot determine the value of the improperly manufactured or mutilated coupons, the State agency shall cancel the coupons by writing or stamping "canceled" across the face of the coupons and forward the coupons to FNS for a determination of the value by the U.S. Bureau of Engraving and Printing. The dollar amount shall be shown on the Form *FNS–250* report.

(2) The State agency shall void all authorization documents mutilated or otherwise rejected during the preparation process. The voided authorization documents shall either be filed for audit purposes or destroyed, provided destruction is witnessed by at least two persons and the State agency maintains a list of all destroyed authorization documents. Provisions pertaining to the replacement of authorized documents mutilated subsequent to receipt by a household are provided in § 274.6.

(f) *Destruction of unusable coupons found in inventory or received as claim payments.* (1) The State agency shall require coupon issuers, bulk storage points and claims collection points to dispose of unusable coupons received from the manufacturer or received as payment for claims within 30 days from the close of the month in which the coupons were received. There is no dollar limit on the amount of coupons which may be disposed of by the State agency. Disposal shall be by one of the following two methods:

(i) Sending unusable coupons to the State agency for destruction; or

(ii) Holding the unusable coupons in secure storage pending examination and destruction by the State agency at the coupon issuance, bulk storage, or claims collection point.

(2) Prior to the destruction of improperly manufactured or mutilated coupons or coupon books that were exchanged, or collected from households for claims, the State agency shall:

(i) Verify that the coupons were improperly manufactured or mutilated.

If one or more boxes of coupons were improperly manufactured, the State agency shall contact FNS prior to disposition for instructions on the disposition of the coupons. If FNS has not responded within the 30-day time limit, the State agency shall destroy the box of coupons and document the manufacturing irregularity and the book numbers, and retain a copy of the State agency's request to FNS for permission to destroy.

(ii) If either the coupon issuer or bulk storage point, or the State agency cannot determine whether coupons or coupon books were in fact improperly manufactured or cannot establish the value of the coupons involved, the State agency shall promptly forward a written statement of findings and the canceled coupon(s) or coupon book(s) to FNS for determination.

(3) The State agency shall destroy the coupons and coupon books by burning, shredding, tearing, or cutting so they are not negotiable. Two State agency officials shall witness and certify the destruction and report the destruction information as follows:

(i) The destruction of improperly manufactured, mutilated or exchanged coupons from coupon issuers and bulk storage points shall be reported on the Form *FNS–471*, Coupon Account and Destruction Report, and submitted with the Form *FNS–250* for the appropriate month. For coupons received from recipients, a Form *FNS–135* shall be completed and attached to the Form *FNS–471*.

(ii) The destruction of coupons received from claims collection points that are the result of the payment of household claims shall be reported on the Form *FNS–471* (with Form *FNS–135* documentation) and submitted with the Form *FNS–209*, Status of Claims Against Households, for the appropriate months. A State agency may consolidate its monthly Form *FNS–471* for claims collection destruction reporting by providing one completed Form *FNS–471* that reflects the total claims destruction figure for each month. However, the State agency must attach a breakdown which reports the required Form *FNS–471* information for each reporting point. If a State agency chooses to submit a consolidated Form *FNS–471*, all individual Forms *FNS–471* must be retained by the State agency for future review and audit purposes. The Form *FNS–135* may not be consolidated, and all originals of that form must

accompany a consolidated Form *FNS–471.*

(g) *Undeliverable or returned benefits.* The State agency shall exercise the following security and controls for authorization documents and coupons that are undeliverable or returned during the valid issuance period. Forms *FNS–471* and *FNS–135* shall be completed by the State agencies, as appropriate.

(1) Coupons which are in book form, complete, and with original and unsigned covers shall be returned to inventory and noted as such on the issuance log, and the Form *FNS–250.*

(2) Authorization documents shall be recorded in the control log noting the serial number, household name and case number. The documents shall be kept in secure storage with limited access. The documents may be voided as long as households which report nondelivery are provided an immediate replacement.

(h) *Old series coupon exchange.* Households which have old-series (no longer issued) coupons shall be entitled to a dollar-for-dollar exchange of old-series coupons for current series coupons. Households in possession of old-series coupons shall submit the coupons and a request for exchange to the State agency. State agencies may make direct exchange to claimants or request FNS to make the exchange. Forms *FNS–471* and *FNS–135* shall be completed by the State agencies, as appropriate.

§ 274.8 Responsibilities of coupon issuers, and bulk storage and claims collection points.

(a) *Receipt of coupons.* Coupon issuers, and bulk storage and claims collection points shall promptly verify and acknowledge, in writing, the content of each coupon shipment or coupon transfer delivered to them and shall be responsible for the custody, care, control, and storage of coupons.

(b) *Inventory levels.* Coupon issuers and bulk storage points shall maintain a proper level of coupon inventory not in excess of reasonable needs, taking into consideration the ease and feasibility of resupplying such coupon inventories. Such inventory levels should not exceed the six-month supply provided for in § 274.7(a).

(c) *Monthly reporting.* Coupon issuers, and bulk storage and claims collection points shall report monthly to FNS, through the State agency, using Form *FNS–250,* as provided in § 274.4.

(d) *Supporting documentation.* Coupon issuers and bulk storage points shall submit to the State agency supporting documentation which will allow verification of the monthly report as provided in § 274.4. At a minimum, such documentation shall include documents supporting coupon shipments, transfers, and issuances. In those States using issuance systems with authorization documents, coupon issuers shall submit transacted authorization documents batched according to each day's activity, in accordance with the schedule prescribed by the State agency but, in any case, not less often than monthly.

(e) *Handling of improperly manufactured or mutilated coupons.* Coupon issuers, and bulk storage and claims collection points shall cancel improperly manufactured or mutilated coupons or coupon books by writing or stamping "canceled" across the face of the coupon(s) and coupon book(s). Depending upon State agency policy, the coupon issuer or bulk storage point shall forward the coupons with the appropriate documentation (determined by the State agency) to the State agency, or hold the coupons in secure storage, pending examination and destruction by the State agency at the coupon issuer, bulk storage point or claims collection location. The documentation is not required if the State agency inspects the coupons at the issuance, storage or collection point. Additional requirements pertaining to the handling of these types of coupons by the State agency are provided in § 274.7(e).

§ 274.9 Closeout of a coupon issuer.

(a) *Definition of responsibilities.* Whenever the services of a coupon issuer or bulk storage point are terminated, the State agency shall perform the responsibilities described below. If a coupon issuer or bulk storage point has more than one functioning unit and one of these facilities is terminated, the coupon issuer or bulk storage point shall fulfill the responsibilities described in paragraphs (b) and (c) of this section. The coupon issuer or bulk storage point shall notify the State agency of the pending termination of any of its services prior to the actual termination. The State agency shall promptly notify FNS as provided in § 274.1(d).

(b) *Closeout accountability.* The State agency shall perform a closeout audit of a coupon issuer or bulk storage point within 30 days of termination of the issuance or storage point. The State agency shall report the findings of the audit to FNS immediately upon its completion. If the audit determines that the final Form *FNS–250* is incorrect, the State agency shall promptly provide a corrected report to FNS.

(c) *Transfer of coupon inventory.* (1) Prior to the transfer of coupon inventory to another coupon issuer or bulk storage point, the State agency shall perform an actual physical count of coupons on hand.

(2) The State agency shall transfer the inventory to another coupon issuer or bulk storage point, preferably within the same project area. The transfer of coupons shall be properly reported and documented by both the point being terminated and the point receiving the inventory.

(d) *Maintenance of participant service.* (1) At least 30 days before actual termination of a coupon issuer, the State agency shall notify project area participants of the impending closure. Notification shall include identification of alternative issuance locations and available public transportation. The State agency shall post notices at the offices of the coupon issuer of the impending closure and may use mass media or notices with allotments to advise participants about the expected closure of the issuance office.

(2) If closure of the issuer will affect a substantial portion of the caseload or a specific geographic area, the State agency shall take whatever action is necessary to maintain participant service without interruption.

(3) If a coupon issuer or bulk storage point is to be closed for noncompliance with contractual requirements and alternative issuance facilities or systems are not readily available, the State agency may continue to use the coupon issuer or bulk storage point for a limited time. In this situation, the State agency shall perform weekly onsite reconciliations of coupon issuance. The State agency shall continue to actively seek other issuance or storage alternatives.

§ 274.10 Identification cards.

(a) *General provisions.* State agencies shall issue an ID card to each certified household as proof of Program eligibility. Upon request, the household or the authorized representative, shall present the household's ID card at issuance points, retail food stores or meal services in order to transact the allotment authorization or when exchanging benefits for eligible food. The household member or members whose name(s) appear on the ID card shall sign the coupon books issued to the household.

(1) All ID cards shall be issued in the name of the household member who is authorized to receive the household's issuance. In areas not designated by FNS as requiring Photo ID cards, the ID card shall contain space for the name and signature of the household member

to whom the coupon allotment is to be issued and for any authorized representatives designated by the household. Section 274.5(b) provides further requirements pertaining to emergency authorized representatives. Any person listed on the ID card shall sign the ID card before that person can use it to obtain benefits. If the household does not name an authorized representative, the State agency shall void that area of the ID card to prevent names and signatures being entered at a later date. The ID card may be serially numbered.

(2) The State agency shall limit issuance of ID cards to the time of initial certification, with replacements made only in instances of loss, mutilation, destruction, changes in the person authorized to obtain coupons, or when the State agency determines that new ID cards are needed to keep the photographs up-to-date or if the State agency changes its ID card format or system. Whenever possible, the State agency shall collect the ID card that it is replacing.

(3) The State agency shall place an expiration date on those ID cards issued to households certified for delivered meals for a temporary period and to households eligible for expedited service.

(4) Specially-marked ID cards shall be issued in the following circumstances:

(i) Eligible household members 60 years of age or over or members who are housebound, physically handicapped, or otherwise disabled to the extent that they are unable to adequately prepare all their meals, and their spouses, may use coupons to purchase meals prepared for and delivered to them by a nonprofit meal delivery service authorized by FNS. Any household eligible for and interested in using delivered meal services shall have its ID card marked with the letter "M".

(ii) Eligible household members 60 years of age or over and their spouses, or those receiving SSI and their spouses, may use coupons issued to them to purchase meals prepared especially for them at communal dining facilities authorized by FNS for that purpose. Any household eligible for and interested in using communal dining facilities in those States or project areas where restaurants are authorized to accept food stamps, shall have its ID card marked with the letters "CD". In areas where restaurants are not authorized to accept food stamps, the State or project area may mark such ID's with the letters "CD".

(iii) Eligible households residing in areas of Alaska determined by FNS as areas where access to retail food stores is difficult and which rely substantially on hunting and fishing for subsistence may use all or any part of the coupons issued to purchase hunting and fishing equipment such as nets, hooks, rods, harpoons and knives, but may not use coupons to purchase firearms, ammunition, and other explosives. Any household residing in a remote section of Alaska which has been determined by FNS to be an area in which food coupons may be used to purchase hunting and fishing equipment shall have its ID card marked with the letters "HF".

(5) ID cards delivered to households by mail shall not be mailed in the same envelope with authorization documents or coupons.

(b) *Photo ID cards.* (1) Photo ID cards shall be issued in those project areas or portions thereof with 100,000 or more food stamp participants, except for those project areas serviced entirely by mail issuance, or where FNS, in consultation with the Office of the Inspector General, approves a State agency's request for an exemption. FNS shall respond to a State agency's request for exemption within 30 days of its receipt of the request.

(i) FNS shall evaluate the January participation data reported as an attachment to the March Form *FNS–388* report. Based on the evaluation, FNS shall notify State agencies at the beginning of each fiscal year of any areas that either require or no longer require the use of Photo ID cards. In cases where an entire State is a single project area, FNS shall consult with the State agency to determine whether Photo IDs should be required in any specific parts of the project area. At the conclusion of this consultation, FNS shall inform the State agency whether the use of Photo IDs will be mandated in any parts of the State agency, based on the need to protect Program integrity, and the cost-effectiveness of Photo ID cards.

(ii) In cases where a project area serves between 100,000 and 110,000 participants, FNS shall inform the State agency in which the project area is located that it is prepared to mandate the use of Photo IDs in the project area. FNS shall also inform the State agency that it will not mandate use of Photo ID's if, within 30 days of being notified by FNS that Photo ID's must be used, the State agency demonstrates to FNS that participation in the project areas has fallen below the 100,000 participant level in the recent past, or justifies to FNS why participation is likely to fall below that level during the next year.

(2) FNS may, at any time, in consultation with the Office of the Inspector General, designate project areas or portions thereof with less than 100,000 participants as requiring the use of Photo ID cards if, in reviewing such factors as the level of duplicate issuances and results of management evaluation reviews, the Department determines that the issuance of Photo ID cards in such areas would be justified.

(3) A State agency may request that FNS require that Photo IDs be mandated throughout either the entire State or specified project areas. FNS shall respond to such requests within 30 days of the request and, if the request is not approved, FNS shall justify its reasons for the disapproval to the State agency.

(4) In project areas where issuance of Photo ID cards is mandatory, the State agency shall issue a Photo ID card at the time of certification to each eligible household except those listed in § 274.10(b)(4). Households exempt from mandated Photo ID cards shall be issued ID cards which meet the specifications in paragraph (d) of this section except that in lieu of a photograph, the State agency shall annotate the cards to show an exception was granted to the household and that the ID card is valid. The following households are exempt from the Photo ID requirement:

(i) Households certified by out-of-office interviews as specified in § 273.2(e)(2). However, the State agency shall replace the non-Photo ID card issued to such households with a Photo ID card when the appropriate household member or authorized representative visits the certification office. The State agency shall not require any member of such a household to visit the office exclusively for the purpose of issuing a Photo ID card;

(ii) Household members whose religion does not allow them to be photographed. The State agency shall require such a household to provide a signed statement to the effect that the members' religious beliefs do not allow them to be photographed;

(iii) Households entitled to expedited service if the State agency's Photo ID card system is incapable of producing a Photo ID card in time for the household to participate as required by § 273.2(i). A Photo ID card shall be issued to the household prior to issuance of the household's next allotment;

(iv) Households certified under the SSA-food stamp joint processing rules in § 273.2(k). State agencies shall not require such households to obtain Photo IDs as long as they continue to be certified for food stamps at SSA offices. However, a household shall obtain a Photo ID if a household member or authorized representative reports to a

food stamp office for recertification; and,

(v) Residents of drug/alcohol treatment and rehabilitation programs.

(5) In addition to the general provisions in paragraph (a) of this section, Photo ID cards shall include the photograph of the person who will receive the household's issuance; i.e., who will either transact the household's authorization document or pick up the household's allotment. A Photo ID card shall be signed by only the person pictured on the card, who may be the household member or authorized representative. Only the person photographed may obtain the household's coupons. All Photo ID card formats are subject to FNS approval.

(6) Photo ID cards shall be serially numbered and laminated after they are signed by the person whose photograph appears on the card. ID cards shall also include a color photograph of the person designated by the household to obtain coupons and the household's case number or other identifying information.

(7) A Photo ID card used to receive benefits under a welfare or public assistance program may be adapted for food stamp purposes if it meets the specifications contained in this section and can be annotated to indicate food stamp eligibility.

(8) The State agency shall provide a household with a reasonable opportunity to obtain a food stamp Photo ID card in any project area where its use is mandated.

(i) A household required to have a Photo ID card shall not participate until such time as a household member or a designated authorized representative obtains such a card. If a designated authorized representative does not obtain the required Photo ID, the household may designate a household member or another authorized representative to be photographed.

(ii) If the person whose photograph appears on the ID is unable to travel to the issuance point to obtain a particular allotment, the household may use the emergency authorized representative procedures provided in § 274.5 and in paragraph (c) of this section.

(9) State agencies which have the capability may develop systems to issue more than one household member a Photo ID card. These systems shall ensure that the safeguards provided by Photo ID cards, as specified in this section, are maintained.

(10) If a mutilated or altered Photo ID card is presented at the issuance point, the household shall obtain a replacement Photo ID card prior to issuance.

(11) A household shall be entitled to unobtained benefits, lost as a result of being unable to obtain a particular allotment, if the issuance month elapses between the time the household requested a replacement Photo ID card and the delivery of that card to the household.

(12) FNS may waive one or more of the requirements in this section if a State agency can demonstrate to FNS that its alternate ID card or system will provide adequate safeguards against fraudulent and/or duplicate issuances.

(c) *Emergency authorized representative and recipient identification.* State agencies shall develop a method by which a household may designate an emergency authorized representative to obtain the household's allotment when none of the persons specified on the ID is available.

(1) At a minimum, the method developed by the State agency shall require a document with the signature of the emergency authorized representative as well as a place for the household member named on the ID card to sign designating the emergency authorized representative and attesting to the signature of the emergency authorized representative. The designation may be on the ID card or authorization document or a separate form. The household shall not be required to travel to a food stamp office to execute an emergency designation. The emergency authorized representative may present a separately written and signed statement from the head of the household or his or her spouse, authorizing the issuance of the certified household's food stamps to the authorized representative. The emergency representative shall sign the written statement from the household and present the statement and the household ID card to obtain the allotment. A separate written designation is required each time an emergency representative is authorized.

(2) In any issuance system, the cashier shall compare the signatures on the issuance document and on the ID card. If they do not match, issuance shall not be made.

(i) If the household is required by these regulations to present a Photo ID card, coupons shall be issued only when the person presenting the authorization document or requesting the coupons is pictured on the ID card. The cashier shall write the serial number of the Photo ID card on the authorization or issuance document.

(ii) If the Photo ID card appears to be mutilated or altered, the issuing agent shall not issue the coupons, but shall require the household to obtain a replacement ID card from the State agency.

§ 274.11 Issuance record retention and forms security.

(a) *Availability of issuance records.* The State agency shall maintain issuance and reconciliation records for a period of three years from the month of origination. This period may be extended at the written request of FNS.

(1) Issuance and reconciliation records shall include, at a minimum, notices of change, HIR cards, inventory records, transacted authorizing documents, Forms *FNS–250* and substantiating documents, cashiers' daily reports, receptionists' daily tally sheets, master issuance files, the records-for-issuance for each month and any rosters or lists produced by issuance systems.

(2) In lieu of the records themselves, easily retrievable microfilm, microfiche, or computer tapes which contain the required information may be maintained.

(b) *Control of issuance documents.* The State agency shall control all issuance documents which establish household eligibility while the documents are transferred and processed within the State agency. The State agency shall use numbers, batching, inventory control logs, or similar controls from the point of initial receipt through the issuance and reconciliation process. The State agency shall also ensure the security and control of authorization documents in transit from the manufacturer to the State agency.

(c) *Accountable documents.* (1) HIR cards, authorization documents, and mandated Photo ID cards shall be considered accountable documents. The State agency shall provide the following minimum security and control procedures for these documents:

(i) Preprinted serial numbers;

(ii) Secure storage;

(iii) Access limited to authorized personnel;

(iv) Bulk inventory control records;

(v) Subsequent control records maintained through the point of issuance or use, and

(vi) Periodic review and validation of inventory controls and records by parties not otherwise involved in maintaining control records.

(2) For notices of change which initiate, update or terminate the master issuance file, and blank ID cards, the State agency shall, at a minimum, provide secure storage and shall limit access to authorized personnel.

PART 275—PERFORMANCE REPORTING SYSTEM

Subpart C—Quality Control (QC) Reviews

12. In § 275.10, paragraph (a) is amended by adding a new sentence after the third sentence, to read as follows:

§ 275.10 Scope and purpose.

(a) * * * The determination of whether the household received the correct allotment will be made by comparing the eligibility data gathered during the review against the amount authorized on the master issuance file. * * *

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PART 276—STATE AGENCY LIABILITIES AND FEDERAL SANCTIONS

13. Sections 276.1 and 276.2 are revised in their entirety to read as follows:

§ 276.1 Responsibilities and rights.

(a) *Responsibilities.* (1) State agencies shall be responsible for establishing and maintaining secure control over coupons and cash for which the regulations designate them accountable. Except as otherwise provided in these regulations, any shortages or losses of coupons and cash shall strictly be a State agency liability and the State agency shall pay to FNS, upon demand, the amount of the lost or stolen coupons or cash, regardless of the circumstances.

(2) State agencies shall be responsible for preventing losses or shortages of Federal funds in the issuance of benefits to households participating in the Program. FNS shall strictly hold State agencies liable for all losses, thefts and unaccounted shortages that occur during issuance, unless otherwise specified. Issuance functions begin with the State agency's creation of a record-for-issuance to generate each month's issuances from the master issuance file. Shortages or losses which result from any functions that occur prior to the creation of the record-for-issuance are subject to either paragraph (a)(3) of this section or Subpart C—Quality Control (QC) Reviews, of Part 275—Performance Reporting System.

(3) State agencies shall be responsible for preventing losses of Federal funds in the certification of households for participation in the Program. If FNS makes a determination that there has been negligence or fraud on the part of a State agency in the certification of households for participation in the Program, FNS is authorized to bill the State agency for an amount equal to the amount of coupons issued as a result of the negligence or fraud.

(4) State agencies shall be responsible for efficiently and effectively administering the Program by complying with the provisions of the Act, the regulations issued pursuant to the Act, and the FNS-approved State Plan of Operation. A determination by FNS that a State agency has failed to comply with any of these provisions may result in FNS seeking injunctive relief to compel compliance and/or a suspension or disallowance of the Federal share of the State agency's administrative funds. FNS has the discretion to determine in each instance of noncompliance, whether to seek injunctive relief or to suspend or disallow administrative funds. FNS may seek injunctive relief *and* suspend or disallow funds simultaneously or in sequence.

(b) *Rights.* State agencies may appeal all claims brought against them by FNS and shall be afforded an administrative review by a designee of the Secretary as provided in § 276.7. State agencies may seek judicial review of any final administrative determination made by the Secretary's designee, as provided in § 276.7(j).

§ 276.2 State agency liabilities.

(a) *General provisions.* Notwithstanding any other provision of this subchapter, State agencies shall be responsible to FNS for any financial losses involved in the acceptance, storage and issuance of coupons. All coupon issuance shall be documented, and the State agency shall make available to the Department all primary documentation (or secondary, if the primary has been inadvertently destroyed) when required to do so. State agencies shall pay to FNS, upon demand, the amount of any such losses. State agencies shall be responsible for the monthly increased Federal benefit costs involved in granting households an income exclusion for child support payments as described in § 273.9(c)(12). State agencies shall reimburse FNS the amount of such increased cost in accordance with paragraph (e) of this section.

(b) *Coupon shortages, losses, unauthorized issuances, overissuances and undocumented issuances.* (1) State agencies shall be strictly liable for:

(i) Coupon shortages and losses that occur any time after coupons have been accepted by receiving points within the State and that occur during storage or the movement of coupons between bulk storage point issuers and claims collection points within the State;

(ii) Losses resulting from authorization documents lost in transit from a manufacturer to the State agency and untransacted authorization documents lost in transit from an issuer to the State agency; and

(iii) The value of coupons overissued and coupons issued without authorization, except for those duplicate issuances in the correct amount that are the result of replacement issuances made in accordance with § 274.6. Overissuances and unauthorized issuances for which State agencies are liable include, but are not limited to: Single unmatched issuances, duplicates made that are not in accordance with § 274.6, and transacted authorization documents that are altered, counterfeit, from out-of-State or expired (including those unsigned by the designated household member and/or not date stamped by the issuer).

(2) Coupon shortages and/or losses for which State agencies shall be held strictly liable include, but are not limited to, the following:

(i) Thefts;

(ii) Embezzlements;

(iii) Cashier errors (e.g., errors by the personnel of issuance offices in the counting of coupon books);

(iv) Coupons lost in natural disasters if a State agency cannot provide reasonable evidence that the coupons were destroyed and not redeemed;

(v) Issuances which cannot be supported by the required documentation;

(vi) Issuances made to households not currently certified;

(vii) Issuance loss during an official investigation, unless the investigation was reported *directly* to FNS prior to the loss; and

(viii) Unexplained causes.

(3) State agencies shall submit written reports on significant losses unless those losses were investigated by the Office of the Inspector General, USDA.

(4) A State agency shall be held strictly liable for mail issuance losses that are in excess of the tolerance level that corresponds to the preselected reporting unit. Each State agency shall select one of the three following units annually and report the selection as provided in §§ 272.2(a)(2) and 272.2(d)(1)(iii). Where reporting units issue less than $300,000 in mail issuance in a quarter, the State agency shall be liable for all losses in excess of $1,500 for the quarter.

(i) If a State agency elects to report and have liabilities based on an existing county or project area level of mail issuance, then the State agency shall be strictly liable to FNS for the value of all mail issuance losses in excess of five-tenths (.5) percent of the dollar value of

each reporting unit's quarterly mail issuance. This level shall be used if the State agency does not designate one of the three levels herein by May 15, 1989, and by August 15 in years thereafter.

(ii) If a State agency elects to report and have liabilities based on an existing administrative level higher than the county or project area provided in paragraph (b)(3)(i) of this section, but lower than the Statewide level of mail issuance provided in paragraph (b)(3)(iii) of this section, then the State agency shall be strictly liable to FNS for the value of all mail issuance losses in excess of thirty-five hundreths (.35) percent per quarter of the dollar value of each reporting unit's quarterly mail issuance. State agencies shall not create new administrative units for the sole purpose of reporting mail issuance losses.

(iii) If a State agency elects to report and have liabilities based on a State level of mail issuance, then the State agency shall be strictly liable to FNS for the value of all mail issuance losses in excess of thirty hundreths (.30) percent per quarter of the dollar value of each State agency's total quarterly mail issuance.

(iv) FNS reserves the right to make all determinations on reporting requirements and on administrative divisions within the State for the purpose of determining and assessing liability for mail issuance losses. FNS also reserves the right to revise such determinations as necessary. Revisions will be communicated to State agencies by FNS. The liability assessment will be based on the revised reporting requirement for the next full fiscal quarter.

(v) For the purpose of this section, "mail issuance" means all original coupon issuances distributed through the mail. "Mail loss" means all replacements of mail issuances except for replacements of returned mail issuances.

(vi) The State agency's liability shall be computed using data from Form FNS–259, Food Stamp Mail Issuance Report, or alternative reporting document accepted in advance by FNS and the State agency, which is submitted for the quarter for the particular reporting unit agreed to by FNS and the State agency, as provided in §§ 272.2(a)(2) and 272.2(d)(1)(iii).

(5) State agencies shall be held strictly liable for the following overissuances:

(i) The value of overissued coupons issued as a result of a State agency's failure to comply with a directive issued by FNS in accordance with the provisions of § 271.7, to reduce, suspend or cancel allotments;

(ii) The value of coupons overissued by the State agency as a result of a court order or settlement agreement of a court suit which was not reported to FNS in accordance with the provisions of § 272.4(e); and

(iii) The value of coupons overissued as a result of a State agency entering into an out-of-court settlement of a court suit, the terms of which violate Federal laws or regulations.

(6) Coupon shortages and losses shall be determined from the Form FNS–250, Food Coupon Accountability Report and its supporting documents and from the Form FNS–46, Issuance System Reconciliation Report. Losses of Federal moneys resulting from overissuances shall be determined from sources such as audits, Performance Reporting System Reviews, Federal reviews, investigations and explanatory reports prepared by the State agency.

(c) Cash Losses. State agencies are liable to FNS for cash losses when money collected by State agencies from recipient claims has been lost, stolen or otherwise not remitted to FNS in accordance with the provision of § 273.18(h). The amount of such losses shall be determined from the sources outlined in paragraph (6) of this section.

(d) State agency payment to FNS. State agencies shall be billed for the exact amount of losses specified in this section. If a State agency fails to pay the billing, FNS shall offset the amount of loss from the State agency's Letter of Credit in accordance with § 277.16(c).

(e) Title IV reimbursements. (1) State agencies shall be liable to FNS for the increased dollar value of coupon allotments resulting from providing households with an income exclusion for child support payments as described in § 273.9(c)(12) based on one of the following methods:

(i) For each month the State agency grants the income exclusion to a household, the State agency shall reimburse FNS for the monthly difference between the household's benefit level which includes the exclusion and the benefit level the household would have received without the exclusion.

(ii) On a monthly basis, State agencies shall total the actual amount of income exclusion granted to affected households and shall reimburse FNS 30 percent of such total.

(2) The State agency shall utilize only one reimbursement method and that method shall be applied for determining a reimbursement amount for all affected cases in the caseload. State agencies may switch from one method to the other on an annual basis, but not on a case-by-case basis.

(3) The State agency shall reimburse FNS through an adjustment to the Letter of Credit (LOC). The reimbursement amount shall be reported quarterly on the Form FNS–209, Status of Claims Against Households, to be offset against LOC credit adjustments reported on that form. The State agency shall maintain monthly records which detail the computation of reimbursement amounts reported on the Form FNS–209 for audit purposes.

Date: February 6, 1989.

Anna Kondratas,

Administrator, Food and Nutrition Service.

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February 15, 1989

Part III

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for November 1988

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53112; FRL-3507-4]

Premanufacture Notices Monthly Status Report for November 1988

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for NOVEMBER 1988.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Public Reading Room NE-G004 at the address below between 8:00 a.m. and 4:00 p.m., Monday thru Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53112]" and the specific PMN and exemption request number should be sent to: TSCA Document Control Office (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., Rm. 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 St., SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during NOVEMBER; (b) PMNs received previously and still under review at the end of NOVEMBER; (c) PMNs for which the notice review period has ended during NOVEMBER; (d) chemical substances for which EPA has received a notice of commencement to manufacture during NOVEMBER; and (e) PMNs for which the review period has been suspended. Therefore, the NOVEMBER 1988 PMN Status Report is being published.

Date: January 10, 1989.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

Premanufacture Notice Monthly Status Report November 1988

I. 67 Premanufacture Notices and Exemption Requests Received During the Month

PMN No.

P 89-0081	P 89-0082	P 89-0083	P 89-0085
P 89-0086	P 89-0087	P 89-0088	P 89-0089
P 89-0090	P 89-0091	P 89-0092	P 89-0093
P 89-0094	P 89-0095	P 89-0096	P 89-0097
P 89-0098	P 89-0099	P 89-0100	P 89-0101
P 89-0103	P 89-0105	P 89-0106	P 89-0107
P 89-0108	P 89-0109	P 89-0112	P 89-0113
P 89-0114	P 89-0115	P 89-0116	P 89-0117
P 89-0118	P 89-0119	P 89-0120	P 89-0121
P 89-0122	P 89-0123	P 89-0124	P 89-0125
P 89-0126	P 89-0127	P 89-0128	P 89-0130
P 89-0131	P 89-0132	P 89-0133	P 89-0134
P 89-0135	Y 89-0019	Y 89-0020	Y 89-0021
Y 89-0022	Y 89-0023	Y 89-0024	Y 89-0025
Y 89-0026	Y 89-0027	Y 89-0028	Y 89-0029
Y 89-0030	Y 89-0031	Y 89-0032	Y 89-0033
Y 89-0034	Y 89-0035	Y 89-0036	

II. 571 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.

P 83-0669	P 85-0216	P 85-0535	P 85-0536
P 85-0619	P 85-0718	P 85-0941	P 86-0005
P 86-0066	P 86-0067	P 86-0294	P 86-0295
P 86-0592	P 86-1078	P 86-1189	P 87-1235
P 86-1602	P 86-1603	P 86-1604	P 86-1607
P 87-0057	P 87-0058	P 87-0059	P 87-0068
P 87-0105	P 87-0197	P 87-0198	P 87-0199
P 87-0200	P 87-0201	P 87-0323	P 87-0326
P 87-0779	P 87-0794	P 87-0930	P 87-0931
P 87-0963	P 87-1028	P 87-1066	P 87-1104
P 87-1192	P 87-1226	P 87-1227	P 87-1273
P 87-1337	P 87-1379	P 87-1417	P 87-1438
P 87-1437	P 87-1542	P 87-1546	P 87-1547
P 87-1548	P 87-1549	P 87-1555	P 87-1673
P 87-1676	P 87-1677	P 87-1679	P 87-1680
P 87-1694	P 87-1759	P 87-1769	P 87-1770
P 87-1872	P 87-1881	P 87-1882	P 87-0049
P 88-0083	P 88-0156	P 88-0157	P 88-0195
P 88-0225	P 88-0275	P 88-0319	P 88-0320
P 88-0353	P 88-0387	P 88-0388	P 88-0393
P 88-0436	P 88-0468	P 88-0515	P 88-0522
P 88-0568	P 88-0576	P 88-0598	P 88-0602
P 88-0606	P 88-0622	P 88-0658	P 88-0671
P 88-0701	P 88-0715	P 88-0726	P 88-0792
P 88-0831	P 88-0836	P 88-0837	P 88-0862
P 88-0864	P 88-0875	P 88-0884	P 88-0888
P 88-0889	P 88-0890	P 88-0894	P 88-0898
P 88-0900	P 88-0918	P 88-0972	P 88-0981
P 88-0985	P 88-0997	P 88-0998	P 88-0999
P 88-1005	P 88-1020	P 88-1021	P 88-1035
P 88-1063	P 88-1069	P 88-1070	P 88-1071
P 88-1109	P 88-1115	P 88-1116	P 88-1117
P 88-1118	P 88-1120	P 88-1136	P 88-1154
P 88-1168	P 88-1169	P 88-1170	P 88-1189
P 88-1205	P 88-1206	P 88-1211	P 88-1212
P 88-1219	P 88-1220	P 88-1221	P 88-1235
P 88-1236	P 88-1240	P 88-1243	P 88-1244
P 88-1250	P 88-1252	P 88-1267	P 88-1271
P 88-1272	P 88-1273	P 88-1274	P 88-1275
P 88-1276	P 88-1277	P 88-1278	P 88-1293
P 88-1303	P 88-1304	P 88-1367	P 88-1377
P 88-1403	P 88-1425	P 88-1426	P 88-1439
P 88-1440	P 88-1443	P 88-1446	P 88-1460
P 88-1473	P 88-1514	P 88-1529	P 88-1543
P 88-1559	P 88-1564	P 88-1567	P 88-1568
P 88-1598	P 88-1611	P 88-1616	P 88-1617
P 88-1618	P 88-1619	P 88-1620	P 88-1621
P 88-1622	P 88-1623	P 88-1630	P 88-1631
P 88-1632	P 88-1647	P 88-1648	P 88-1653
P 88-1657	P 88-1658	P 88-1677	P 88-1682
P 88-1686	P 88-1690	P 88-1691	P 88-1697
P 88-1698	P 88-1700	P 88-1718	P 88-1727
P 88-1730	P 88-1732	P 88-1735	P 88-1739
P 88-1740	P 88-1742	P 88-1748	P 88-1751
P 88-1753	P 88-1761	P 88-1763	P 88-1764
P 88-1774	P 88-1778	P 88-1783	P 88-1786
P 88-1801	P 88-1802	P 88-1805	P 88-1807
P 88-1809	P 88-1811	P 88-1813	P 88-1816
P 88-1821	P 88-1823	P 88-1831	P 88-1832
P 88-1839	P 88-1844	P 88-1850	P 88-1856
P 88-1857	P 88-1869	P 88-1870	P 88-1871
P 88-1872	P 88-1889	P 88-1898	P 88-1914
P 88-1922	P 88-1924	P 88-1937	P 88-1938
P 88-1940	P 88-1945	P 88-1956	P 88-1958
P 88-1960	P 88-1962	P 88-1963	P 88-1971
P 88-1980	P 88-1982	P 88-1984	P 88-1985
P 88-1995	P 88-1996	P 88-1999	P 88-2000
P 88-2001	P 88-2002	P 88-2003	P 88-2004
P 88-2007	P 88-2008	P 88-2009	P 88-2010
P 88-2013	P 88-2022	P 88-2043	P 88-2069
P 88-2077	P 88-2079	P 88-2092	P 88-2093
P 88-2094	P 88-2100	P 88-2107	P 88-2108
P 88-2110	P 88-2112	P 88-2116	P 88-2126
P 88-2132	P 88-2133	P 88-2139	P 88-2145
P 88-2148	P 88-2159	P 88-2160	P 88-2169
P 88-2174	P 88-2175	P 88-2177	P 88-2179
P 88-2180	P 88-2181	P 88-2188	P 88-2191
P 88-2195	P 88-2196	P 88-2204	P 88-2210
P 88-2212	P 88-2213	P 88-2215	P 88-2217
P 88-2221	P 88-2228	P 88-2229	P 88-2230
P 88-2231	P 88-2235	P 88-2236	P 88-2237
P 88-2243	P 88-2244	P 88-2245	P 88-2251
P 88-2259	P 88-2268	P 88-2271	P 88-2273
P 88-2275	P 88-2279	P 88-2287	P 88-2293
P 88-2294	P 88-2295	P 88-2296	P 88-2297
P 88-2298	P 88-2302	P 88-2313	P 88-2328
P 88-2330	P 88-2331	P 88-2332	P 88-2333
P 88-2334	P 88-2342	P 88-2343	P 88-2344
P 88-2346	P 88-2347	P 88-2348	P 88-2349
P 88-2351	P 88-2359	P 88-2364	P 88-2367
P 88-2372	P 88-2380	P 88-2389	P 88-2398
P 88-2399	P 88-2403	P 88-2404	P 88-2405
P 88-2407	P 88-2415	P 88-2417	P 88-2418
P 88-2419	P 88-2420	P 88-2422	P 88-2434
P 88-2435	P 88-2436	P 88-2437	P 88-2439
P 88-2440	P 88-2441	P 88-2455	P 88-2458
P 88-2463	P 88-2467	P 88-2468	P 88-2469
P 88-2470	P 88-2473	P 88-2474	P 88-2475
P 88-2476	P 88-2477	P 88-2481	P 88-2482
P 88-2484	P 88-2485	P 88-2486	P 88-2487
P 88-2491	P 88-2492	P 88-2499	P 88-2500
P 88-2505	P 88-2515	P 88-2517	P 88-2518
P 88-2519	P 88-2520	P 88-2521	P 88-2522
P 88-2523	P 88-2524	P 88-2525	P 88-2526
P 88-2527	P 88-2528	P 88-2529	P 88-2530
P 88-2531	P 88-2536	P 88-2538	P 88-2539
P 88-2540	P 88-2556	P 88-2557	P 88-2558
P 88-2561	P 88-2562	P 88-2563	P 88-2564
P 88-2566	P 88-2567	P 88-2568	P 88-2571
P 88-2572	P 88-2573	P 88-2574	P 88-2575
P 88-2576	P 88-2577	P 88-2578	P 88-2580
P 88-2581	P 88-2582	P 88-2583	P 88-2584
P 88-2585	P 88-2587	P 88-2590	P 88-2591
P 88-2592	P 88-2597	P 88-2598	P 88-2599
P 88-2600	P 88-2601	P 88-2607	P 88-2608
P 88-2609	P 88-2610	P 88-2613	P 88-2614

P 88-2616 P 88-2617 P 88-2618 P 88-2620
P 88-2624 P 88-2625 P 88-2626 P 88-2627
P 88-2628 P 88-2629 P 88-2631 P 88-2632
P 88-2633 P 88-2637 P 88-2638 P 88-2639
P 88-2640 P 88-2641 P 88-2642 P 88-2643
P 88-2644 P 88-2645 P 89-0002 P 89-0006
P 89-0007 P 89-0008 P 89-0009 P 89-0010
P 89-0011 P 89-0016 P 89-0017 P 89-0018
P 89-0019 P 89-0020 P 89-0021 P 89-0024
P 89-0026 P 89-0027 P 89-0028 P 89-0029
P 89-0030 P 89-0031 P 89-0032 P 89-0033
P 89-0034 P 89-0035 P 89-0036 P 89-0037
P 89-0038 P 89-0039 P 89-0044 P 89-0045
P 89-0046 P 89-0048 P 89-0049 P 89-0050
P 89-0051 P 89-0052 P 89-0053 P 89-0054
P 89-0055 P 89-0056 P 89-0058 P 89-0059
P 89-0060 P 89-0061 P 89-0062 P 89-0065
P 89-0066 P 89-0067 P 89-0068 P 89-0069
P 89-0070 P 89-0071 P 89-0072 P 89-0073
P 89-0076 P 89-0077 P 89-0078 P 89-0079
P 89-0084 P 89-0129 Y 88-0286 Y 88-0287
Y 88-0288 Y 88-0289 Y 88-0301 Y 88-0313
Y 88-0315 Y 88-0316 Y 88-0319 Y 88-0320
Y 88-0321 Y 88-0322 Y 88-0323 Y 88-0324
Y 88-0325 Y 88-0326 Y 88-0352 Y 88-0353
Y 88-0354 Y 89-0004 Y 89-0011 Y 89-0012
Y 89-0016 Y 89-0017 Y 89-0018

III. 193 Premanufacture Notices and Exemption Request for Which the Notice Review Period Has Ended During the Month. (Expiration or the Notice Review Period Does Not Signify That the Chemical Has Been Added to the Inventory).

PMN No.

P 85-0619 P 86-0092 P 87-0963 P 87-1028
P 87-1436 P 87-1879 P 88-0134 P 88-0138
P 88-0567 P 88-0568 P 88-0394 P 88-1037
P 88-1223 P 88-1224 P 88-1508 P 88-1540
P 88-1650 P 88-1667 P 88-1727 P 88-1729
P 88-1764 P 88-1765 P 88-1766 P 88-1767
P 88-1768 P 88-1769 P 88-1770 P 88-1771
P 88-1772 P 88-1773 P 88-1775 P 88-1776
P 88-1778 P 88-1779 P 88-1780 P 88-1781
P 88-1782 P 88-1784 P 88-1785 P 88-1787
P 88-1788 P 88-1789 P 88-1790 P 88-1791
P 88-1792 P 88-1793 P 88-1794 P 88-1795
P 88-1796 P 88-1797 P 88-1798 P 88-1799
P 88-1800 P 88-1803 P 88-1804 P 88-1805
P 88-1806 P 88-1808 P 88-1810 P 88-1812
P 88-1813 P 88-1814 P 88-1815 P 88-1816
P 88-1817 P 88-1818 P 88-1819 P 88-1820
P 88-1821 P 88-1822 P 88-2824 P 88-1825
P 88-1826 P 88-1827 P 88-1828 P 88-1829
P 88-1830 P 88-1831 P 88-1833 P 88-1834
P 88-1835 P 88-1836 P 88-1837 P 88-1838
P 88-1839 P 88-1840 P 88-1841 P 88-1842
P 88-1843 P 88-1845 P 88-1846 P 88-1847
P 88-1848 P 88-1849 P 88-1851 P 88-1852
P 88-1853 P 88-1854 P 88-1855 P 88-1858
P 88-1859 P 88-1860 P 88-1861 P 88-1862
P 88-1863 P 88-1864 P 88-1865 P 88-1866
P 88-1867 P 88-1868 P 88-1869 P 88-1870
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P 88-1892 P 88-1893 P 88-1894 P 88-1895
P 88-1896 P 88-1897 P 88-1899 P 88-1900
P 88-1901 P 88-1902 P 88-1903 P 88-1904
P 88-1905 P 88-1906 P 88-1907 P 88-1908
P 88-1909 P 88-1910 P 88-1911 P 88-1912
P 88-1913 P 88-1914 P 88-1915 P 88-1916
P 88-1917 P 88-1918 P 88-1919 P 88-1920
P 88-1921 P 88-1923 P 88-1924 P 88-1925
P 88-1926 P 88-1927 P 88-1931 Y 88-0277
Y 88-0278 Y 88-0339 Y 88-0346 Y 89-0001
Y 89-0004 Y 89-0012 Y 89-0013 Y 89-0014
Y 89-0015 Y 89-0016 Y 89-0017 Y 89-0018
Y 89-0019 Y 89-0020 Y 89-0021 Y 89-0022
Y 89-0023 Y 89-0024 Y 89-0025 Y 89-0026
Y 89-0027 Y 89-0028 Y 89-0029 Y 89-0031
Y 89-0032

IV. 126 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PMN No.	Identity/generic name	Date of commencement
P 82-0559	G Disubstituted benzene	Oct. 7, 1988.
P 83-0129	Syncrude (full range, dewaxed dearsinited shale oil)	Dec. 16, 1986.
P 83-0130	Light straight run naphtha	Feb. 1, 1987.
P 83-0131	Heavy straight run naphtha	Do.
P 83-0132	Straight run middle distillate	Do.
P 83-0133	Straight run gas oil	Do.
P 83-0134	Atmospheric tower residuum	Do.
P 83-0135	Vacuum tower condensate	Do.
P 83-0136	Light vacuum gas oil	Do.
P 83-0137	Heavy vacuum gas oil	Do.
P 83-0138	Vacuum residuum	Do.
P 83-0139	Full range catalytic cracked naphtha	Do.
P 83-0140	Light catalytic cracked distillate	Do.
P 83-0141	Catalytic cracked clarified oil	Do.
P 83-0142	Catalytic cracked light olefins	Do.
P 83-0143	Full range catalytic reformed naphtha	Do.
P 83-0144	Full range alkylate naphtha	Do.
P 83-0145	Light hydrocracked naphtha	Do.
P 83-0146	Heavy hydrocracked naphtha	Do.
P 83-0148	Light thermal cracked naphtha	Do.
P 83-0149	Heavy thermal cracked naphtha	Do.
P 83-0150	Light thermal cracked distillate	Do.
P 83-0151	Heavy thermal cracked distillate	Do.
P 83-0152	Coke	Do.
P 83-0153	Sweetened naphtha	Do.
P 83-0154	Hydrodesulfurized heavy naphtha	Do.
P 83-0155	Hydrodesulfurized middle distillate	Do.
P 83-0156	Full range straight run naphtha	Do.
P 83-0157	Straight run kerosine	Do.
P 83-0158	Light paraffinic distillate	Do.
P 83-0159	Heavy paraffinic distillate	Do.
P 83-0219	Catalytic dewaxed naphtha	Do.
P 83-0225	Hydrodesulfurized gas oil	Do.

IV. 126 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE—Continued

PMN No.	Identity/generic name	Date of commencement
P 83-0235	Calcined coke	Do.
P 83-0510	G Reaction product of an aromatic dianhydride with a substituted C8-14 alcohol and epichlorohydrin	Nov. 13, 1983.
P 84-0127	G Polyurethane prepolymer resin	Aug. 29, 1988.
P 84-0129	G Fluorocarbon ionoc polymer	Do.
P 85-1050	G Modified tall oil fatty acids amidoamine	Sept. 16, 1985.
P 85-1450	Ethylene glycol benzoate trialkylacetate with carbon numbers C18-C19	Nov. 7, 1988.
P 86-0152	2-hydroxyethyl trialkylacetate with carbon numbers of C10-C12	Nov. 25, 1988.
P 86-0568	Methoxyacetyl chloride	July 7, 1988.
P 86-0666	N-methyl-N-chlorothio-benzenesulfonamide	July 1, 1988.
P 86-0701	G Acrylic resin	June 18, 1986.
P 86-0913	G High solids oxirane/hydride polyester resin	Sept. 29, 1988.
P 86-0921	G (Substituted aromatic heterocyclic) substituted-3-sulfoalkyl benzothiazole,salt	Sept. 6, 1988.
P 86-1328	G Substituted polyhydroxy aromatic compound	Jan. 25, 1988.
P 86-1497	1,3-phenylenebis (methyl phenyl) methanone	Oct. 17, 1988.
P 86-1506	G Carboxymethylated nonionic surfactant	Sept. 28, 1988.
P 86-1552	G Alpha,alpha-bis(methylphenyl)-1,3-benzendiethanol	Oct 17, 1988.
P 86-1646	1,3-bis(1-(methylphenyl) ethenyl) benzene	Do.
P 86-1732	G Substituted heterocycle azo naphthalenesulfonic acid, salt	Nov. 16, 1988.
P 86-1745	1,3-phenylene-bis(3-methyl phenyl) pentylidene)-bis-lithium	Nov. 2, 1988.
P 87-0349	G Partially crosslinked saturated polyester with medium number-average moleculat weight	July 10, 1988.
P 87-0468	Toluene sulfonamide caprolactan formaldehyde resin	Sept. 25, 1987.
P 87-0711	High solids oxirane/anhydride polyester resin	Sept. 30, 1988.
P 87-0723	G Metalated alkylphenol copolymer	Nov. 9, 1988.
P 87-0848	G Substituted thioxotetrazole salt	Aug. 15, 1988.
P 87-0949	G Ethyldimethylpropylamine	Aug. 24, 1988.
P 87-0955	G Functional acrylate	Oct. 18, 1988.
P 87-0980	G Substituted thioxotetrazole	Aug. 15, 1988.
P 87-1213	G 2-Pyrazoline, 3-(substituted)-1-P-((2-(2-(substituted amino) ethoxy) ethyl) sulfony) Phenyl)-	Sept. 19, 1988.
P 87-1359	G Polyarylether sulfone	Sept. 29, 1988.
P 87-1449	G Phosphorous acid, diphenyl tetradecyl ester	Aug. 29, 1988.
P 87-1560	G Poly(propylene carbonate)	Apr. 14, 1988.
P 87-1586	G N'-alkyl-N,N,N'-tetra alkyl-trialkyl-dipropylene-quarternary ammonium trialkyl-sulfate	Oct. 6, 1988.
P 87-1660	G Halogenated alkene	Mar. 25, 1988.
P 87-1696	Amine salt of phosphoric acid	May 4, 1988.
P 87-1702	G Carboxyl modified hydrocarbon resin	Nov. 1, 1988.
P 87-1839	G Acrylic lactone copolymer	Apr. 29, 1988.
P 87-1848	Organopolysiloxane	May 7, 1988.
P 88-0060	G Fiber reactive dye	Jan. 29, 1988.
P 88-0068	G Substituted heteromonocyclic azo carbopolycyclic acid	Oct. 19, 1988.
P 88-0159	Propionic acid, lithium salt (1:1)	Apr. 21, 1988.
P 88-0256	2-Mercapto nicotine	Sept. 28, 1988.
P 88-0390	G Copolyester	July 4, 1988.
P 88-0410	G Reaction product of alkanolamine and dicarboxylic acid	Nov. 14, 1988.
P 88-0446	1-Alkyloxy-2-hydroxy-propoxy-agarose	Oct. 22, 1988.
P 88-0547	G Water-reducible styrenated alkyd	Oct. 26, 1988.
P 88-0618	Trimethoxysilylpropyl-N-methyldialkyl ammonium chloride	Oct. 5, 1988.
P 88-0703	G Substituted carboxylic acid heterocycle	Sept. 29, 1988.
P 88-0704	G Substituted carboxylic acid heterocycle	Oct. 12, 1988.
P 88-0855	G Cyclodiene	Sept. 26, 1988.
P 88-0857	G Cyclodiene	Do.
P 88-0951	G Diphenol	Nov. 16, 1988.
P 88-1039	G Substituted p-cresidine sulfonic acid salt	July 13, 1988.
P 88-1157	G Polyarylenesulfide	Sept. 14, 1988.
P 88-1163	G Aliphatic glycol	July 29, 1988.
P 88-1187	Mixed monobasic fatty acid esters with monohydric alcohols and polyols, oxidized, polymerized	Oct. 24, 1988.
P 88-1254	G Substituted alkylsilylurea	July 26, 1988.
P 88-1259	3,4-Methylenedioxyphenyl-2-propanone	Oct. 21, 1988.
P 88-1323	G 1-((2-Nitro)phenylazo amino carbonyl methylene) benzimidazole	Nov. 14, 1988.
P 88-1361	G Partially fluorinated polyamide	Sept. 14, 1988.
P 88-1369	G Fatty acid ester	Nov. 4, 1988.
P 88-1373	G Polymer of an acrylic acid ester, a vinyl monomer, an acid monomer, and methacrylic acid esters	Sept. 27, 1988.
P 88-1418	G Terephthalate diol esters	Oct. 6, 1988.
P 88-1419	5(4H)-Oxazolone,4,4'-(1,4-phenylenedimethylidyne)bis 2-phenyl	Do.
P 88-1437	G Polymer of substituted aromatic amine and epoxy resin	Oct. 13, 1988.
P 88-1438	Polymer of: benzene, 1,3 diisocyanatomethyl-ethanol, 2,2'-thiobis-polymer of 2-propanol, 1-((2-hydroxyethyl)thio)- and 2,2'-thiobis (ethanol), polymer of 2,2'-thiobis (ethanol), 1,3-propanediol, 2-ethyl-2-hydroxymethyl)-, and 1-(2-hydroxyethyl) thiol-2-propanol.	Oct. 11, 1988.
P 88-1518	Bis-2-propanamine, N-(1-methylethyl), magnesium salt (diisopropylamide magnesium)	Oct. 21, 1988.
P 88-1519	Dimethylmagnesium	Sept. 6, 1988.
P 88-1546	Xylene-formaldehyde polymer, reaction with rosin	Sept. 10, 1988.

IV. 126 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
P 88-1557	G Blocked isocyanate	Sept. 7, 1900.
P 88-1599	G Modified polyester resin	Oct. 13, 1988.
P 88-1600	G Modified polyester resin	Do.
P 88-1613	G Polyester-polyurea	Do.
P 88-1627	G Composition of lithium diisopropylamide and magnesium bis-diisopropylamide	Oct. 21, 1988.
P 88-1634	G Substituted malononitrile	May 4, 1988.
P 88-1656	G Polymer of: aliphatic diisocyanate and a poly oxyalkylene polyol	Nov. 15, 1988.
P 88-1674	G Water-soluble phenol-formaldehyde resin	Oct. 17, 1988.
P 88-1675	G Water-soluble phenol-formaldehyde resin	Do.
P 88-1685	G Perchlorate compound	Nov. 7, 1988.
P 88-1694	G 2-Bromomethy 1-1,3-dioxolane	Nov. 1, 1988.
P 88-1714	2,2,2-trifluoro-4'-chloro-acetophenone	Nov. 7, 1988.
P 88-1741	G Platinum alkene complex	Nov. 3, 1988.
Y 86-0219	G Modified polyester of carbonmonocyclic acids and hydride with neopentyl glycol	Nov. 7, 1988.
Y 88-0179	G Aliphatic polyurethane	Aug. 23, 1988.
Y 88-0212	G Polyvinyl alcohol poly(alkyleneoxy)acrylate copolymer	Aug. 22, 1988.
Y 88-0253	G Polyester	Sept. 30, 1988.
Y 88-0256	G Water-reducible alkyd resin	Sept. 27, 1988.
Y 88-0257	G 2-Propenoic acid, 2-methyl-; butyl-2-propenoate; 1-methylethenyl benzene; methyl-2-methyl-propenoate; 1-propanol, 2-amino-2-methyl-.	Do.
Y 88-0284	G Poly(arylalkylimide ester) resin	Oct. 20, 1988.
Y 88-0296	G Unsaturated polyester diol	Oct. 25, 1988.
Y 88-0318	G Styrenated acrylic modified polyester	Nov. 8, 1988.
Y 88-0319	G Polyester resin	Oct. 19, 1988.
Y 88-0320	G Saturated polyester resin	Do.
Y 88-0355	G Polyester polyol	Nov. 4, 1988.

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[FR Doc. 89-1364 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

federal register

Wednesday
February 15, 1989

Part IV

Environmental Protection Agency

Microbial Pesticides and Biotechnology Products; Request for Comments on Regulatory Approach; Notices

ENVIRONMENTAL PROTECTION AGENCY

[OPP-50668; FRL-3522-3]

Microbial Pesticides; Request for Comment on Regulatory Approach

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting comments on issues that have arisen in the development of an amendment to its Experimental Use Permit (EUP) regulations under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The amendment would require notification before initiation of small-scale testing of certain genetically modified microbial pesticides. Each notification will be reviewed by EPA and a determination made as to whether an EUP will be required. This notification scheme is intended to provide sufficient oversight of the early testing of these microbial pesticides to mitigate any adverse human health or environmental effects. During the development of a draft proposed regulation, comments have been received from EPA science advisory committees and other Federal agencies. Comments are now being solicited from all interested persons on issues arising during the course of development of the proposed regulation.

DATE: Comments identified by the docket control number [OPP-50668] must be received on or before May 16, 1989.

ADDRESS:

Written comments by mail to: Public Information Branch, Field Operations Division (TS-787C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460

In person, bring comments to: Room 246, CM #2, 1921 Jefferson Davis Highway Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Frederick Betz, Science Integration and Policy Staff, Environmental Fate and Effects Division (TS-769C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. (703-557-9307).

A public docket has been established and will be available for public inspection at the Virginia address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. Comments received in response to this Notice, except those containing confidential business information, will be included in the public docket.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 5 of FIFRA, 7 U.S.C. 136 *et seq.*, and 40 CFR 172.2 provide for issuance by EPA of EUPs for the testing of new pesticides or new uses of existing pesticides. Such permits are generally issued for large-scale testing of pesticides involving terrestrial application to more than ten acres of aquatic application to more than one acre. It has been generally presumed that smaller experiments would not require EUPs. However, EPA recognizes that small-scale studies with some microbial pesticides that have been genetically modified may raise many of the same concerns as more extensive uses of conventional pesticides. Accordingly, EPA is in the process of modifying its existing regulatory program to address these concerns.

II. Background

Based on the conclusion that there is a need to evaluate small-scale tests of certain microbial pesticides prior to their release in the environment, EPA issued its "Interim Policy on Small-Scale Field Testing of Genetically Altered and Nonindigenous Microbial Pesticides" (49 FR 40659, October 17, 1984). This policy stated that the 40 CFR Part 172 presumption would not automatically apply for certain microbial pesticide products and that EPA should be notified before initiation of any such small-scale testing in order to determine whether an EUP would be required. The Interim Policy was subsequently republished for review and comment in December 1984 in conjunction with the "Proposal for a Coordinated Framework for Regulation of Biotechnology" (49 FR 50880, December 31, 1984) issued by the Office of Science and Technology Policy.

After reviewing the public comments on the 1984 Proposal, in June 1986, EPA published a final policy statement entitled "Applicability of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to Microbial Products" as part of the Office of Science and Technology Policy's Coordinated Framework for Regulation of Biotechnology (51 FR 23313, June 26, 1986). The 1986 Policy stated EPA's concern about the potential risks associated with small-scale testing of certain microbial pesticides. To address these potential risks, the Policy specified that EPA be notified prior to initiation of small-scale testing of all nonindigenous and genetically modified microbial pesticides. The notification allows EPA to make a determination as to whether the test should be carried out under an EUP. In addition, the 1986 Policy set forth EPA's plan for future rulemaking to codify the interpretation set out in the Policy Statement.

EPA received public comment on the 1986 Policy and began to revise the existing Part 172 EUP rule to incorporate the major elements of the Policy. In the summer of 1988, the Agency provided a draft of the proposed rule to Congress, the U.S. Department of Agriculture (USDA) and the U.S. Food and Drug Administration. In November 1988, a revised draft was reviewed and commented on at a public meeting of a Subpanel of the FIFRA Scientific Advisory Panel (SAP Subpanel). The SAP Subpanel and Federal agencies provided written comments.

A number of issues have arisen during the course of the development of this regulation which EPA has concluded need to be addressed before a rule is proposed, including: (1) Scope of genetically modified microbial pesticides subject to notification; (2) Review of nonindigenous microbial pesticides at small-scale; (3) Establishment of independent expert review groups (Environmental Biosafety Committees) patterned after the National Institutes of Health's Institutional Biosafety Committees. To aid EPA in addressing these issues, this Notice requests comment on them from all interested parties to help facilitate development of the rule.

For commenters who wish additional information concerning the background for these issues, materials in the public docket are available on the request, including the recommendations of the SAP Subpanel following their November 22, 1988 meeting, the draft regulation discussed at that meeting, comments received from the public and other Federal agencies on the draft proposed regulation, the transcript from the EPA Biotechnology Scientific Advisory Committee's January 12, 1989 meeting where a recommendation regarding the FIFRA proposal was adopted, and EPA's most recent draft which includes responses to the SAP Subpanel recommendations and many of the comments received to date.

Elsewhere in this **Federal Register**, a notice appears soliciting comments on regulatory approaches being considered for products of biotechnology under the Toxic Substances Control Act.

Dated: February 3, 1989.

John A. Moore,

Acting Administrator.

[FR Doc. 89-3619 Filed 2-14-89; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-00049D; FRL-3522-2]

Biotechnology; Request for Comment on Regulatory Approach

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting comments on the direction of its program under the Toxic Substances Control Act (TSCA) to ensure that products of biotechnology are tested, manufactured, processed, and used in a manner that does not present an unreasonable risk of injury to human health and the environment. This notice does not change the Policy which was published in the June 26, 1986 **Federal Register** (51 FR 23313). EPA has been developing a proposed rule to address matters discussed in that policy statement of the regulations of certain products of biotechnology under TSCA. During this process comments have been received from our own science advisory committees and other Federal agencies. A number of issues have arisen and EPA is requesting comment on several issues. Commenters are requested to review the issues in this notice and provide their comments.

DATES: Written comments should be submitted by May 16, 1989.

ADDRESS: Comments on issues raised in this notice must bear the docket control number OPTS–00049C, and must be submitted to the following address: TSCA Document Processing Center (TS–790), Office of Toxic Substances, Environmental Protection Agency, Room L–100, 401 M Street SW., Washington, DC, 20460.

A docket will be available for public inspection in the TSCA Public Docket Office, Room NE–G004, at EPA Headquarters, 401 M Street SW., Washington, DC, from 8:00 a.m. to 4 p.m., Monday through Friday, except legal holidays. The docket includes all documents relevant to the issues raised in this Notice and will contain all public comments that are received. These documents containing confidential business information will be placed in a separate, confidential file.

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. In the USA: (202) 554–1404. TDD: (202) 554–0551.

SUPPLEMENTARY INFORMATION:

I. Background

On December 31, 1984, the White House Office of Science and Technology Policy issued in the **Federal Register** a "Proposal for a Coordinated Framework for Regulation of Biotechnology" (49 FR 50880, December 31, 1984). In that proposal, EPA stated that the definition of "chemical substance" under section 3(2) of TSCA includes all microorganisms except those excluded from TSCA jurisdiction (i.e., those microorganisms manufactured, processed or distributed in commerce for use as pesticides, foods, food additives, drugs, cosmetics, or other related items are excluded).

After reviewing comments on the 1984 Proposal, EPA issued in 1986, as part of the "Coordinated Framework for Regulation of Biotechnology" (51 FR 23313, June 26, 1986), a "Statement of Policy" describing how EPA was addressing certain microbial products of biotechnology under TSCA. In the 1986 Policy, EPA interpreted the new chemical substance premanufacture notification (PMN) provisions of TSCA section 5 to cover new (inter-generic) microorganisms used for commercial purposes. This interpretation became effective immediately. EPA also requested voluntary submission of other information until final rules were in place, and described its intentions to develop, under TSCA, a significant new use rule for pathogenic microorganisms; a rule modifying the PMN research and development exemption so that small scale field testing of microorganisms for TSCA purposes is subject to PMN; a section 8(a) reporting rule for other microorganisms prior to release in the environment; and section 5(h)(4) exemptions as appropriate.

In developing a regulatory framework to implement the 1986 policy statement, EPA received advice and a "concept paper" from other federal agencies, as well as unsolicited suggestions from some nongovernmental organizations. EPA discussed proposals with the interagency biotechnology Science Coordinating Committee (BSCC) and received its comments. On December 21, 1988, EPA convened a public meeting of the Subcommittee on the Proposed Biotechnology Rule under TSCA of the EPA Biotechnology Science Advisory Committee (BSAC), EPA's independent science advisory group. A draft proposed rule was provided to the Subcommittee. This group was asked to examine scientific issues associated with EPA's approach, as well as the utility of using groups of independent experts to determine whether research and development (R&D) proposals should be exempt from the premanufacture notification requirements of section 5 of TSCA. Several members of the public requested and received permission to address the Subcommittee. Included among the commenters was the Chairperson of the BSCC who described inter-agency discussions over the proposed TSCA rulemaking.

A number of basic issues have arisen during the course of the development of a proposed rule which EPA has concluded need to be addressed before a specific rule is developed and proposed.

These include:

1. What should be the scope of the microorganisms subject to EPA's review?

2. What should be the scope of EPA's review of R&D activities involving release of microorganisms to the environment?

3. Since TSCA only allows EPA to review those microorganisms developed for "commercial purposes", how broadly or narrowly should EPA define "commercial purposes" in the context of research conducted at educational and research facilities?

4. If the definitions of "release to the environment" and "contained facility" are to be used to determine whether there is EPA review of specific uses of microorganisms, how should these terms be defined? To what extent should EPA rely on the definition of "contained facility" found in the guidelines of the National Institutes of Health (NIH)?

5. To what extent should EPA establish independent expert review groups (i.e., Environmental Biosafety Committees (EBCs)), similar to the NIH Institutional Biosafety Committees (IBCs), to assist in the review of potential environmental releases of microorganisms? What should be the scope of review by those groups?

To aid EPA in addressing these issues, this notice requests comment on them from all interested persons. For commenters who wish additional information concerning the background for these issues, materials in the public docket are available on request from the address in **FOR FURTHER INFORMATION CONTACT.** These include: letters from other Federal agencies commenting on the draft approach, the recommendations of the BSAC Subcommittee on the Proposed Biotechnology Rule under TSCA following their December 21, 1988 meeting, the draft proposed rule they discussed at that meeting, and the comments of the members of the public and the BSCC chairperson at the BSAC

Subcommittee meeting. All other information in the docket is available in the TSCA public docket Office at the address in **ADDRESSES.**

Elsewhere in this **Federal Register** a similar notice appears soliciting comments on a proposed regulatory approach for the products of biotechnology under the Federal Insecticide, Fungicide, and Rodenticide Act.

Dated: February 3, 1989.

John A. Moore,

Acting Administrator.

[FR Doc. 89–3620 Filed 2–14–89; 8:45 am]

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