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

Selected Subjects

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Selected Subjects

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

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How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

DALLAS, TX

WHEN: April 23; at 1:30 pm.

WHERE: Room 7A23,
Earl Cabell Federal Building,
1100 Commerce Street, Dallas, TX

RESERVATIONS: local number
Dallas 214-767-8585
Ft. Worth 817-334-3624
Austin 512-472-5494
Houston 713-229-2552
San Antonio 512-224-4471,
for reservations

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Separate Parts In This Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 51, No. 66
Monday, April 7, 1986

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 371

[Docket No. 86-403]

Revision of Delegation of Authority

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document revises the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service (APHIS) as it relates to Animal Damage Control by the assignment of functional responsibility for the administration of the Act of March 2, 1931 (7 U.S.C. 426, 426b), to the Deputy Administrator, Animal Damage Control.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Alan Smith, Staffing, Analysis, and Classification Programs, Human Resources Division, APHIS, Federal Building, Room 221, 6505 Belcrest Road, Hyattsville, MD 20782 (301-436-6466).

SUPPLEMENTARY INFORMATION: The Animal Damage Control Program (ADC) was established by the Act of March 2, 1931 (7 U.S.C. 426, 426b). The statute authorizes programs for research and operational control of depredating animals injurious to agriculture, horticulture, forestry, wild game animals, fur bearing animals and birds and for the protection of stock and other domestic animals through the suppression of animal diseases in predatory and other wild animals. From 1931 until 1939, the ADC program was administered by the Department of Agriculture through the Bureau of Biological Survey. From 1939 to December 1985, the program was administered by the Fish and Wildlife Service, of the Department of the Interior, on the basis that the authority to administer the Act of March 2, 1931, along with the Bureau of Biological Survey had been transferred to the Department of the Interior by Reorganization Plan No. II of 1939.

On December 19, 1985, in the Agriculture, Rural Development, and Related Agencies Appropriations Act of 1986, as enacted by section 101 of the Continuing Appropriations for fiscal year 1986, Pub. L. 99-190, Congress transferred the responsibility and authority for administering ADC to the Department of Agriculture. The Secretary of Agriculture has delegated the authority to administer the Act of March 2, 1931, to the Assistant Secretary for Marketing and Inspection Services, who in turn has delegated such authority to the Administrator, APHIS (51 FR 7543). The purpose of this document is to amend the statement of organization, functions, and delegations of authority of the Animal and Plant Health Inspection Service to provide for the position of Deputy Administrator, ADC, and to delegate to the Deputy Administrator, ADC, the authority to Administer the Act of March 2, 1931 (7 U.S.C. 426, 426b). Further the organizational structure of APHIS has been revised by the addition of several principal ADC field locations including the Wildlife Research Center located in Denver, Colorado.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment thereon are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of E.O. 12291. Finally, this subject is not a rule as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and thus, is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 371

Organization and functions (Government agencies).

PART 371—ORGANIZATION, FUNCTIONS, AND DELEGATIONS OF AUTHORITY

Accordingly, 7 CFR 371 is amended as follows:

1. The authority citation for Part 371 continues to read:

Authority: 5 U.S.C. 301.

2. Section 371.1 is amended by revising paragraph (b) and by adding a new paragraph (c)(4) to read as follows:

§ 371.1 General statement.

* * * * *

(b) *Central Office.* The central offices of APHIS are located at Washington, D.C., and Hyattsville, Maryland, and consist of the Office of the Administrator, Associate Administrator, and four Deputy Administrators, as follows:

Office of the Administrator

Associate Administrator
Deputy Administrator, Plant Protection and Quarantine
Deputy Administrator, Veterinary Services
Deputy Administrator for Management and Budget
Deputy Administrator, Animal Damage Control
Legislative and Public Affairs Staff
Regulatory Coordination Staff

(c) * * *

(4) *Animal Damage Control*

Research Center

Denver Wildlife Research Center
Building 16, Denver Federal Center
P.O. Box 25266
Denver, CO 80225-0266

Regions

Western: Building 16, Denver Federal Center, P.O. Box 25266, Denver, CO 80225-0266
Eastern: 155 E. Columbus Street, Pickerington, OH, 43147.

3. Section 371.2 is amended by adding new paragraph (h) to read as follows:

§ 371.2 Office of the Administrator.

* * * * *

(h) *Deputy Administrator, Animal Damage Control.* The Deputy Administrator, Animal Damage Control (ADC), is responsible for:

(1) Participating with the Administrator and other agency officials in the overall planning, formulation, and review of all policies, programs, procedures, and activities of APHIS.

(2) Planning, providing leadership, formulating and coordinating policies, developing and issuing regulations, and directing the administration of ADC programs and activities authorized by the Act of March 2, 1931. These activities are carried out by two

functional units: The National Technical Support Staff (NTSS), the Denver Wildlife Research Center, and by regional and field offices.

* * * * *

§§ 371.6–371.9 [Redesignated as § 371.8–371.11]

4. Sections 371.6 through 371.9 are redesignated as §§ 371.8 through 371.11, respectively.

5. A new § 371.6 would be added to read as follows:

§ 371.6 Animal damage control.

The units of the National Technical Support Staff, and the Denver Wildlife Research Center, under administrative direction of the Administrator and the functional and technical direction of the Deputy Administrator for ADC are responsible as follows:

(a) *National Technical Support Staff (NTSS).* NTSS is responsible for:

(1) Participating with the Deputy Administrator, ADC, in the overall planning and formulation of all policies, programs, and activities of the program.

(2) Planning, providing leadership, administering the development and evaluation of programs, establishing standards, regulations and model laws, developing methods and procedures, and providing other scientific and technical support for ADC programs and activities.

(3) Supervising, directing, coordinating, and integrating activities of subordinate staffs.

(b) *Denver Wildlife Research Center.* The units of the Denver Wildlife Research Center:

(1) Participating with the Deputy Administrator, ADC, in the overall planning and formulation of all policies, programs, and activities of ADC as they affect wildlife research.

(2) Planning, providing leadership, and coordinating and directing a wildlife research program for ADC programs.

(3) Supervising, directing, coordinating, and integrating activities of subordinate research units.

§ 371.7 [Removed and reserved]

6. Section 371.7 as redesignated, is reserved.

7. Section 371.8 as redesignated is amended by revising paragraphs (b)(1) and (d) to read as follows:

§ 371.8 Delegations of authority.

* * * * *

(b) *Deputy Administrators*—(1) *General.* The Deputy Administrator, PPQ, Deputy Administrator, VS, Deputy Administrator, ADC, and the Deputy Administrator for Management and Budget, and the officers they designate—with prior specific approval of the Administrator—to act for them, are hereby delegated the authority, severally, to perform all duties and to exercise all the functions and powers which are now, or which may hereafter be vested in the Administrator (including the power of redelegation, except where prohibited) except authority as is reserved to the Administrator. Each Deputy Administrator shall be responsible for the programs and activities in APHIS herein or hereafter assigned to such Deputy Administrator.

* * * * *

(d) *PPQ, VS, ADC, and Administrative Management.* The Directors of NTSS, NPPS, Professional Development Staffs, National Programs, International Programs, Animal Health Programs, Emergency Programs, National Brucellosis Eradication Programs, National Veterinary Services Laboratories and the Denver Wildlife Research Center and Regional Directors of ADC programs are hereby delegated authority in connection with the respective functions herein assigned to each of them, to perform all the duties and exercise all the functions of powers which are now or which may hereafter be vested in the Administrator except the authorities reserved to the Administrator or a Deputy Administrator. The Directors of Budget and Accounting, Human Resources, Administrative Services, and Information Systems and Communications Divisions, Resource Management Systems and Evaluation Staff and the Field Servicing Office are hereby delegated authority in connection with the respective functions herein assigned to them, to perform all the duties and to exercise all the functions which are now, or which may hereafter be, vested in the Administrator except such authority as is reserved to the Administrator or a Deputy Administrator.

* * * * *

Done at Washington, DC, on March 25, 1986.

Bert W. Hawkins,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 86–7568 Filed 4–4–86; 8:45 am]

BILLING CODE 3410-34-M

Federal Crop Insurance Corporation

7 CFR Part 400

[Docket No. 3297S]

General Administrative Regulations; Standards for Approval; Agency Sales and Service Contract; Correction

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule; correction.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) published a Final Rule in the **Federal Register** on Thursday, January 9, 1986, at 51 FR 877, revising and reissuing 7 CFR Part 400, Subpart C; Standards for Approval; Agency Sales and Service Contract. Two of the sections contained in this document were incorrectly designated. This document is published to correct those errors.

ADDRESS: Written comments on this correction should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250.

SUPPLEMENTARY INFORMATION: FR Doc 86–488, appearing at page 877 is corrected as follows:

§ 400.28 [Corrected]

1. On page 879, 7 CFR Part 400, Subpart C, is corrected by redesignating § 400.28 (d), (e), (f), and (g) as § 400.28 (c), (d), (e), and (f).

2. On page 880, 7 CFR Part 400, Subpart C, is corrected by revising § 400.33 to read as follows:

§ 400.33 Representative licensing and certification.

A Contractor's representative who sells and services FCIC policies or represents the Contractor in sales or servicing of such policies:

(a) Must hold a current license issued by each State in which the representatives sell FCIC policies authorizing the representative to sell insurance in one of the following lines:

(1) Multiple peril crop insurance;

(2) Crop hail insurance;

(3) Casualty insurance;

(4) Property insurance; or

(5) Liability insurance.

Provided, that a representative who has sold or serviced at least one Federal Crop Insurance policy for the 1984 or subsequent crop years shall have until

July 1, 1986, to become licensed and submit verification of State licensing; and

(b) Must be certified by FCIC for each crop for which the representative sells or services FCIC insurance.

Done in Washington, DC on April 1, 1986.

Michael Bronson,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-7568 Filed 4-4-86; 8:45 am]

BILLING CODE 3410-08-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards

AGENCY: Small Business Administration.

ACTION: Interim Role With Request for comments.

SUMMARY: SBA believes that its interpretation of § 121.4(d) of SBA's regulations (Title 13 of the CFR), permitting size eligibility for a particular contract to be determined for the 8(a) program any time up to the date of award, may cause hardship on firms participating in the 8(a) program which have increased in size, by natural growth, during a period of prolonged negotiations with the procuring agency. Such interpretation is also administratively inconvenient for procuring agencies which have negotiated with a particular 8(a) concern for months, only to have to start negotiations over again with a new 8(a) concern when the concern that they were dealing with cannot certify itself to be small at the eventual date of award. Therefore, SBA feels that its regulations should be changed to provide procuring agencies and 8(a) participants greater certainty in determining an 8(a) concern's size relative to a particular contract. This rule would require 8(a) firms to certify their size at the time they submit their initial bid or offer which includes price to the procuring agency for a specific contract. However, a size certification would be effective only if SBA has previously accepted the procurement for the 8(a) program. SBA would then have 30 days to verify the concern's size. As with small business set asides, the date of certification of size by the 8(a) concern will determine whether or not the concern is eligible for a specific contract. Changes in the 8(a) concern's size, due to the natural growth of the 8(a) concern, subsequent to SBA's verification would not affect the concern's size status as it relates to that contract.

DATES: This rule will be effective from April 7, 1986, through October 6, 1986. Comments should be submitted on or before May 7, 1986.

ADDRESSES: Written comments should be addressed to David R. Kohler, Associate General Counsel for General Law, Small Business Administration, 1441 L Street, NW., Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: David R. Kohler (202) 653-6660.

SUPPLEMENTARY INFORMATION: In order to be eligible to participate in SBA's section 8(a) program, SBA's regulations, 13 CFR 121.4(g), require an applicant concern to qualify as a small business concern as defined for purposes of Government procurement in § 121.2 of the regulations. The particular size standard to be applied is based on the primary industry classification of the applicant concern. In addition, in order to be eligible for an 8(a) award of a particular Government procurement, the concern must certify to SBA that it is a small business for the purpose of performing that contract. SBA has interpreted § 121.4(d) of its current regulations to require an 8(a) concern to be small both at the time of its self-certification and at the time of contract award to be eligible for a specific 8(a) award. SBA's interpretation was based, in part, on a desire to prohibit abuse of the section 8(a) program on the part of firms ready to leave the program because of their increased size. Thus, SBA's current regulations prohibit an 8(a) award from occurring where an 8(a) concern becomes large between the date of its certification and the date of award.

Small business firms participating in the section 8(a) program have expressed concern over the implementation of this interpretation. SBA agrees that the interpretation may cause hardship on firms participating in the section 8(a) program which have increased in size due to natural growth during a period of prolonged negotiations with a procuring agency. Such interpretation is also administratively inconvenient for procuring agencies. After negotiating with a particular 8(a) concern for months, the procuring agency would have to start negotiations over again with a different 8(a) concern where the concern that the procuring agency was dealing with is no longer small at the eventual date of award.

This interim final rule is a refinement of SBA's current regulations that will eliminate the possible hardship that 8(a) firms which have grown naturally might incur under the current regulations, while at the same time preserving SBA's ability to prevent an 8(a) award from occurring where an increase in size is the result of merger or acquisition. The agency's ability to prevent program abuse by prohibiting an 8(a) firm from remaining eligible for an 8(a) award after it has increased its size through merger or acquisition will be unaffected. The section 8(a) program is a business developmental program designed to enhance the competitive viability of small disadvantaged business concerns. The refinement that this rule will make takes the developmental nature of the program into account. To permit an 8(a) firm to continue to receive contract awards, while growing naturally through its own business operations, and for the limited period of time between size self-certification and contract award, is wholly consistent with developmental objectives. The rule will also provide procuring agencies and 8(a) participants greater certainty in determining an 8(a) concern's size relative to a particular contract, thereby enhancing the desirability of reserving procurements for the 8(a) program.

The rule clarifies that the provisions of § 121.4(d) of SBA's regulations apply to all financial programs except the section 8(a) program. Size eligibility for the section 8(a) program will be determined pursuant to § 121.4(g).

The amendment to § 121.4(g) will require an 8(a) firm to certify that it is a small business, under applicable SBA size standards, for the purpose of performing a specific Government contract at the time it submits its initial bid or offer which includes price to the procuring agency. However, such certification will only be effective if SBA has already notified the procuring agency, in writing, that it has accepted the procurement for the 8(a) program in support of the approved business plan of that 8(a) concern. An 8(a) firm which goes directly to a procuring agency to negotiate for a particular contract cannot claim that it certified its size at a point in time before SBA officially accepted the procurement for the 8(a) program. Any certification which occurred prior to SBA's official acceptance of the procurement for the 8(a) program will have no effect.

Subparagraph 121.4(g)(2)(ii) will set up a process by which SBA will verify the size certification of the selected 8(a) concern to ensure that the concern is a small business for the purpose of performing the procurement that SBA has accepted for the section 8(a) program. The appropriate SBA district office will verify the size of the selected 8(a) concern within 30 days of its receipt of the 8(a) concern's self-certification, if

possible. If 30 days will not be an adequate amount of time to verify the concern's size status, the SBA district office should notify the 8(a) concern and the procuring agency that a longer period is required. The rule specifies that verification will be based on the financial statements and other materials relating to the number of employees of the firm which SBA possesses or should possess in the 8(a) concern's business plan file. If these statements or materials are inadequate to calculate size in accordance with SBA's regulations found in Part 121, the district office shall request additional information in writing from the 8(a) concern. Verification cannot occur unless the required financial statements and employee materials are available to and reviewed by SBA.

Where SBA verifies that the selected 8(a) concern is small for a particular procurement at the time of its self-certification, changes in the concern's size after the certification, due to natural growth, will not affect the firm's size status as it relates to that procurement. An 8(a) firm will be permitted to increase its size by natural growth between the date of certification and the date of award without affecting its size status for that procurement. However, subsequent changes in size due to affiliation with another business concern (e.g., merger or acquisition) will be taken into account in determining the selected 8(a) concern's size. An 8(a) concern which has become affiliated after its certification and before the award must recertify its size status. SBA will then verify that new certification, taking into account any changes in size due to the affiliation. When an 8(a) concern does not recertify its size after affiliation has occurred, any subsequent 8(a) award will be voidable.

Where the SBA district office cannot verify that the selected 8(a) concern is small for a particular procurement, award cannot be made to that concern unless a formal size determination is made in favor of the concern by the appropriate SBA regional office. The selected 8(a) concern may request a formal size determination with the appropriate SBA regional office within 5 working days of its receipt of SBA's denial of verification. In the absence of such a timely request, SBA may accept the procurement on behalf of another 8(a) concern, or may return the procurement from the 8(a) program, as appropriate. The SBA district or regional offices may also request or initiate a formal size determination where there is any doubt concerning the size of the selected 8(a) concern. Other 8(a) firms and other small businesses may not protest the size status of the selected 8(a) concern. Such businesses may, however, submit any relevant information concerning the size of the selected 8(a) concern to the appropriate SBA Regional Administrator. The SBA Regional Administrator may then, in his discretion, initiate a formal size determination.

The procedures of § 121.8 of SBA's regulations shall apply, where appropriate, in making any formal size determination. The regional office will determine the size status of the selected 8(a) concern as it relates to the specific procurement, and will notify the SBA district office and the selected 8(a) concern of its decision within 10 working days of its receipt of the request for a formal size determination, if possible.

An appeal of an adverse formal size determination may be made by the selected 8(a) concern to SBA's Office of Hearings and Appeals, following the procedures of § 121.11 of SBA's regulations.

This procedural rule is effective upon publication in the **Federal Register**. It shall apply to all 8(a) contracts pending award on the effective date. Pursuant to the authority of 5 U.S.C. 553(b)(B), this regulation is being promulgated as a final rule. Publishing a proposed rule and providing an opportunity to comment before it can be promulgated in final form would delay the award of pending 8(a) contracts, and, thus, would be contrary to the public interest. Prior to SBA's interpretation of its regulations during a recent size appeal proceeding, numerous 8(a) concerns and procuring agencies assumed that whether or not the 8(a) concern was small on the date that it certified its size controlled whether or not it was eligible to receive a particular 8(a) award. SBA acknowledges that its regulation lacked desired clarity on this point. The current regulation has the potential of adversely affecting 8(a) concerns by denying them appropriate contract support, and has the potential of adversely affecting the Government procurement process by causing delays in the awarding of certain 8(a) contracts and by adding administrative burdens on procuring agencies. Consequently, it is in the best interests of the Government's procurement needs and the integrity of the 8(a) program to publish this regulation as a final rule to clear up any existing confusion and to free pending contracts for 8(a) award.

SBA certifies that this rule does not constitute a major rule for the purpose of Executive Order 12291. It is procedural in nature, and in and of itself does not impose costs upon the businesses which might be affected by it, nor is it likely to have an annual economic effect of $100 million. In addition, this regulation is not likely to result in a major increase in costs or prices or have a significant adverse effect on the United States economy.

SBA certifies, pursuant to section 608 of the Regulatory Flexibility Act, 5 U.S.C. 608, that this interim final rule is being published pursuant to an emergency for the reasons indicated above, and the SBA is therefore waiving the requirements of section 603 of the Regulatory Flexibility Act. SBA will publish a final regulatory analysis when this rule is promulgated in final form. This rule imposes no new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 13 CFR Part 121

Small business, Small business size standards.

PART 121—[AMENDED]

Accordingly, Part 121 of 13 CFR is amended as follows:

1. The authority citation for Part 121 continues to read as follows:

Authority: Secs. 3(a) and 5(b)(6) of the Small Business Act, 15 U.S.C. 632(a) and 634(b)(6).

2. Section 121.4 is amended by revising paragraph (d) and by adding new paragraphs (g)(2) (i) and (ii) to read as follows:

§ 121.4 Small business for financial programs.

* * * * *

(d) Except for firms participating in the section 8(a) program, the concern's size status may be determined at the SBA District Office, the SBA Regional Office, or by any other SBA office appropriately designated. This determination may be made at the time of application for assistance. The concern's size eligibility for assistance is determined as of the date of its application or self-certification as small by the concern. Subsequent changes in size, except those due to affiliation with another business concern, will not affect a firm's size status. Size status and size eligibility for the section 8(a) program is determined pursuant to subsection (g) of this section.

* * * * *

(g) * * *

(2) * * *

(i) After SBA has notified a procuring agency in writing that it has accepted a

procurement for the 8(a) program in support of the approved business plan of a particular 8(a) concern, the 8(a) concern shall certify that it is a small business for the purpose of performing that particular contract at the time it submits its initial bid or offer including price to the procuring agency for that contract. A copy of the 8(a) concern's bid or offer, including its self-certification as to size, shall be provided to the appropriate SBA district office upon submission to the procuring agency.

(ii) The SBA district office involved with the procurement shall verify, within 30 days of its receipt of the selected 8(a) concern's self-certification of size, if possible, that the selected concern is small.

(A) In verifying the selected 8(a) concern's size, SBA will review the annual financial statements and other relevant material regarding the number of employees submitted by the concern to SBA pursuant to these regulations. Such financial statements and materials should be present in the 8(a) concern's business plan file. Verification cannot occur unless these financial statements and materials are available to and reviewed by SBA.

(B) Where SBA verifies that the selected 8(a) concern is small for a particular procurement, subsequent changes in size up to the date of award, except those due to affiliation with another business concern, will not affect the firm's size status as it relates to that procurement.

(*1*) Where the selected 8(a) concern has become affiliated with another business concern between the date of its certification and the date of award, the concern must recertify its size status, and SBA must verify that new certification, before award can occur.

(*2*) An award of an 8(a) contract will be voidable where the selected 8(a) concern does not recertify its size status upon becoming affiliated.

(C) SBA may, in its discretion, request a formal size determination with the SBA regional office serving the geographical area in which the principal office of the selected 8(a) concern is located.

(D) Where SBA cannot verify that the selected 8(a) concern is small for a particular procurement, the concern will be ineligible for that procurement, unless a formal size determination is made in favor of the 8(a) concern.

(*1*) The selected 8(a) concern may request a formal size determination with the SBA regional office serving the geographical area in which the principal office of the 8(a) concern is located within 5 working days of its receipt of SBA's denial of verification. Such request shall include any information or documentation deemed relevant by the 8(a) concern regarding its size.

(*2*) Where the selected 8(a) concern does not timely request a formal size determination, SBA may accept the procurement in support of another 8(a) concern, or may return the procurement from the 8(a) program, as appropriate.

(*3*) After receipt of a request for a formal size determination, the relevant regional office will determine the size status of the selected 8(a) concern as it relates to the particular contract at issue, and will notify the SBA district office and the selected 8(a) concern of this decision by certified mail, return receipt requested, within 10 working days, if possible. In making a size determination, the procedures of § 121.8 shall apply, where appropriate.

(*4*) An appeal of this determination may be made by the selected 8(a) concern to SBA's Office of Hearings and Appeals, following the procedures of § 121.11 of this part.

* * * * *

Date: March 18, 1986.

James C. Sanders,

Administrator.

[FR Doc. 86-7458 Filed 4-4-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 82-CE-24-AD; Amdt. 39-5278]

Airworthiness Directives; Piper Models PA-31, PA-31-325, PA-31-350 and PA31-350-T1020 Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 82-16-05, Amendment 39-4459, applicable to Piper Models PA-31, PA-31-325, PA-31-350 airplanes by deleting reference in the AD to the one piece turbocharger coupling which required replacement no later than December 31, 1982, and adding a new segment coupling that has been approved by the FAA. The manufacturer has discontinued production of the old coupling and upon installation of the new coupling, no further action is required by the revised AD.

EFFECTIVE DATE: April 11, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Piper Aircraft Corporation Service Bulletin No. 644C dated December 3, 1985, may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Gil Carter, ACE-140A, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337, Telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION: Airworthiness Directive AD 82-16-05, Amendment 39-4459 (47 FR 39664) applicable to Piper Models PA-31, PA-31-325 and PA-31-350 airplanes, requires replacement of all one piece turbocharger couplings with segmented couplings no later than December 31, 1982. It also requires 100 hour repetitive inspections of the segmented couplings. Subsequent to the issuance of this AD, Piper has sucessfully field tested a new segemented coupling that appears to give improved service and reliability. The new coupling is P/N 557-584 for Models PA-31 and PA-31-325 airplanes and P/N 557-369 for Model PA-31-350 airplanes. Piper will soon discontinue offering the older segmented couplings. Therefore, the FAA is revising AD 82-16-05 by offering the new segmented coupling as an alternate coupling. In addition, since all one piece couplings were replaced by December 31, 1982, reference to that date and those couplings is deleted. This amendment, which offers an improved alternate coupling to replace couplings that are not being resupplied, imposes no additional burden on any person and because airplanes may be unnecessarily grounded due to a lack of approved parts, notice and public procedure hereon are unnecessary, contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this

action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 94-449, January 12, 1963); and 14 CFR 11.89.

2. By revising and reissuing AD 82-16-05 as follows:

Piper Aircraft Corporation: Applies to Models PA-31, PA-31-325 (Serial Numbers 31-2 through 31-8312019), PA-31-350 (Serial Numbers 31-5001 through 31-845021), and PA-31-350-T1020 (Serial Numbers 31-8253001 through 31-8553002) equipped with Piper Part Numbers 455-301, 555-376, 555-511 or 555-366 turbocharger exhaust pipe couplings, certificated in any category.

Compliance: Required as indicated, unless already accomplished. To prevent the possibility of an inflight powerplant fire due to a turbocharges exhaust pipe coupling failure, accomplish the following:

(a) Within the next 100 hours time-in service after the effective date of the AD or 100 hours time-in-service since the last inspection per this AD prior to its revision, whichever is first, and thereafter at intervals not exceeding 100 hours time-in-service, inspect the multi-segment Piper P/N 455-301, 555-376, 555-511, 555-366, turbocharger exhaust pipe couplings by accomplishing the following:

(1) Gain access to the turbocharger exhaust systems.

(2) Remove the turbocharger exhaust couplings and tailpipe.

Note.—Exercise caution to prevent spreading or forcing the coupling beyond its normal open position when removing or installing the coupling.

(3) Using either a dye penetrant inspection method or a light and a 10-power magnifying glass, accomplish the following:

(i) Inspect coupling for cracks, spreading of "V" band segments, failed spot welds, and indication of exhaust flanges bottoming in couplings.

(ii) Inspect the condition of the coupling clamp for bending, overstress, thread damage, cracks or other obvious damage.

(iii) Inspect turbocharger to turbocharger exhaust tailpipe connection area for proper mating of surfaces.

(iv) Inspect tailpipe and turbocharger flanges for cracks and distortion. Remove carbon deposits from mating flanges before assembly.

(v) Reinstall serviceable couplings using the applicable torque and procedures described in paragraph (b).

Note.—Initial and repetitive inspection are not required for coupling Part Numbers 557-584 and 557-369.

(b) Prior to further flight, replace any cracked or otherwise damaged couplings found during any inspection required by paragraph (a) of this AD with applicable couplings specified below:

Model	Piper coupling P/N (Aeroquip P/N) Torque	In.-lbs.
PA-31	455-301 (4404-376M)	40-50
	555-376 (MVT68049-375H) (MVT68049-375D)	40-50
	555-511 (MVT69861-377M)	40-50
	557-584 (NH1005834-10)	30-35
PA-31-325	555-511 (MVT69861-377M)	40-50
	557-584 (NH1005834-10)	30-35
PA-31-350	555-366 (MVT68049-450M)	45-55
	557-369 (NH1005798-10)	30-35

Install couplings in accordance with the instructions contained in Piper Service Bulletin No. 644C, dated December 3, 1985, ensuring that the tailpipe and turbocharger flanges are properly aligned and that the wrench socket is properly aligned to prevent bolt sideload.

(c) Piper Aircraft Corporation Service Bulletin No. 644C dated December 3, 1985, pertains to the subject matter of this AD.

(d) The time in-service between the repetitive inspections required herein may be adjusted up to plus 25 percent of any specified inspection interval required by this AD to facilitate accomplishing these inspections concurrent with other scheduled maintenance on the airplane.

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

(f) An equivalent method of compliance with this AD if used must be approved by the Manager, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960 or the FAA, Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective April 11, 1986.

Issued in Kansas City, Missouri, on March 27, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-7543 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-37-AD; Amdt. 39-5260]

Airworthiness Directives; Boeing Model 757 and 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to Boeing Model 757 and 767 airplanes that requires inspection of cargo compartment smoke detectors to determine whether the wrong lamp has been installed, replacement of lamps, as necessary, and installation of a caution placard to prevent future installation of the wrong lamp. This action is prompted by reports of installation of improper lamps, which will render the detectors ineffective in detecting cargo compartment fires.

EFFECTIVE DATE: April 22, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. 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. Robert McCracken, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-2947. Mailing address: FAA, Seattle Aircraft Certification Office, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Autronics, the manufacturer of Model 2156-204 smoke detectors used in cargo compartments on Boeing Model 757 and 767 airplanes, has found the wrong lamps installed in units returned for service from at least four carriers. The 14 volt lamps that are specified for use in the detectors have been replaced in the field by 28 volt lamps, which are similar in appearance and fit the same sockets. The use of 28 volt lamps in place of 14 volt lamps will render the

detector useless for its design function. If a fire occurs in a cargo compartment having smoke detectors with improper lamps installed, the fire will be undetected and fire extinguishing procedures will not be initiated. This can lead to an uncontrolled fire.

On February 14, 1986, Autronics Corporation issued a Tech Data Bulletin which notified airline maintenance personnel of the use of incorrect lamps in smoke detectors. The bulletin advised that a "Caution Decal" should be attached to the front of each Autronics Model 2156–204 smoke detector to alert the maintenance technician to select the correct replacement lamp.

Since incorrect lamps may be installed in smoke detectors on other airplanes of these models, the FAA has determined that an AD is necessary which requires inspection of the smoke detectors in the cargo compartments on Boeing Model 757 and 767 airplanes to verify that the correct lamps are installed, and to attach a caution placard to the cover of each smoke detector unit to alert the maintenance technician to select the correct replacement lamp.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

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:

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

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

2. By adding the following new airworthiness directive:

Boeing: Applies to all Boeing Model 757 and 767 airplanes, certificated in any category. To ensure the integrity of the cargo compartment smoke detection system, accomplish the following within 30 days after the effective date of this AD, unless already accomplished:

A. Inspect the four Autronics Corporation Model 2156–204 cargo compartment smoke detectors and verify that a CM 382 (or equivalent) 14 volt lamp is installed in each unit. Install a caution placard as described in Autronics Corporation Tech Data Bulletin titled "Autronics Corporation Model 2156–204 Smoke Detectors, Use of Incorrect Replacement Lamps," dated February 14, 1986. An equivalent placard with the following wording may be used:

CAUTION

RELAMP WITH

CM 382 OR EQUIV.

14V. LAMP ONLY

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, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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 inspections and/or modifications required by this AD.

All persons affected by this AD who have not already received the above specified service information from the manufacturer may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It 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.

This amendment becomes effective April 22, 1986.

Issued in Seattle, Washington, on March 28, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–7550 Filed 4–4–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–139–AD; Amdt. 39–5248]

Airworthiness Directives; Gates Learjet Models 24D, 24D–A, 24E, 24F, 24F–A, 25, 25B, 25C, 25D, 25F, 28, 29, 35, 35A, 36, and 36A Series Airplanes; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, Correction.

SUMMARY: This action corrects a typographical error in Airworthiness Directive (AD) 86–05–05, Amendment 39–5248 (51 FR 7435; March 4, 1986), applicable to certain Gates Learjet airplanes, which requires repetitive inspections of the battery and battery vent system. The Amendment, as published, contained an error in a reference to the model applicability of a certain Gates Learjet Corporation service bulletin.

EFFECTIVE DATE: April 15, 1986.

ADDRESSES: The applicable service information may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. This information may also be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Robert R. Jackson, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone (316) 946–4419.

SUPPLEMENTARY INFORMATION: Airworthiness Directive (AD) 86–05–05, Amendment 39–5248, was published in the **Federal Register** on March 4, 1986 (51 FR 7435). As required by paragraph A. of that AD, as published, operators of certain Gates Learjet series airplanes are to "relocate the battery inlet vent in accordance with instructions contained in Gates Learjet Corporation Service Bulletin (SB) . . . 35/36–24–10 (for Models 25 and 26 series airplanes), dated July 18, 1985, or later FAA-approved revisions."

Gates Learjet Corporation Service Bulletin 35/36–24–10 contains instructions for Model 35 and 36 series airplanes. The reference in the AD to "Models 25 and 26" was a typographical error; the AD should have reflected "Models 35 and 36." The Notice of Proposed Rulemaking (Docket 85–NM–139–AD), which was published in the **Federal Register** (50 FR 49945; December 6, 1985) prior to issuance of Amendment 39–5248, contained the correct wording in paragraph A.

Since this amendment only corrects a typographical error, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

The FAA has determined that this document involves an amendment that only corrects a typographical error and does not impose any additional burden on any person. This amendment is, therefore, not major under Executive Order 12291 (46 ER 13193; February 19, 1981) and not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. For these reasons, I certify that it 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 39

Aviation safety, Aircraft.

Adoption of the Correction

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration corrects § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

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

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

2. By correcting paragraph A. of AD 86-05-05, Amendment 39-5248 (51 FR 7435; March 4, 1986), FR Doc. 86-4586, to read as follows:

"A. Relocate the battery inlet vent in accordance with instructions contained in Gates Learjet Corporation Service Bulletin (SB) 24/25-334A (for Models 24 and 25 series airplanes), SB 28/29-24-5A (for Models 28 and 29 series airplanes), or SB 35/36-24-10 (for Models 35 and 36 series airplanes), dated July 18, 1985, or later FAA-approved revisions."

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. These documents also may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

This Amendment corrects Amendment 39-5248 (51 FR 7435; March 4, 1986).

This correction becomes effective April 15, 1986.

Issued in Seattle, Washington, on March 28, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-7548 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-12-AD; Amdt. 39-5279]

Airworthiness Directives; DeHavilland Model DHC-7 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to DeHavilland Model DHC-7 airplanes which requires inspections, conductivity surveys, modification, and repair, if necessary, of the upper wing surface structure behind the engine. This action is prompted by reports of "wet starts" of the engine, resulting in external combustion of fuel. This condition, if not corrected, could result in damage and weakening of the wing upper surface structure.

EFFECTIVE DATE: April 22, 1986.

ADDRESSES: The applicable service bulletin may be obtained upon request to DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario M3K 1Y5, Canada. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Vito Pulera, Airframe Branch, ANE-172, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: There have been reports of "wet starts" (an aborted start wherein unburned fuel remains in the combustion chamber and/or exhaust) of the engine on DeHavilland Model DHC-7 airplanes which have, upon subsequent starting of the engine, resulted in external combustion of fuel. This situation caused damage to the upper wing surface structure to the extent that a repair was necessary to restore the structural integrity of the wing. As a result, DeHavilland has issued Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985, which describes procedures for observation of engine starts after an aborted start, visual inspections, conductivity surveys, installation of heat shields, and repair of the wing upper surface structure. These procedures are necessary to determine if wet starts have resulted in damage to the wing upper surface structure, which would then require repair. The Canadian Air Transport Administration (CATA), which is the airworthiness authority for Canada, has issued an airworthiness directive making compliance with the service bulletin mandatory.

Accomplishment of Modification Numbers 7/2377 and 7/2378 (described in Service Bulletin No. 7-57-17, originally issued October 12, 1983), which replace tank covers on certain airplanes with a modified tank cover, is required by the Canadian airworthiness directive prior to incorporation of the heat shield. The installation of the heat shield provides protection from future wet starts.

This airplane is manufactured in Canada and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement. This AD requires that all survey data be sent to DeHavilland Aircraft of Canada, Ltd., for evaluation. The results of the evaluation will be approved by a CATA Designated Airworthiness Representative, acting on behalf of CATA, before it is sent back to the operator. The FAA will be informed of the results of DeHavilland's evaluation and make official notification to the operator.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provision of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

Since this situation is likely to exist or develop on other airplanes of the same type design registered in the U.S., this AD requires the previously mentioned observations, inspections, and repair, in accordance with DeHavilland Service Bulletin 7-57-25, Revision B, dated November 22, 1985. The AD also provides for an optional modification which, when accomplished, constitutes terminating action for the inspection requirements of the AD.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency

regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

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 (14 CFR 39.13) as follows:

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

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

2. By adding the following new airworthiness directive:

Dehavilland: Applies to all Model DHC-7 series airplanes, certificated in any category. Compliance is required as indicated, unless already accomplished.

To ensure observation of wet starts, detection of heat-damaged wing upper surface structure behind the engine, and protection against wet starts of the engine resulting in external combustion of fuel, accomplish the following:

A. Except as provided in paragraph C., below, within the next 25 hours time-in-service after the effective date of this AD, insert a copy of this AD following Page 2-2-4B of the DHC-7 Airplane Flight Manual (AFM). After every aborted engine start in conjunction with either flight or other operations, follow AFM limitations and applicable procedures for starter cranking cycles, proper fuel draining, and dry motoring/clearing of the engine. An appropriately stationed observer must witness the subsequent starting attempt to determine whether external flames from the exhaust stacks and any burning of residual fuel on wing surfaces occurs.

1. If no external flame or external flame lasting for less than 5 seconds is observed, the airplane may be dispatched.

2. If external flame lasting 5 seconds or more is observed, a visual inspection of the affected wing area must be performed before further flight, in accordance with the Accomplishment Instructions, Paragraph 1, of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985.

a. If distortion or buckling of the skin is evident during the visual inspection, perform an internal conductivity survey of the affected area, and repair, as necessary, before further flight, in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Details of any damage discovered and data obtained from conductivity surveys must be transmitted to DeHavilland Aircraft of Canada, Ltd., immediately for processing.

b. If blistering or charring of the paint due to engine exhaust heat is evident during the visual inspection, before further flight, perform an external conductivity survey and, as necessary, an internal conductivity survey, and make repairs, as necessary, in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Details of any damage discovered and data obtained from conductivity surveys must be transmitted to DeHavilland Aircraft of Canada, Ltd., immediately for processing.

c. If no visible damage (i.e., no blistering or charring of paint or buckling of the wing skin) is apparent, within 100 flight hours perform an external conductivity survey and, as necessary, an internal conductivity survey, and make repairs, as necessary, of the affected area in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Details of any damage discovered and data obtained from conductivity surveys must be transmitted to DeHavilland Aircraft of Canada, Ltd., immediately for processing.

B. Except as provided in paragraph C., below, within the next 25 hours time-in-service after the effective date of this AD, visually inspect the upper wing skin behind each engine nacelle in accordance with the Accomplishment Instructions, Paragraph 1, of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985.

1. If distortion or buckling of the skin is evident during the visual inspection, repairs must be effected before further flight. In order to determine the extent of repairs, perform an internal conductivity survey of the affected area in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Details of any damage discovered and data obtained from conductivity surveys must be transmitted to DeHavilland Aircraft of Canada, Ltd., immediately for processing.

2. If blistering or charring of the paint due to engine exhaust heat is evident during the visual inspection, before further flight, perform an external conductivity survey and, as necessary, an internal conductivity survey, and make repair, as necessary, of the affected area in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Details of any damage discovered and data obtained from conductivity surveys must be transmitted to DeHavilland Aircraft of Canada, Ltd., immediately for processing.

C. Accomplishment of DeHavilland Modification No. 7/2414—"Wing—Upper Skin Structure—Special Inspection and Installation of Heat Shields," described in DeHavilland Service Bulletin No. 7-57-25 constitutes terminating action for the visual inspection and conductivity surveys required by paragraphs A. and B., above. When that modification has been accomplished, this AD may then be removed from the Airplane Flight Manual.

1. Prior to installation of Modification No. 7/2414, the following must be accomplished:

a. Perform an external conductivity survey and, as necessary, an internal conductivity survey, and make repairs, as necessary before further flight, of the upper wing skin behind each engine nacelle, in accordance with the Accomplishment Instructions of DeHavilland Service Bulletin No. 7-57-25, Revision B, dated November 22, 1985. Details of any damage discovered and data obtained from conductivity surveys must be transmitted to DeHavilland Aircraft of Canada, Ltd., immediately for processing.

b. For airplanes, serial numbers 1 through 27, Modification Nos. 7/2377 and 7/2378—"Fuel Tank Access Panel Replacement," described in DeHavilland Service Bulletin No. 7-57-17 (originally issued October 12, 1983), must be accomplished.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

E. 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 inspections and/or modifications 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 DeHavilland Aircraft of Canada, Ltd., Downsview, Ontario M3K 1Y5, Canada. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This amendment becomes effective April 22, 1986.

Issued in Seattle, Washington, on March 28, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-7552 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-ASW-33; Amdt. 39-5274]

Airworthiness Directives; Garlick Helicopters, Hawkins and Powers Aviation, Inc., International Helicopters, Inc., Pilot Personnel International, Inc., and Wilco Aviation; Model UH-1B Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) requiring an inspection to locate defective main rotor control pitch change bearings used on Model UH-1B

series helicopters (modified by Garlick Helicopters; Hawkins and Powers Aviation, Inc.; International Helicopters, Inc.; Pilot Personnel International, Inc.; and Wilco Aviation). The AD is needed to preclude possible failure of the pitch change link and possible loss of main rotor control.

DATES: Effective Date: April 25, 1986.

Compliance: As prescribed in the body of the AD.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Henry, Helicopter Certification Branch, ASW-170, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, telephone (817) 877-2595.

SUPPLEMENTARY INFORMATION:

The FAA was informed by U.S. Army Aviation Systems Command Message 192330Z Sep 85 of defective main rotor pitch change universals purchased from a contracted vendor for use on Bell Helicopter Textron Inc., UH-1 series helicopters. Approximately 1,300 defective universals were received from Arko Precision Machinists by the U.S. Army and dispersed to UH-1 fleet operators. The defective universals were received without machined grease grooves, rendering them impossible to lubricate. Since this condition could also exist on surplus military UH-1B helicopters which use the same universal, an AD is being issued which requires an inspection to locate defective universals and remove them from service.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new AD:

Garlick Helicopters, Hawkins and Powers Aviation, Inc., International Helicopters, Inc., Pilot Personnel International, Inc., Wilco Aviation: Applies to Model UH-1B helicopters modified by Garlick Helicopters, Hawkins and Powers Aviation, Inc., International Helicopters, Inc., Pilot Personnel International, Inc., and Wilco Aviation certified in any category that have a Bell Helicopter Textron, Inc., Part Number (P/N) 204-011-128-1 universal on the main rotor pitch change link.

Unless already accomplished, compliance is required within 15 days after the effective date of this AD or the next 10 hours' time in service, whichever occurs first.

To prevent loss of main rotor control, accomplish the following:

(a) Inspect the P/N 204-011-128-1 universal assembly on the pitch change control link of the main rotor for Arko Precision Machinists' supplier P/N "DW-6ZZ." If found, replace before further flight with a serviceable assembly.

(b) If the P/N "DW-6ZZ" is missing or cannot be seen, apply MIL-G-81322 grease to each of the two grease fittings on the universal. If the grease does not purge past the seals, replace the P/N 204-011-128-1 universal before further flight with a serviceable assembly.

(c) P/N 212-010-412-1 universal is an acceptable alternate replacement for P/N 204-011-128-1 and may be considered interchangeable.

(d) Any alternate method of compliance which provides an equivalent level of safety with this AD may be used when approved by the Manager, Helicopter Certification Branch, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, Texas 76106.

This amendment becomes effective April 25, 1986.

Issued in Forth Worth, Texas, on March 25, 1986.

Don. P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86-7545 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. [86-NM-36-AD; Amdt. 39-5285]

Airworthiness Directives; Boeing Model 757 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD), applicable to certain Boeing Model 757 airplanes, which requires the inspection and repair, if necessary, of certain passenger doors for integrity of the door hinge torque tube installation. This action is prompted by several reports of the torque tube becoming disconnected, which could prevent the door from opening and jeopardize successful evacuation of the airplane.

EFFECTIVE DATE: April 28, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It 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. Pliny Brestel, Airframe Branch, ANM-120S; telephone (206) 431-2931. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Operators of Boeing Model 757 airplanes recently reported two instances in which a passenger door was difficult to open. Investigation revealed that the door hinge torque tube assembly had disconnected at the cocking bellcrank. The splined sleeve and the lower coupling had been assembled with the upper pinch bolt installed above the lower coupling splines, rather than in the waisted or relieved portion of the splines. An inspection of the passenger doors on production line airplanes revealed that one pinch bolt was not engaged properly. Improper engagement of the pinch bolt could allow the upper shaft to become disconnected and, subsequently, could prevent the opening of the door.

On February 27, 1986, Boeing issued Alert Service Bulletin 757-52A0019, which describes inspection and repair, if necessary, of the left and right side Number 1, 2, and 4 passenger doors to

ensure proper pinch bolt engagement of the spline in the lower coupling of the door hinge torque tube assembly.

Since this condition is likely to exist on other airplanes of this model, the FAA has determined that an AD is necessary which requires inspection and repair, if necessary, of the left and right side Number 1, 2, and 4 passenger doors, in accordance with the service bulletin previously mentioned.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

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 Section 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.

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 757 airplanes, line numbers 1 through 90, certificated in any category. Compliance is required within 30 days after the effective date of this amendment. To ensure proper door opening, accomplish the following, unless already accomplished:

A. Inspect the left and right side Number 1, 2, and 4 passenger doors to verify proper engagement of the upper pinch bolt, and reinstall, if necessary, in accordance with Boeing Service Bulletin 757-52A0019, dated February 27, 1986, or later FAA-approved revisions.

B. Alternate means of compliance or adjustment of compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

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 inspections and/or modifications required by this AD.

All persons affected by this AD who have not already received copies of the service bulletin cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document 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.

This Amendment becomes effective April 28, 1986.

Issued in Seattle, Washington, on April 1, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-7688 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-130-AD; Amdt. 39-5283]

Airworthiness Directives; Boeing Model 727 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive applicable to certain Boeing Model 727 series airplanes which currently requires an initial inspection of the forward entry doorway forward frame prior to 25,000 landings and repair, if necessary. Since issuance of this AD, frames have been found to crack sooner than originally determined. This amendment requires the initial inspection to be performed prior to 15,000 landings. This action is necessary to ensure the structural integrity of the forward entry doorway.

EFFECTIVE DATE: May 16, 1986.

ADDRESSES: The applicable service documents may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The 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. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. 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, Amendment 39-4561 (48 FR 5536; January 26, 1983), AD 83-03-01, by reducing the compliance time for the initial inspection of the forward entry doorway forward frame on certain Boeing Model 727 series airplanes was published in the Federal Register on December 26, 1985 (50 FR 52792). The comment period for the proposal closed on February 14, 1986.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the one comment which was received. The commenter had no objections to the contents of the proposed rule.

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

It is estimated that 834 airplanes will be affected by this AD, that it will take approximately 45 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Inspection costs are estimated at $1,800 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $1,503,000.

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 Department of Transportation 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 on a substantial number of small entities because few, if any, Boeing Model 727 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.

2. By amending Airworthiness Directive (AD) 83-03-01, Amendment 39-4561 (48 FR 5536; January 26, 1983) as follows:

Replace paragraphs A., A.1., and A.2. with the following paragraphs:

A. Visually inspect the forward entry doorway frame for cracks in accordance with Boeing Service Bulletin No. 727-53-153, dated February 1, 1980, or later FAA-approved revisions, at the earlier of the times indicated in subparagraphs A.1. or A.2., below, and repeat the inspection at intervals not to exceed 3,700 landings:

1. Within the next 1,850 landings after March 11, 1983, or prior to accumulating 25,000 landings, whichever occurs later; or

2. Within the next 1,850 landings after the effective date of this amendment, or prior to accumulating 15,000 landings, whichever occurs later.

This Amendment becomes effective May 16, 1986.

Issued in Seattle, Washington, on April 1, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-7690 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-148-AD; Amdt. 39-5284]

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires inspection and modification of the escape slide or slide/raft cover release mechanism on Boeing Model 767 series airplanes. This action is prompted by reports of escape slides failing to inflate automatically when deployed, due to corrosion and excessive friction in the slide cover release mechanism. While the slide can be inflated using the manual inflation handle, failure of the slide to inflate automatically may cause a delay in inflation or the assumption that the slide is not usable, thus delaying and possibly jeopardizing successful emergency evacuation of an airplane.

EFFECTIVE DATE: May 16, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Northwest Mountain Reigon, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Branch, ANM-120S; telephone (206) 431-2929. 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 an airworthiness directive to require inspection and modification of the escape slide/raft cover release mechanism on Boeing Model 767 series airplanes was published in the **Federal Register** on January 23, 1986 (51 FR 3074).

The comment period for the proposal, which ended February 13, 1986, afforded interested persons an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received. Only two comments were received.

One commenter had three comments. First, the commenter requested clarification of the proposed paragraph A. as to whether the required inspection compliance time refers to packboard time-in-service since last overhaul or since new. Since the inspection, testing, and modification referred to in paragraph A. of the AD are not required to be performed at the time of overhaul of the packboard, and might not have been performed by an operator at the time of the last overhaul of the packboard, the compliance time specified by paragraph A. refers to the total time-in-service of the packboard since new. The FAA has determined that the working in the AD is clear and does not need revision.

Second, the commenter stated that Boeing has revised Service Bulletin 767-25-A0071 to expand the inspection, and recommended that any additional procedures specified in the revision not be required for slides which have been inspected and modified in accordance with the original issue of the service bulletin. Although accomplishment of the additional procedures indicated in the revision to the service bulletin may further reduce the force necessary to operate the release mechanism, the FAA has determined that the requirement that the release force be less than 100 pounds is adequate to assure proper operation of the slide. If an operator cannot meet the 100 pound test requirement of paragraph B. of the AD, he may wish to accomplish further procedures described in the revision to the service bulletin in order to meet the 100 pound test requirement. However, those additional procedures described in the revision to the service bulletin are not specifically required by this AD.

Third, the commenter also stated that one operator sprays the release mechanism with oil every 600 hours and planned to modify the mechanism at the next "C" check. The commenter stated that the spray is very effective at loosening corrosion and should be considered to increase the service life until regular overhaul. Investigation has revealed that some of the binding in the release mechanism was due to out-of-tolerance parts, and would not be corrected by merely spraying the parts with oil. Therefore, the FAA has determined that the test of the release force is necessary to determine if a problem exists in the release mechanism.

The other commenter stated that he had already accomplished the procedures required by this AD on his airplanes, in accordance with the Boeing service bulletin.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule without change.

It is estimated that 57 airplanes of U.S. registry will be affected by this AD. Approximately 8 manhours at a cost of $40 per manhour will be required to accomplish the required actions on each airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $18,240.

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 certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 767 airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory 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.

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 767 airplanes, certificated in any category, equipped with slide packboard Part Number 416T2003-14 or slide/raft packboard Part Number 416T2003-15. To ensure that the escape slide release mechanism operates properly, accomplish the following, unless already accomplished:

A. Accomplish the inspection, test, and modification procedures in accordance with Boeing Service Bulletin 767-25-A0071, dated September 27, 1985, or later FAA-approved revisions, as follows:

1. For packboards that have been in service over twenty-one months on the effective date of this AD, accomplish the inspection and modification within the next three months after the effective date of this AD.

2. For all other packboards, accomplish the inspection and modification prior to the accumulation of twenty-four months in service.

B. All packboards must meet the test requirements of Boeing Service Bulletin 767-25-A0071, Part III.C., Figure 1, circle Note 4, after modification. Packboards not meeting these requirements must not be placed in service.

C. 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, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. 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 inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document 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.

This amendment becomes effective May 16, 1986.

Issued in Seattle, Washington, on April 1, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-7689 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-31]

Transition Area Revocation; Hettinger, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to revoke the transition area currently designated for Hettinger, North Dakota by returning the associated 700-foot area to a non-controlled status.

EFFECTIVE DATE: 0901 GMT, July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Friday, January 31, 1986, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area designated for Hettinger, North Dakota (51 FR 3988).

Interested parties were invited to participate in this rulemaking proceedings by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes the transition area currently designated for Hettinger, North Dakota and returns the associated 700-foot area to a non-controlled status. The controlling facility for the area has identified a requirement to retain the 1200-foot designated airspace for the area; therefore, the 1200-foot Hettinger, ND, transition area will be retained.

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 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.181 as follows:

Hettinger, North Dakota

That airspace extending upward from 1200 feet above the surface bounded on the north by V-2, on the east by V-169, on the south by V-120, and on the west by the Bowman, ND, 1200 foot transition area excluding the Bismarck, ND, 1200 foot transition area.

Issued in Des Plaines, Illinois, on March 24, 1986.

Kenneth C. Patterson,

Manager, Air Traffic Division.

[FR Doc. 86-7546 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AGL-30]

Transition Area Revocation; New Town, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to revoke the transition area currently designated for New Town, North Dakota by returning the associated 700-foot area to a non-controlled status.

EFFECTIVE DATE: 0901 G.m.t., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION:

History

On Friday, January 31, 1986, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke the transition area designated for New Town, North Dakota (51 FR 3989).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes the transition area currently designated for New Town, North Dakota and returns the associated 700-foot area to a non-controlled status. The controlling facility for the area has identified a requirement to retain the 1200-foot designated airspace for the area; therefore, the 1200-foot New Town, ND, transition area will be retained.

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 71

Aviation safety, Transition areas.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

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

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

2. By amending § 71.181 as follows:

New Town, North Dakota

That airspace extending upward from 1200 feet above the surface bounded on the east by the Minot, ND, 1200 foot transition area and long. 102°00'00"W., on the south and west by V-71, and on the north by V-430 excluding the Williston, ND, 1200 foot transition area.

Issued in Des Plaines, Illinois, on March 24, 1986.

Kenneth C. Patterson,

Manager, Air Traffic Division.

[FR Doc. 86-7547 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 2, 157, 284, and 389

[Docket No. RM83-31-000]

Emergency Natural Gas Sale, Transportation and Exchange Transactions; Order Changing Effective Date; Notice of OMB Control Number

Issued April 1, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order changing effective date; notice of OMB Control Number.

SUMMARY: On March 12, 1986, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 449) in Docket No. RM83-31-000, 51 FR 9179 (March 18, 1986), to revise its regulations relating to emergency natural gas transactions that are exempt from the restrictions and conditions of Order No. 436, 33 FERC ¶ 61,007 (1985), 50 FR 41408 (Oct. 18, 1985), and the certification requirements of section 7(c) of the Natural Gas Act, 15 U.S.C. 717f(c). This notice states the OMB control number for the reporting requirements in the revised emergency regulations, which are set forth in a new Subpart I to 18 CFR Part 284, and the Commission's decision to make the revised regulations effective immediately upon issuance of this notice.

EFFECTIVE DATE: The amendments in this document as well as the amendments published on March 18, 1986, in Order No. 449 (51 FR 9179) are effective April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Jack O. Kendall, Office of the General Counsel, 825 North Capitol Street NW., Washington, DC 20426, (202) 357-8565.

SUPPLEMENTARY INFORMATION:

Order Changing Effective Date; Notice of OMB Control Number

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

Emergency Natural Gas Sales, Transportation, and Exchange Transactions; Docket No. RM83-31-000.

Issued April 1, 1986.

On March 12, 1986, the Federal Energy Regulatory Commission (Commission) issued a final rule (Order No. 449) in Docket No. RM83-31-000, 51 FR 9179 (March 18, 1986), to revise its regulations relating to emergency natural gas transactions that are exempt from the restrictions and conditions of Order No. 436, 33 FERC ¶ 61,007 (1985), 50 FR 41408 (October 18, 1985), and the certification requirements of section 7(c) of the Natural Gas Act, 15 U.S.C. 717f(c).

The Paperwork Reduction Act, 44 U.S.C. 3501-3520 (1982), and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320 (1985), require that OMB approve certain information collection requirements imposed by agency rule. To allow adequate time to obtain necessary OMB approval prior to the effectiveness of the Commission's revised emergency natural gas transaction regulations, Order No. 449 provided that new Subpart I to Part 284 would not become effective until June 1, 1986 (*i.e.*, 75 days following publication in the **Federal Register**).

On March 26, 1986, OMB approved the information collection requirements of Subpart I of Part 284 and issued Control Number 1902-0144 for those requirements. The Commission now finds good cause to make the revised emergency regulations effective without further delay. The revised regulations provide natural gas suppliers with self-implementing authority to act

immediately to supply gas when necessary to protect life, health, or property. The new emergency procedures are designed to serve special, short-term purposes and should be implemented as soon as practicable. Also, the existing emergency regulations inadvertently subject suppliers that transport natural gas in emergencies to the restrictions and conditions of Order No. 436. Since the Commission intended that the emergency regulations not subject a transporter to the conditions imposed in Order No. 436, it is making the revised emergency regulations effective immediately. This will relieve suppliers of the Order No. 436 restrictions and conditions that might be construed as applying to the transportation of natural gas in emergency situations.

In view of the above considerations, the Commission is changing the previously scheduled effective date of Order No. 449 and is making this rule effective immediately, in accordance with section 553(d) of the Administrative Procedure Act, 5 U.S.C. 553(d) (1982).

In consideration of the foregoing, the Commission amends Parts 2, 157, 284, and 389 of Chapter I, Title 18 of the *Code of Federal Regulations* as set forth in Order No. 449 issued on March 12, 1986, and as set forth below, effective immediately.

List of Subjects

Natural gas.

By the Commission.

Lois D. Cashell,

Acting Secretary.

1. The amendments to Parts 2, 157, and 284 published on March 18, 1986 (51 FR 9179) are effective April 1, 1986.

PART 389—[AMENDED]

2. The authority citation for Part 389 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520 (1982).

§ 389.101 [Amended]

3. The Table of OMB Control Numbers in § 389.101(b) is amended by:

a. Removing "157.22" and "157.29" from the section column and "0060" and "0052" from the respective corresponding positions in the OMB Control Number column; and

b. By inserting "Part 284 Subpart I" in numerical order in the section column and "0144" in the corresponding position in the OMB Control Number columns.

[FR Doc. 86–7641 Filed 4–4–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits and Supplemental Security Income; Introduction, General Provisions and Definitions

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations are for the purpose of correcting certain definitions and cross-references in and otherwise updating Subparts A of Parts 404 and 416. Those Subparts A contain introductions, general information and definitions in regard to their respective parts. Certain explanations, definitions and cross-references have been rendered incorrect by recent recodifications and other amendments to Parts 404 and 416.

DATES: These rules are being issued as final regulations and they are effective on April 7, 1986. We will consider any comments concerning these rules that we receive on or before June 6, 1986, and will revise such rules if public comment warrants.

ADDRESSES: Comments should be submitted in writing to the Acting Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Dave Smith, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone 301–594–7460.

SUPPLEMENTARY INFORMATION: The purpose of these regulations is to correct technical inaccuracies now contained in Part 404, Subpart A and Part 416, Subpart A. Each of those Subparts introduces its respective parts and provides general information and definitions. Over the past several years Parts 404 and 416 have been frequently revised and as a result portions of Subpart A of those parts are technically inaccurate.

In Subpart A of Part 404, we have updated § 404.1 to describe the subject matter contained in each subpart; we have corrected certain definitions in § 404.2 and have eliminated others that were extraneous; and in § 404.3 we have corrected cross-references. In Subpart A of Part 416, we have updated § 416.101 to describe the subject matter contained in each subpart; in §§ 416.105 and 416.120(b) we have corrected certain definitions and designations; and in §§ 416.120(c), 416.120(d), and 416.121(d) we have corrected cross-references.

The Department generally follows the Notice of Proposed Rulemaking and public comment procedures specified in section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)) in the development of its regulations. That act provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(B), good cause exists for waiver of proposed rulemaking and public comment procedures on this regulation because we are only making technical corrections which will not affect an individual's rights under either title II or title XVI and opportunity for prior public comment is unnecessary. Therefore, these rules are being issued as final rules and will become effective on the date they are published in the **Federal Register.**

Regulatory Procedures

Executive Order No. 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These regulations impose no additional reporting and recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these regulations will not have a significant impact on substantial number of small entities because Subparts A of Parts 404 and 416 provided general introductory information, definitions, and an explanation of the regulations contained in the other subparts. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security-Disability Insurance; 13.803 Social Security-Retirement Insurance, 13.805 Social Security-Survivors Insurance; 13.807 Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits. Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 24, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: February 28, 1986.

Otis R. Bowen, M.D.,

Secretary of Health and Human Services.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The title of Subpart A is revised to read as follows:

Subpart A—Introduction, General Provisions and Definitions

2. The authority citation for Subpart A is revised to read as follows:

Authority: Secs. 203, 205, 227, and 1102, of the Social Security Act, as amended; 53 Stat. 1367, 53 Stat. 1368, 79 Stat. 379, 49 Stat. 647; sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 18, 631; 42 U.S.C. 403, 405, 427, and 1302, unless otherwise noted.

3. In § 404.1, the introductory text is revised, paragraphs (c), (j), (l), (p), and (q) are revised and new paragraphs (r), (s), (t), (u), and (v) are added to read as follows:

§ 404.1 Introduction.

The regulations in this Part 404 (Regulations No. 4 of the Social Security Administration) relate to the provisions of title II of the Social Security Act as amended on August 28, 1950, and as further amended thereafter. The regulations in this part are divided into 22 subparts:

* * * * *

(c) Subpart C relates to the computation and recomputation of the primary insurance amount

* * * * *

(j) Subpart J relates to initial determinations, the administrative review process, and reopening of determinations and decisions.

* * * * *

(l) Subpart L is revised.

* * * * *

(p) Subpart P relates to the determination of disability or blindness.

(q) Subpart Q relates to standards, requirements and procedures for States making determinations of disability for the Secretary. It also sets out the Secretary's responsibilities in carrying out the disability determination function.

(r) Subpart R relates to the provisions applicable to attorneys and other individuals who represent applicants in connection with claims for benefits.

(s) Subpart S relates to the payment of benefits to individuals who are entitled to benefits.

(t) Subpart T relates to the negotiation and administration of totalization agreements between the United States and foreign countries.

(u) Subpart U relates to the selection of a representative payee to receive benefits on behalf of a beneficiary and to the duties and responsibilities of a representative payee.

(v) Subpart V relates to payments to State vocational rehabilitative agencies (or alternate participants) for vocational rehabilitation services.

4. In § 404.2 paragraph (a)(1) is revised, paragraphs (a)(2) through (a)(13) are deleted, paragraphs (a)(14), (a)(15), (a)(16), (a)(17), (a)(18), and (a)(19) are redesignated as (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), and (a)(7) respectively, and paragraph (b)(1) is revised, paragraph (b)(3) is deleted and paragraph (b)(4) and (b)(5) are redesignated as (b)(3) and (b)(4) and revised to read as follows:

§ 404.2 General definitions and list of terms.

(a) *Terms relating to the Act and regulations.*

(1) "The Act" means the Social Security Act, as amended (42 U.S.C. Chapter 7).

* * * * *

(b) *Secretary; Commissioner; Appeals Council; Administrative Law Judge defined.*

(1) "Secretary" means the Secretary of Health and Human Services.

* * * * *

(3) "Appeals Council" means the Appeals Council of the Office of Hearings and Appeals in the Social Security Administration or such member or members thereof as may be designated by the Chairman.

(4) "Administrative Law Judge" means an Administrative Law Judge in the Office of Hearings and Appeals of the Social Security Administration.

§ 404.3 [Amended]

5. In § 404.3(c), the references in the last sentence are changed from § 404.607 and § 404.606 to § 404.621 and § 404.620, respectively.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart A—Introduction, General Provisions and Definitions

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

Authority: Secs. 1102, 1611, 1616, 1618, 1619, 1631, and 1634, Social Security Act as amended, sec. 212 of Pub. L. 93-66, as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 1474, 1475, and 1478, 90 Stat. 2901, 87 Stat. 155, and 94 Stat. 445 (42 U.S.C. 1302, 1382e, 1382g, 1383, 1383c, 1382h, 1386 and 1396), unless otherwise noted.

2. In § 416.101, paragraphs (j), (p), (r), and (s) are revised and a new paragraph (v), is added to read as follows:

§ 416.101 Introduction.

* * * * *

(j) Subpart J of this part sets forth the standards, requirements and procedures for States making determinations of disability for the Secretary. It also sets out the Secretary's responsibilities in carrying out the disability determination function.

* * * * *

(p) Subpart P of this part sets forth the residence and citizenship requirements that are pertinent to eligibility.

* * * * *

(r) Subpart R of this part sets forth the rules for determining marital and other family relationships where pertinent to the establishment of eligibility for or the amount of benefits payable.

(s) Subpart S of this part explains interim assistance and how benefits may be withheld to repay such assistance given by the State.

* * * * *

(v) Subpart V of this part explains when payments are made to State vocational rehabilitation agencies (or alternate participants) for vocational rehabilitation services.

3. Section 416.105 is revised to read as follows:

§ 416.105 Administration.

The Supplemental Security Income for the Aged, Blind, and Disabled program

is administered by the Social Security Administration under authority delegated by the Secretary of Health and Human Services.

4. In § 416.120, paragraph (b)(1) is revised, paragraph (b)(3) is deleted, paragraph (b)(4) is redesignated as (b)(3) and revised, and paragraphs (c)(6), (c)(7) and (c)(8) are revised to read as follows:

§ 416.120 General definitions and use of terms.

* * * * *

(b) *Secretary; Commissioner; Appeals Council; defined.* As used in this part:

(1) "Secretary" means the Secretary of Health and Human Services.

* * * * *

(3) "Appeals Council" means the Appeals Council of the Office of Hearings and Appeals in the Social Security Administration or such member or members thereof as may be designated by the Chairman.

(c) *Miscellaneous.* As used in this part unless otherwise indicated:

* * * * *

(6) "Institution" (see § 416.201).

(7) "Public institution" (see § 416.201).

(8) "Resident of a public institution" (see § 416.201).

* * * * *

§ 416.120 [Amended]

5. In § 416.120, paragraph (d) is amended by changing the reference at the end of the paragraph from § 416.300 to Subpart C of this part.

§ 416.121 [Amended]

6. In § 416.121, paragraph (d) is amended by changing the reference at the beginning of the paragraph from § 416.901(b) to § 416.907.

[FR Doc. 86-7679 Filed 4-4-86; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 173

[Docket No. 85F-0023]

Secondary Direct Food Additives Permitted in Food for Human Consumption; Sorbitan Monooleate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sorbitan monooleate as an emulsifier in polymer preparations used to clarify cane and beet sugar juice and liquor. This action responds to a petition filed by Drew Chemical Corp.

DATES: Effective April 7, 1986; objections by May 7, 1986.

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

FOR FURTHER INFORMATION CONTACT: John Gordon, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of March 8, 1985 (50 FR 9521), FDA announced that a petition (FAP 5A3840) has been filed by Drew Chemical Corp., One Drew Chemical Plaza, Boonton, NJ 07005, proposing that the food additive regulations be amended to provide for the safe use of sorbitan monooleate as a direct additive to clarify cane and beet sugar juice and liquor.

Based on its review of the petition and other relevant data, the agency has concluded that the proposed use of sorbitan monooleate should be classified as a secondary direct additive. This classification is based on the petitioner's proposal to use this ingredient as an emulsifier in the production of polymer preparations that are used to clarify cane and beet sugar juice and liquor.

FDA has evaluated data in the petition and other relevant material. The agency concludes that the proposed use is safe, and that the regulations should be amended as set forth below.

In addition, FDA is modifying the title of Subpart A of 21 CFR Part 173 to make clear that the agency will be listing adjuvants to polymers used in the treatment of food, as well as the polymers themselves, in that subpart.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(5).

Any person who will be adversely affected by this regulation may at any time on or before May 7, 1986, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 173

Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 173 is amended as follows:

PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR Part 173 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. By revising the title of Subpart A and adding new § 173.75, to read as follows:

Subpart A—Polymer Substances and Polymer Adjuvants for Food Treatment

* * * * *

§ 173.75 Sorbitan monooleate.

Sorbitan monooleate may be safely used in accordance with the following prescribed conditions:

(a) The additive is produced by the esterification of sorbitol with commercial oleic acid.

(b) It meets the following specifications:

(1) Saponification number, 145–160.

(2) Hydroxyl number, 193–210.

(c) The additive is used or intended for use as follows:

(1) As an emulsifier in polymer dispersions that are used in the clarification of cane or beet sugar juice or liquor in an amount not to exceed 7.5 percent by weight in the final polymer dispersion.

(2) The additive is used in an amount not to exceed 0.70 part per million in sugar juice and 1.4 parts per million in sugar liquor.

Dated: March 31, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-7563 Filed 4-4-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 870

Abandoned Mine Reclamation Fund; Fee Collection and Coal Production Reporting

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Notice of decision on petition for rulemaking.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSMRE) makes available to the public its final decision on a petition for rulemaking from the United States Fuel Company (U.S. Fuel). The petition requests that OSMRE modify its definition of "reclaimed coal" contained in 30 CFR 870.5. On March 31, 1986, the Director made a decision denying the petition.

ADDRESS: Copies of the petition, and other relevant materials comprising the administrative record of this petition are available for public review and copying at OSMRE, Administrative Record, Room 5124B–L, 1100 L Street, NW., Washington DC.

FOR FURTHER INFORMATION CONTACT: Richard O. Miller, Chief, Regulatory Development and Issues Management, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Ave., NW., Room 134, Washington, DC 20240. Telephone (202) 343–5546.

SUPPLEMENTARY INFORMATION:

I. Petition for Rulemaking Process

Pursuant to section 201(g) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.*, any person may petition the Director of OSMRE for a change in OSMRE's regulations. Under the applicable regulations for rulemaking petitions, 30 CFR 700.12, the Director must first determine whether the petition has a reasonable basis. If the petition has a reasonable basis, notice is published in the **Federal Register** seeking comments on the petition and the Director may hold a public hearing, conduct an investigation, or take other action to determine whether the petition should be granted. If the petition is granted, the Director initiates a rulemaking proceeding. If the petition is denied, the Director notifies the petitioner in writing setting forth the reasons for denial. Under § 700.12(d), the Director's decision constitutes the final decision for the Department of the Interior.

II. The United States Fuel Company Petition

OSMRE received a letter dated July 5, 1985, from the United States Fuel Company (U.S. Fuels) presenting to the Secretary of the Interior a petition for further interpretation of the definition of "reclaimed coal" contained in 30 CFR 870.5. After determining that the petition had sufficiently reasonable basis to seek further comments, the Director published the petition in the **Federal Register** (50 FR 36858) requesting public comment. The comment period began September 9, 1985, and was closed on October 18, 1985. Five persons submitted written comments during the public comment period.

The Director's letter response to the petitioner on this rulemaking petition appears as an appendix to this notice. This letter reports the Director's decision to the petitioner. It also contains a summary description of the issues raised by the petitioner, OSMRE's current regulatory program, an analysis of the petitioner's proposed regulatory change, and a discussion of the comments received on the petition.

Dated: March 31, 1986.

Jed D. Christensen,

Director, Office of Surface Mining Reclamation and Enforcement.

Appendix

The Director's response to the petition from the United States Fuel Company, is as follows:

Mr. Robert G. Pruitt, III,

Pruitt, Gushee and Fletcher, Suite 1850 Beneficial Life Tower, Salt Lake City, Utah 84111

Re: United States Fuel Company: Petition for Rulemaking

Dear Mr. Pruitt: After careful consideration, the Office of Surface Mining Reclamation and Enforcement (OSMRE) is denying the United States Fuel Company (U.S. Fuels) Petition for Rulemaking which requested that OSMRE modify the definition of "reclaimed coal" found at 30 CFR 870.5.

Background

On July 5, 1985, U.S. Fuels filed a petition for rulemaking under section 201(g) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1211(g) (SMCRA). That section allows any person to petition the Director of OSMRE to initiate a proceeding to issue, amend or repeal a rule adopted by the Secretary under SMCRA.

Title IV of SMCRA dealing with abandoned mine reclamation, creates a trust fund in the Treasury of the United States for the restoration of land and water resources and environment previously degraded by adverse effects of past coal mining practices. 30 U.S.C. 1233(3). The fund consists of sums collected pursuant to section 402(a) of SMCRA which provides:

All operators of coal mining operations subject to the provisions of this Act shall pay to the Secretary of the Interior for deposit in the fund, a reclamation fee of 35 cents per ton of coal produced by surface coal mining and 15 cents per ton of coal produced by underground mining or 10 percentum of the value of the coal at the mine, as determined by the Secretary, whichever is less . . . ; 30 U.S.C. 1232(a).

OSMRE's regulations implementing this section of the Act are found at 30 CFR Part 870. OSMRE has by regulation defined surface coal mining, underground coal mining, and reclaimed coal.

Text of OSMRE's existing regulation at 30 CFR 870.5 is as follows:

Reclaimed coal means coal recovered from a deposit that is not in its original geological location, such as refuse piles or culm banks or retaining dams and ponds that are or have been used during the mining or preparation process, and stream coal deposits. *Reclaimed coal operations are considered to be surface coal mining operations for fee liability and calculation purposes.* (Emphasis added.)

The U.S. Fuel petition seeks to modify the definition of "reclaimed coal" found at 30 CFR 870.5 with regard to production of certain reclaimed coal within the permit area of active underground operations. The proposed change would have applied to the limited circumstance where the reclaimed

coal consists of coal-fines which are washed out during processing at an on-site preparation plant, as part of an active underground mining operation. Under the modification, the reclaimed coal-fines would be treated as underground mined coal, and the fee rate of 15 cents per ton would apply.

Pursuant to the applicable regulations for rulemaking petitions, 30 CFR 700.12(c), the Director published a notice of the petition in the Federal Register seeking comments from the public on the proposed change. The comment period closed on October 18, 1985. *See*, 50 FR 36858, September 9, 1985.

Basis for Decision

A number of factors form the basis for OSMRE's decision. Of primary concern to OSMPE is the adverse effect any change in definition would have on regulatory stability. OSMRE has been collecting abandoned Mine Reclamation fees since 1977. Such collection will end in 1992. Any change to the definition at this time will generate uncertainty for all remining operations and may result in a flurry of new legal challenges and requests for recalculation of fee amounts. Moreover, OSMRE's existing reclaimed coal regulations have been subjected to Federal court review and have been repeatedly upheld. For instance, the Court of Appeals ruling in *U.S.* v. *Devil's Hole, Inc.*, 747 F.2d 895 (3d Cir. 1984), concerning remining of pre-Act anthracite silt deposits, upheld the Secretary's reclaimed coal regulations as being consistent with the Surface Mining Control and Reclamation Act of 1977 (SMCRA). See also *U.S.* v. *Consolidation Coal Co., infra*. OSMRE's regulations are also consistent with the Internal Revenue Sevice (IRS) definition of "coal produced from a surface mine" found at 26 CFR 48.4121–1(d). The I.R.S. regulations, which are used for calculating Black Lung Tax, provide that coal reclaimed from coal waste refuse piles be treated as produced from a surface mine.

OSMRE's rule defining "reclaimed coal" was adopted in June 1982. The petition states that U.S. FUel has marketed coal slurry since 1975. Although U.S. Fuel had a stake in the development of this regulation, it neglected to participate in the rulemaking process. The current definition of "reclaimed coal" was not challenged within the 60 days after being promulgated as required by section 526(a) of SMCRA. Thus the procedural attacks on the current rule included in U.S. Fuel's petition should have been raised in a direct challenge to the rule at the time the rule was promulgated and will not be consideed at this time.

To justify a change in the ucrrent rule, OSMRE is obligated to supply a reasoned analysis for the change. See, *Motor Vehicle Manufacturer's Association* v. *State Farm Mutual Automobile Insuracne Company*, 463 U.S. 29, 103 S. Ct. 2856, 2866, 77 L. Ed. 2d 4433 (1983). OSMRE does not agree that the several arguments set forth in U.S. Fuel's petition recommending the rule change are sufficient to support a change in agency regulation. The change in the regulation which U.S. Fuel now seeks is more in the nature of a *private* remedy than an improvement to the regulatory scheme.

Under U.S. Fuel's suggsted modification, a lesser amount of total fees would be deposited in the abandoned Mine Land (AML) fund with no resulting increase in lands reclaimed. Without such an offset, little justification exists for reducing moneys available for reclamation. Revenue enhancement for this fund is important so as to further the purposes of SMCRA and maximize moneys available to reclaim abandoned mined lands. *See*, sections 101(b), 102(a) and 102(h) of SMCRA.

U.S. Fuel alleges that a lower fee rate would encourage the recovery of the coal slurry and thus reduce the environmental costs associated witht he construction, maintenance, and reclamation of its sedimentation ponds. Although a lower fee may act as an incentive for U.S. Fuel's slurry sales, no additional incentive would be created for remining lands which would not otherwise be reclaimed. Under Title V of SMCRA, U.S. Fuel is already obligated to reclaim ponds located within the permit area. Thus, there would be no corresponding reduction in national environmental reclamation costs to match a reduction in reclamation fees.

U.S Fuel also contends that a lower fee rate will "promote recovery of the coal resource." The petition explains how U.S. Fuel has been able to capitalize on the use of its slurry by mixing it with run-of-mine coal to meet existing contract requirements. U.S. Fuel makes no allegations that the practice of mixing slurry is financially dependent upon securing a lower fee rate. Contrary to what U.S. Fuel says, a strong incentive already appears to exist for recovery and use of the coal slurry. The petition itself points out that if U.S. Fuel did not mix the slurry with the higher grade underground coal to fulfill its contracts, the extra coal quality would be wasted. Mixing of slurry with run-of-mine coal appears to be prudent business practice for U.S. Fuel independent of OSMRE's reclamation fee schedule.

U.S. Fuel also alleges that little or no market value exists for this coal slurry without the adjacent underground mining operation. In formulating the fee schedule, Congress considered the possibility of operators mining coal of minimal value and provided these operators with the option of paying a reclamation fee at the rate of "10 per centum of the value of the coal at the mine." 30 U.S.C. 1232. In doing so, Congress has determined that the current fee schedule would not otherwise act as a disincentive for recovery of lower grade coal. U.S. Fuel retains the option of paying fees based on the value of the coal produced.

U.S. Fuel's last argument is that because the coal slurry is a byproduct of underground mining operations the fee for coal produced by underground mining methods should apply. This argument must also fail. The coal produced from the slurry is not produced by underground mining methods. Under OSMRE's regulations, U.S. Fuel's coal is "produced" when the slurry is dredged and separated from the accompanying waste material. These are not underground extraction techniques. Under the rules, reclamation fee liability attaches at the time of the first transaction (sale or transfer of ownership) or use of the coal by the operator immediately after it is removed from a reclaimed coal refuse deposit. 30 CFR 870.12(b)(1). Courts reviewing this issue have consistently held that remined coal is produced at the time of the remaining operation. In a recent Federal court decision, the court reemphasized that Congress intended to impose a reclamation fee on "those who gain an economic benefit from the coal *when* they gain the advantage." *U.S.* v. *Consolidation Coal Co.*, C.A. No. 82–1077 (S.D. W.Va., Nov. 7, 1985); *U.S.A.* v. *Sam Kennedy*, C.A. No. CV 82–4234 (S.D. Ill., Feb. 24, 1984); *U.S.A.* v. *Hecla Machinery and Equipment Company*, C.A. No. 80–4554; *U.S.A.* v. *Devil's Hole, Inc.*, C.A. No. 40–4553 (E.D. Pa., Dec. 29, 1983); *U.S.* v. *S.S. Burford, Inc.*, C.A. No. 82–385–E (N.D. W. Va., June 6, 1983).

U.S. Fuel's process for removing the coal from the slurry ponds is no different than numerous anthracite silt recovery operations in the eastern United States. These are "surface-mining" methodologies, requiring a substantially more modest capital investment than underground mines. Congress noted this difference in operating costs when formulating the reclamation fee schedule. Congress intended that the fee rate take into consideration the "disproportionately high social costs incurred by underground coal mine operators in meeting responsibilities under the Coal Mine Health and Safety Act of 1969 . . . ." H.R. Rep. No. 218, 95th Cong., 1st Sess. 137, reprinted in 1977 U.S. Code Cong. & Ad. News 509, 669. Thus, OSMRE's determination that reclaimed coal should be treated as surface mined coal is consistent with the intent of Congress.

OSMRE received comments on the petition from several sources. The majority of the commenters, all but one of which were coal operators having a self-interest in reducing their fee payments, supported a lower fee for reclaimed or remined coal. Several commenters suggested that OSMRE look to the source of the coal in assessing fee rates. As discussed earlier, courts have upheld OSMRE's position regarding time of production and have discarded the argument repeatedly made by operators that the source of the coal should control. Also, commenters asserted that a rule change would provide an incentive for remining lands which would not otherwise be reclaimed. Although possibly a valid consideration in a more general proceeding, it does not apply to U.S. Fuel's narrow petition only concerning slurry remined within the permit area of an ongoing underground operation. Operators who would benefit from this suggested rule change are already obligated to reclaim all disturbances within their permit areas. Several commenters stated that the 35 cent-per-ton surface rate would adversely affect remining of lower-valued coal refuse. No documentation has been produced to demonstrate that the 35 cent-per-ton fee has rendered the remining of coal uneconomical. And, as discussed earlier, Congress recognized potential disparities in market value by allowing payment of 10 percent of the value of the coal for operators mining low-value coal. *See*, 30 CFR 870.13(a), (b).

For all of the foregoing reasons, OSMRE denies U.S. Fuel's petition filed with the

Director on July 5, 1985, and declines to modify the existing definition of "reclaimed coal" set forth at 30 CFR 870.5. Under 30 CFR 700.12(d), this letter constitutes a final decision of the Interior Department.

Sincerely,

Jed D. Christensen,

Director.

[FR Doc. 86-7596 Filed 4-4-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 552

Regulations Affecting Military Reservations; Fort Lewis Land Use Policy (FL 350-33)

AGENCY: Department of the Army, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Army is adding Subpart F to 32 CFR Part 552 to set forth regulations governing entry upon Army Training Areas on the Fort Lewis Military Reservation, Fort Lewis, Washington, which collectively comprise the area known as the Range Complex. It is intended that these regulations will give notice to the members of the public of the rules governing entry to the Range Complex areas on the Fort Lewis Military Reservation, Fort Lewis, Washington.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John Weller, HQ, I Corps and Fort Lewis, ATTN: AFZH-DPT-TIC, Fort Lewis, Washington 98433-5000, telephone (206) 967-6165.

SUPPLEMENTARY INFORMATION: Pursuant to the authority cited below, the Commanding General, Headquarters, I Corps and Fort Lewis, Fort Lewis, Washington on February 3, 1986 adopted entry regulations for the areas collectively known as the Range Complex on the Fort Lewis Military Reservation, Fort Lewis, Washington, entitled "Fort Lewis Land Use Policy" (FL Reg 350-33). Within the boundaries of the Fort Lewis Military Reservation are various parcels of land designated as Impact Areas, Close-In Training Areas, and Training Areas. These areas collectively compromise the Range Complex. The Range Complex is used extensively for military training essential to the combat readiness of the United States Army. The presence of unauthorized personnel is seriously disruptive of training activities, and presents a clear physical danger to soldiers and unauthorized personnel alike. Additionally there are conditions within certain areas of the Range Complex which could be hazardous to any unauthorized personnel who enter such areas. In order that training mission requirements be met, it is imperative that a revised system of controlled entry be adopted. Accordingly, these regulations limit entry upon the Range Complex of the Fort Lewis Military Reservation to authorized Department of Defense Personnel and those members of the public who have obtained prior consent pursuant to these regulations. The requirements of the training mission, its importance to the national defense, and the need for protection of members of the public who utilize the Fort Lewis Military Reservation for recreational purpose mandate the immediate and uninterrupted effectiveness of these regulations. Further, no proposed rule has been published for the reasons stated above.

For editorial and administrative purposes, the Army is also amending 32 CFR Part 552 for greater clarity and use. The old Part 552 is subdivided by undesignated center headings and the updated Part 552 will contain subpart designations.

Executive Order 12291

It has been determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is administrative and has no economic effect on the public.

Regulatory Flexibility Act

The Department has also determined that this document will not have a significant economic effect on a substantial number of small entities and does not require a flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 32 CFR Part 552

Military reservations, Consumer protection, Federal buildings and facilities, and Real property acquisition.

PART 552—[AMENDED]

Accordingly, 32 CFR Part 552 is amended as follows:

1. The Table of Contents is amended by removing all undesignated centerheadings,

2. The Table of Contents is further amended by designating § 552.16 as Subpart A, §§ 552.18–552.19 as Subpart B, § 552.25 as Subpart C, §§ 552.30–552.39 as Subpart D and §§ 552.50–552.83 as Subpart E,

3. The Table of Contents is further amended by adding entries for new Subpart F, and

4. By revising the authority citation for Part 552.

As amended, the Table of Contents and the authority citation for Part 552 read as follows:

PART 552—REGULATIONS AFFECTING MILITARY RESERVATIONS

Authority: 5 U.S.C. 301, 10 U.S.C. 3012, 15 U.S.C. 1601, 18 U.S.C. 1382, 31 U.S.C. 71, 40 U.S.C. 258a, 41 U.S.C. 14, 50 U.S.C. 797.

5. New Subpart F is added to Part 552 to read as follows:

Subpart F—Fort Lewis Land Use Policy

§ 552.84 Purpose.

(a) This regulation establishes procedures governing entry upon the Army training areas on Ft. Lewis, WA, designated in § 552.84(c) of this section.

(b) These procedures have been established to ensure proper use of these Army training areas. Uninterrupted military use is vital to maintain and improve the combat readiness of the US Armed Forces. In addition, conditions exist within these training areas which could be dangerous to any unauthorized persons who enter.

(c) This regulation governs all use of the Ft Lewis Military Reservation outside cantonment areas, housing areas, Gray Army Airfield, Madigan Army Medical Center, and recreational sites controlled by the Director of Personnel and Community Activities (DPCA). The areas governed are designated on the overprinted 1:50,000 Ft Lewis Special Map as Impact Areas, lettered Close-In Training Areas (CTAs), or numbered Training Areas (TAs), and are hereafter referred to as the range complex. A full sized map is located at the Ft Lewis Area Access Office, Bldg. T–6127.

§ 552.85 Applicability.

This regulation is applicable to all military and civilian users of the range complex.

§ 552.86 References.

(a) AR 405–70 (Utilization of Real Estate)
(b) AR 405–80 (Granting Use of Real Estate)
(c) AR 420–74 (Natural Resources—Land, Forest, and Wildlife Management)
(d) FL Reg 215–1 (Hunting, Fishing, and Trapping)
(e) FL Reg 350–30 (I Corps and Fort Lewis Range Regulations)
(f) DA Form 1594 (Daily Staff Journal or Duty Officer's Log)
(g) HFL Form 473 (Range, Facility, and Training Area Request)

§ 552.87 General.

(a) *Military training.* All use of the Ft Lewis range complex for military training is governed by FL Reg 350–30. Military training always has priority for use of the range complex.

(b) *Hunting.* Hunting, fishing, and trapping on Ft Lewis are governed by FL Reg 215–1.

(c) *Recreational use.* (1) All individuals or organizations, military or civilian, desiring access to the range complex for recreational purposes must apply for and possess a valid Ft Lewis area access permit except as outlined in § 552.87(c) of this section. Procedures are described in §§ 552.91 and 552.92.

(2) Authorized Department of Defense (DOD) patrons enroute to or using DPCA recreational areas (Appendix A) are not required to possess a permit. Travel to and from DPCA recreational use areas is restricted to the most direct route by paved or improved two lane roads, and direct trail access. Other travel in the range complex is governed by this regulation.

(3) Recreational use of CTAs without permit is authorized only for DOD personnel of Ft Lewis and their accompanied guests. Driving Privately Owned Vehicles (POV) in the CTAs is restricted to paved or improved gravel roads, except for direct trail access to DPCA recreational areas at Shannon Marsh and Wright's Lake. Other recreational activities authorized in the CTAs for DOD personnel without permit are walking, jogging and picnicking at established picnic sites.

(4) Organizations or groups whose authorized recreational activity is of such a nature as to require special advanced confirmed commitments from Ft Lewis for land, including Scout Camporees, seasonal or one-time regional meets, and so on, must apply to the Ft Lewis Area Access Section in writing. If the area is available, the request will be forwarded to the Director of Engineering and Housing (DEH) for lease processing. Not less than 180 days are required for processing of these special requests. Organizations or groups whose activity requires military equipment or other special support from Ft Lewis must also apply in writing. If a permit is granted, the special assistance request will be coordinated by the Public Affairs and Liaison Office (PALO). Sample request guide and mailing address are available for the Access Section.

(5) All other recreational uses require a permit in accordance with this regulation.

(d) *Commerical use.* Individuals or organizations using the range complex for profit-generating activities must possess a Real Estate Agreement. Requests for Real Estate Agreements must be directed to the Real Property Branch, DEH, IAW AR 405–80. Real Estate Agreements issued after publication of this regulation will require Real Estate Agreement holders to notify the Area Access Section of their entry onto, and departure from, the range complex. Profit generating activities include individuals or organizations that collect fees for services or that sell materials collected from the range complex. Proposed timber sales require prior coordination with the Director of Plans, Training and Mobilization (DPTM) to ensure that access can be granted for the appropriate areas and times.

(e) *Installation service and maintenance.* DOD personnel and contractual personnel on official business are authorized on the Ft Lewis Military Reservation range complex as provided in Appendix B. Access to hazard areas for such personnel is governed by FL Reg 350–30.

(f) *Non-DOD personnel in transit.* Individuals in transit along State or County maintained roads or roads designated for public access by the Installation Commander require no special permits. These routes are listed in Appendix B.

(g) *Trespassers.* Persons or organizations entering or using the Ft Lewis range complex outside one of the access channels described above are trespassing on a controlled-access federal reservation and are subject to citation by the military police. Trespassers may be barred from subsequent authorized access to the installation, and will be subject to the provisions of this section.

(h) *Failure to comply.* Any person who enters the range complex of the Ft Lewis Military Reservation without the consent of the Commanding Officer or his designated representative is in violation of the provisions of this regulation. Offenders may be subjected to administrative action or punishment under either the Uniform Code of Military Justice (UCMJ) or Title 18 U.S.C. 1382, of Title 50 U.S.C. 797, as appropriate to each individual's status. Administrative action may include suspension or loss of recreational privileges, or permanent expulsion from the Ft Lewis Military Reservation.

§ 552.88 Responsibilities.

(a) *DPTM.* Operate the Ft Lewis Area Access Section as a part of Range Control.

(b) *Law Enforcement Command.* Provide law enforcement and game warden patrols to respond to known or suspected trespassers or other criminal activity on the range complex.

(c) *DEH.* Coordinate with the Ft Lewis Area Access Section (thru DPTM) all Real Estate Agreements, timber sales, wildlife management, construction, and other DEH or Corps of Engineers managed actions occurring on the range complex. Ensure all Real Estate Agreements issued after publication of this regulation require Real Estate Agreement holders to notify the Area Access Section of their entry onto, and departure from, the range complex.

(d) *DPCA.* Manage the Installation Hunting, Fishing, and Trapping programs in conjunction with DEH Wildlife. Manage those picnic and recreation sites located in the range complex, as listed in Appendix A.

(e) *PALO.* Make initial public release of Ft Lewis Land Use Policy and area access procedures, and provide periodic updates through media. Act as interface, when necessary, to resolve community relations issues related to land use. Coordinate special assistance requests per § 552.86(b). Inform DPTM of public response to policy execution.

§ 552.89 Activities.

(a) Examples of authorized activities are listed in Appendix C.

(b) Activities listed in Appendix D are not authorized on Ft Lewis and no permit will be issued.

§ 552.90 Permit office.

DPTM Range Control operates the Ft Lewis Area Access Section in Bldg T–6126 to issue permits and grant non-training acess to the range complex. The office is open 0700–1900 hours, seven days a week, for permit processing and access control. At other hours, Range Operations wil take calls for access only.

§ 552.91 Individual permit procedures.

(a) Individuals desiring area access for authorized activities (see Appendix C) must register in person at the Ft Lewis Area Access Section, Bldg T–6127. Minimum age is 18 years, except for active duty military personnel. Individuals under 18 years of age must be sponsored and accompanied by a parent or legal guardian.

(b) Individual registration requires:

(1) Picture ID.

(2) Personal information including Social Security Number.

(3) Vehicle identification and license number, if a vehicle is to be brought on post.

(4) Names and ages of minor family members who will accompany a registered person.

(5) Liability release signature.

(6) Certification that intended activities are on the authorized list and are not for-profit commercial activities. Persons who submit false certificates are subject to prosecution in Federal Court Under 5 U.S.C. 1001, and the provisions of this section.

(c) A permit and a vehicle pass will be issued to each person authorized area access. The permit is not transferable. Entry to the range complex without the issued permit is forbidden.

(d) Individual write-in requests may be authorized for extraordinary circumstances.

§ 552.92 Group permit procedures.

(a) A collective permit will be issued to an organization desiring to conduct a group event. The group leader must register in person at the Ft Lewis Area Access Section, Bldg T–6127, and must be 21 years of age or older except for active duty military personnel.

(b) Group registration requires the information listed in § 552.91, except that a legible list of names of all persons in the group is required in lieu of the names and ages of minors.

(c) Group permits will be issued with the requirement that all members of the group will be with the leader throughout the event. If the group plans to separate while still on post, sub-group leaders must be appointed and must each obtain a permit as noted in this section. The group leader permit is not transferable.

(d) Other group write-in requests may be authorized for extraordinary circumstances.

§ 552.93 Permit deadline and duration.

(a) Permits will be issued 0700–1900 hours daily and may be obtained no earlier than six months prior to the event date. Permits for authorized activities may be requested and issued on the day of the event, but must be in hand prior to individual or group entry on to the range complex.

(b) Permits for one-time events are valid for the duration of the event. Otherwise, permits are valid for six months and are not renewable. When a permit expires, the holder must reapply as described in this section.

(c) Access hours are thirty minutes after daylight to thirty minutes before dark, except for authorized overnight activities and as outlined in FL Reg 215–1.

§ 552.94 Area access procedures.

(a) Holders of current permits desiring access must call the Ft Lewis Area Access Section on the date of entry at the telephone numbers listed on the permit and state the area to be entered, estimated time of entry, and estimated time of departure. This check-in may also be done in person at the Ft Lewis Area Access Section, Bldg T–6126. Procedures for permits and access for hunting and trapping are outlined on FL Reg 215–1.

(b) The Ft Lewis Area Access Section will determine whether the area is available and, if so, authorize entry. If the area is not open for permit holders, and an alternate area cannot be provided, access will be denied. All calls and actions will be recorded on DA Form 1594 (Daily Staff Journal or Duty Officer's Log).

(c) Permit holders must call or visit the Ft Lewis Area Access Section immediately after leaving the authorized area to obtain checkout clearance. If a checkout is not received within three hours after the estimated time of departure, the Ft Lewis Area Access Section will call the contact phone number in the permit holder's record and, if necessary, initiate a search through the Military Police Desk. Permit holders who fail to call out twice will be barred from area access for thirty days. A third failure to check out will result in suspension of the permit for the remainder of its normal duration or ninety days, whichever is longer.

(d) Failure to comply with the provisions of this paragraph shall subject all persons to the provisions of this section.

§ 552.95 Compatible use.

(a) Unit commanders may, during training area scheduling, request that no permit holders be allowed in their areas. Justification must be in the remarks column of HFL Form 473 (Range, Facility and Training Area Request). If this restriction is granted, the Ft Lewis Area Access Section will close the appropriate areas. In the absence of a trainer's request for closure, the following military activities are considered incompatible with non-training access and will, when scheduled, block affected areas:

(1) Live-fire training events with surface danger zones falling into training areas.

(2) Parachute and air assault operations.

(3) Field artillery firing. The numbered training area occupied by the weapons will be closed.

(4) Motorized infantry operations that will use the majority of the road net in a training area, traveling at higher than normal speeds.

(5) Training employing riot agents or smoke generating equipment.

(b) The Range Officer may close training areas based on multiple occupation by large units.

(c) Areas allocated to modern firearm deer hunting are closed to training and recreational activities. When State Fish and Game pheasant release sites can be isolated by swamps, streams, or roads from the rest of a training area, multiple occupancy is authorized.

§ 552.96 Violations.

Anyone observing violators of this or other regulations must report the activity, time, and location to the Ft Lewis Area Access Section or the Military Police as soon as possible.

§ 552.97 Communications.

The Ft Lewis Area Access Section communicates by telephone as noted on the permit. Tactical FM contact may be made through Range Operations.

Appendix A—DPCA Recreational Areas in Training Areas

1. DOD use only, permit not required:

Note.—Use is authorized only to military, retired military, DOD civilian personnel, their family members and accompanied guests.

Boat launch adjacent to Officer's Club Beach on American Lake/Beachwood area
Cat Lake Picnic and Fishing Area—Training Area 19
Chambers Lake Picnic and *Fishing Area—Training Area 12 (See para 2 below)
Ecology Park Hiking Path—North Fort, CTA A West
Fiander Lake Picnic and Fishing Area—Training Area 20
Johnson Marsh—Training Area 10
Lewis Lake Picnic and Fishing Area—Training Area 16
Miller Hill Trail Bike Area (DOD only)—Main Post
No Name Lake—Training Area 22
Sequalitchew Lake Picnic Area—Training Area 2
Shannon Marsh—CTA D
Skeet Trap Range—2d Division Range Road, CTA E
Solo Point Boat Launch—North Fort, CTA A West
Sportman's Range—East Gate Road, Range 15
Wright Marsh/Lake—CTA C
Vietnam Village Marsh—Training Area 9 and 10

2. Non-DOD use, permit required:

Chambers Lake, fishing only.

Appendix B—Non-Permit Access Routes

1. The following public easement routes may be used without permit or check-in:

I–5
Steilacoom-DuPont Road (EH 286156 to EH 302227).
Pacific Highway Southeast (EH 232119 to EH 250141).
Washington State Route 507 (EH 363061 to EH 429144).
Goodacre (unpaved) and Rice Kandle (paved) Roads (EH 386088 to EH 450074).
8th Avenue South (EH 424045 to EH 424126).
8th Avenue East (EH 440074 to EH 440126).
208th Avenue (EH 424126 to EH 432126).
Washington State Route 510 (EH 235063 to EH 247054 and EH 261046 to EH 273020).
Yelm Highway (EH 233056 to EH 239058).
Rainer Road Southeast (EG 167997 to EG 213941).
Military Road Southeast (EG 213941 to EG 215944).
Spurgeon Creek Road (EG 178986 to EG 179997).
Stedman Road (EG 153987 to EG 167995).

2. The following military routes may be used without permit or check-in:

Huggins Meyer Road (North Fort Road, EH 305202–EH 328213)
East Gate Road (C–5 Mock-up to 8th Ave South—EH 328213)
260th (EH 440074 to EH 457074)
Roy cut-off (Chambers Lake) Road (East Gate Road to Roy City Limits)
Lincoln Avenue (Madigan to EH 391179)

3. The Solo Point Road is open to Weyerhauser Corporation personnel for business and recreation.

4. DOD personnel and Ft Lewis contractor personnel on official business may use all DEH-maintained paved roads and two lane gravel roads in the training areas. The use of one lane gravel lanes, or any established road not identified above, must be coordinated with the Area Access Office prior to use except as specified in § 552.87(b)(2)

5. All range roads closed because of training activities will not be used until opened by the Range Officer. Such road closures will normally involve barricades and road guards. Barricades and road guards placed by direction of Range Control may not be by-passed.

Appendix C—Authorized Activities For Ft. Lewis Maneuver Area Access

Military Training (FL Reg 350–30)
DEH or Corps of Engineers Real Estate Agreement for commercial use (AR 405–80)
Installation service and maintenance (AR 420–74, FL Reg 350–30)
Non-DOD personnel in transit on public-access route only (Appendix B)
Non-Commercial recreational use:
- Hunting, fishing and trapping (FL Reg 215–1)
- Dog training (not allowed 1 April through 31 July in selected areas)
- Horseback riding on roads and vehicle tracks
- Walking, distance running
- Model airplane and rocket flying
- Model boating
- Orienteering
- Sport parachuting
- Organized rifle and pistol competition
- Service group camping and activities (Boy Scouts, etc.)
- Observation of wildlife and vegetation
- Non-Commercial picking of ferns, mushrooms, blackberries, apples and other miscellaneous vegetation
- Photography
- Hiking
- Historical Trails

Appendix D—Unauthorized Activities in Ft. Lewis Maneuver Areas

Civilian paramilitary activities and combat games.
Off-pavement motorcycle riding, except as noted in Appendix A Off-road vehicle operation.
Hang gliding.
Ultralight aircraft flying.
Hot air ballooning.
Souvenir hunting and metal-detecting, including recovery of ammunition residue of fragments, archaeological or cultural artifacts, or geological specimens.
Vehicle speed contests.
Wood cutting or brush picking, without DEH or Crops of Engineer permit.
Commercial activities conducted for profit that require a Real Estate Agreement or commercial permit per AR 405–80, including horseback riding rentals or guide service, and dog training for reimbursement.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 86–7462 Filed 4–4–86; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD 7-85-10]

Anchorage Grounds: Atlantic Ocean off the Port of Palm Beach, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing two designated offshore Anchorage Grounds near the entrance to the Port of Palm Beach, FL. These offshore areas adjacent to Lake Worth Inlet are used as anchorage areas for vessels awaiting berthing space at the Port of Palm Beach. This rulemaking is needed to provide defined anchorage areas to protect local environmentally sensitive reefs presently being subjected to damage by ships' anchors and chains.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant (j.g.) Harry D. Craig, (305) 350-5651.

SUPPLEMENTARY INFORMATION: On May 23, 1985 the Coast Guard published a notice of proposed rulemaking in the **Federal Register** for these regulations (50 FR 21310). Interested persons were requested to submit comments and six comments were received.

Drafting Information

The drafters of this notice are Lieutenant (j.g.) Harry D. Craig, project officer, Seventh Coast Guard District Port Safety Branch, and Lieutenant Commander Kenneth E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Comments

The majority of the comments received addressed potential conflicting usage for the proposed southern anchorage area. The Palm Beach County Health Department, the local administrator for the State's Artificial Reef Program, initially requested deletion of Anchorage B because of the suitability of this area for offshore artificial reefs. The constraints that limit placing artificial reef building materials in other areas of the county are "access to Lake Worth Inlet by large oceangoing vessels, creating reefs in locations which do not require long round trips and excessive expenditures, and prohibition from dumping material on existing productive natural and artificial reefs, submerged telephone cables, ocean outfall lines, or potential beach renourishment areas." Additional constraints require reef building materials be placed on hard substrate and a 50' clearance be maintained over the deposited material. Two tenants of the Port of Palm Beach requested the proposed southern anchorage area be retained because of projections for increased vessel traffic at their facilities in the future. The Palm Beach Bar Pilots' Association also recommended retaining the proposed southern anchorage area because of "easy access to Lake Worth Inlet, greater protection than the proposed northern anchorage, deeper water closer to the beach and a sand bottom not endangering any natural reef areas." The Coast Guard solicited comments from the Army Corps of Engineers and the Florida Department of Environmental Regulation on the proposed rule because of their role as administrators of the Artificial Reef Program. The Corps of Engineers expressed no objection to the establishment of the anchorage grounds from the standpoint of their Federal Navigation Project, Harbor Project, or the location of artificial reefs and disposal areas. The Florida Department of Environmental Regulation did not desire to make any comments other than those expressed by the local Palm Beach County Artificial Reef Program Administrator. On Nov. 27, 1985, the Port of Palm Beach submitted a revised proposal for the southern anchorage area after meeting with the Palm Beach Bar Pilots and representatives of the Palm Beach Artificial Reef Committee. The change moved the northern boundary of Anchorage B approximately one half mile south to preserve this area for artificial reef sites. This change was acceptable to interested parties and did not substantially reduce the total anchorage area available. The coordinates of Anchorage B were revised in the Final Rule to reflect this change. No request for a public hearing was received and one was not held.

This final action has been thoroughly reviewed by the Coast Guard and has been determined to be categorically excluded from further environmental documentation in accordance with paragraph 2-B-3 of Commandant Instruction M16475.1A.

This regulation is issued pursuant to 33 U.S.C. 471 as set out in the authority citation for all of Part 110.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule is expected to be so minimal that full regulatory evaluation is unnecessary. This regulation will provide defined anchorage areas for vessels awaiting berthing space at the Port of Palm Beach.

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

List of Subjects in 33 CFR Part 110

Anchorage grounds.

Final Regulations

In consideration of the foregoing, Part 110 of Title 33, Code of Federal Regulations, is amended as follows:

PART 110—[AMENDED]

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

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 110.185 is added to read as follows:

§ 110.185 Atlantic Ocean, off the Port of Palm Beach, FL.

(a) The anchorage grounds. (1) Anchorage A. The waters lying within an area bounded by a line beginning at latitude 26°50'00" N., longitude 80°01'12" W.; thence westerly to latitude 26°50'00" N., longitude 80°01'30" W.; thence southerly to latitude 26°47'30" N., longitude 80°01'30" W.; thence easterly to latitude 26°47'30" N., longitude 80°01'12" W.; and thence northerly to the point of beginning.

(2) Anchorage B. The waters lying within an area bounded by a line beginning at latitude 26°45'06" N., longitude 80°01'12" W.; thence westerly to latitude 26°45'06" N., longitude 80°01'42" W.; thence southerly to latitude 26°43'48" N., longitude 80°01'42" W.; thence easterly to latitude 26°43'48" N., longitude 80°01'12" W.; and thence northerly to the point of beginning.

(b) The regulations. (1) Vessels in the Atlantic Ocean near Lake Worth Inlet awaiting berthing space at the Port of Palm Beach, shall only anchor within the anchorage areas hereby defined and established, except in cases of great emergency.

(2) Vessels anchoring under circumstances of great emergency outside the anchorage areas shall be shifted to new positions within the anchorage areas immediately after the emergency ceases.

Date: March 11, 1986.

R.P. Cueroni,

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

[FR Doc. 86-7625 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Baltimore, MD Regulation 86-03]

Security Zone Regulations; Baltimore Harbor, Potomac River, and Chesapeake Bay

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a security zone in the Baltimore Harbor, Dundalk Marine Terminal, Baltimore, Maryland; Potomac River, Steuart Petroleum Pier, Piney Point, Maryland, and Chesapeake Bay, Thomas Point, Maryland. This security zone is needed to protect a military exercise. Entry into this zone is prohibited unless authorized by the Captain of the Port, Baltimore.

EFFECTIVE DATES: This regulation becomes effective at 8:00 am E.S.T. 05 April 1986. It terminates at 1:00 pm E.S.T. 10 April 1986, unless sooner terminated by the Captain of the Port Baltimore.

FOR FURTHER INFORMATION CONTACT: Lt. J. Hannon, USCG Marine Safety Office, Custom House, Baltimore, Maryland 21202 (301) 962-5105.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days from the date of this publication. Publishing a NPRM and delaying the effective date of this security zone would be contrary to the public interest since action is needed to safeguard a military exercise on the scheduled dates.

Drafting Information

The drafters of this regulation are LTJG K. C. Hricz, Assistant Project Officer for the Captain of the Port Baltimore, Maryland, and LCDR Frank E. Couper, Project Attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation will occur between 05 April 1986 and 10 April 1986. This security zone is necessary to protect the boating public from hazards associated with the military exercise and to minimize hazards to military personnel participating in the exercise.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A new § 165.TO503 is added to read as follows:

§ 165.TO503 Security Zone: Baltimore Harbor, Baltimore, Maryland; Potomac River, Piney Point, Maryland; and Chesapeake Bay, Thomas Point, Maryland.

(a) *Location.* The following area in the Baltimore Harbor is a security zone; A perimeter of 500 yards in every direction from Dundalk Marine Terminal, Baltimore, Maryland; Steuart Petroleum Pier, Piney Point, Maryland; and Thomas Point, Maryland.

(b) *Regulations.*

(1) In accordance with the general regulations in Section 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Baltimore.

Dated: March 21, 1986.

R. C. Pickup,

Captain, U.S. Coast Guard, Captain of the Port, Baltimore, Maryland.

[FR Doc. 86-7447 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-4-FRL-2998-1]

Air Pollution; Standards of Performance for New Stationary Sources; Tennessee; Delegation of Authority to Nashville/Davidson County

AGENCY: Environmental Protection Agency.

ACTION: Delegation of authority.

SUMMARY: On December 17, 1985, Nashville/Davidson County requested that EPA update and delegate authority for implementation and enforcement of the standards in 40 CFR Part 60 (Standards of Performance for Stationary Sources). Since EPA's review of pertinent Nashville/Davidson County laws, rules, and regulations showed them to be adequate for the implementation and enforcement of the federal standards, the Agency has made the delegation as requested.

EFFECTIVE DATE: The effective date of the delegation of authority to Nashville/Davidson County is February 20, 1986.

ADDRESSES: Copies of the request for delegation of authority and EPA's letters of delegation may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street, NE, Atlanta, Georgia 30365

Air Pollution Control Bureau, Metropolitan Health Department, 311-23rd Avenue, North, Nashville, Tennessee 37203.

FOR FURTHER INFORMATION CONTACT: Rosalyn Hughes of the EPA Region IV Air Programs Branch, at the above address and telephone (404) 347-3286 (FTS: 257-3286).

SUPPLEMENTARY INFORMATION: Sections 101 and 111(c)(1) of the Clean Air Act authorize EPA to delegate authority to implement and enforce the standards set out in 40 CFR Part 60, Standards of Performance for New Stationary Sources (NSPS).

On May 25, 1977, EPA initially delegated the authority for implementation and enforcement of the NSPS program to Nashville/Davidson County. On December 17, 1985, Nashville/Davidson County requested an update of its previous delegation of authority for Subparts D (Fossil-Fuel Fired Steam Generators for Which Construction is Commenced After August 17, 1971), G (Nitric Acid Plants), J (Petroleum Refineries), K (Storage Vessels for Petroleum Liquids Constructed After June 11, 1973, and Prior to May 19, 1978), M (Secondary Brass and Bronze Ingot Production Plants), N (Iron and Steel Plants), O (Sewage Treatment Plants), P (Primary Copper Smelters), S (Primary Aluminum Reduction Plants), T (Phosphate Fertilizer Industry: Wet Process Phosphate Acid Plants), U (Phosphate Fertilizer Industry: Superphosphoric Acid Plants), V (Phosphate Fertilizer Industry: Diammonium Phosphate Plants), W (Phosphate Fertilizer Industry: Triple Superphosphate Plants), and AA (Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974, and On or Before August 17, 1983).

Also on December 17, 1985, Nashville/Davidson County requested a delegation of authority for implementation and enforcement of the NSPS for Subparts

Da (Electric Utility Steam Generating Units for Which Construction is Commenced After September 18, 1978), Ka (Storage Vessels for Petroleum Liquids Constructed After May 18, 1978), AAa (Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983), BB (Kraft Pulp Mills), CC (Glass Manufacturing Plants), DD (Grain Elevators), EE (Surface Coating of Metal Furniture), GG (Stationary Gas Turbines), HH (Lime Manufacturing Plants), KK (Lead-Acid Battery Manufacturing Plants), LL (Metallic Mineral Processing Plants), MM (Automobile and Light-Duty Truck Surface Coating Operations), NN (Phosphate Rock Plants), PP (Ammonium Sulfate Manufacture), QQ (Graphic Arts Industry: Publication Rotogravure Printing), RR (Pressure Sensitive Tape and Label Surface Coating Operations), SS (Industrial Surface Coating: Large Appliances), TT (Metal Coil Surface Coating), UU (Asphalt Processing and Asphalt Roofing Manufacture), VV (Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), WW (Beverage Can Surface Coating Industry), XX (Bulk Gasoline Terminals), FFF (Flexible Vinyl and Urethane Coating Printing), GGG (Equipment Leaks of VOC in Petroleum Refineries), HHH (Synthetic Fiber Production Facilities), JJJ (Petroleum Dry Cleaners), KKK (Equipment Leaks of VOC from Onshore Natural Gas Processing Plants), OOO (Nonmetallic Mineral Processing Plants), and PPP (Wool Fiberglass Insulations Manufacturing Plants).

After a thorough review of the request the Regional Administrator determined that such a delegation was appropriate for these source categories with all the conditions (except condition 4, regarding enforcement on Federal facilities) set forth in the original delegation letter of May 25, 1977. Nashville/Davidson County sources subject to the requirements of Subparts Da, Ka, AAa, BB, CC, DD, EE, GG, HH, KK, LL, MM, NN, PP, QQ, RR, SS, TT, UU, VV, WW, XX, FFF, GGG, HHH, JJJ, KKK, OOO, and PPP of 40 CFR Part 60 will now be under the jurisdiction of Nashville/Davidson County.

Authority: Sec. 111(c) of the Clean Air Act as amended (42 U.S.C. 7411(c)).

Dated: March 24, 1986.

Sanford W. Harvey, Jr.,

Acting Regional Administrator.

[FR Doc. 86-7629 Filed 4-4-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42050A, (FRL-2975-2(a))]

Certain Chlorinated Benzenes; Final Test Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule promulgates EPA's decision to require manufacturers and processors of 1,2,3-trichlorobenzene (CAS No. 87-61-6) to conduct environmental effects testing and for manufacturers and processors of 1,2- and 1,4-dichlorobenzene (CAS Nos. 95-50-1, 106-46-7, respectively) to conduct chemical fate testing. Manufacturers and processors of 1,2,4-trichlorobenzene (CAS No. 120-82-1) are required to conduct both chemical fate and environmental effects testing. This action is necessary to comply with the designation of these substances by the Interagency Testing Committee for priority testing consideration under the Toxic Substance Control Act (TSCA).

DATES: In accordance with 40 CFR 23.4 (50 FR 7271; February 21, 1985), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on April 21, 1986. This rule shall become effective on May 21, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460. Toll free (800-424-9065). In Washington, DC: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is requiring chemical fate and environmental effects testing of certain chlorinated benzenes as designated in this final rule.

I. Introduction

This notice is part of the overall implementation of section 4 of the Toxic Substances Control Act (TSCA, Pub. L 94-469; 90 Stat. 2006 *et seq.*; 15 U.S.C. 2603 *et seq.*), which contains authority for EPA to require development of data relevant to the assessment of the risks to health and the environment posed by exposure to particular chemical substances or mixtures.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance to develop health or environmental data if the Administrator finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities in health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

For a more complete understanding of the statutory section 4 findings, the reader is directed to the Agency's first proposed test rule package [chloromethane and chlorinated benzenes, published in the **Federal Register** of July 18, 1980, (45 CFR 48510)] and to the second package [dichloromethane, nitrobenzene, and 1,1,1-trichloroethane, pulished in the **Federal Register** of June 5, 1981; (46 FR 30300)] for in-depth discussions of the general issues applicable to this action.

II. Background

A. Profile

EPA issued a proposed rulemaking, published in the **Federal Register** of January 13, 1984 (49 FR 1760) which proposed that certain chemical fate and environmental effects tests be conducted with monochlorobenzene, 1,2- and 1,4-dichlorobenzenes and 1,2,4- and 1,2,3-trichlorobenzenes.

The proposed rule, appearing in 40 CFR Part 799 as "§ 799.2900 Monochlorobenzene; 1,2-dichlorobenzene; 1,4-dichlorobenzene; 1,2,4-trichlorobenzene and 1,2,3-trichlorobenzene." is now recodified as "§ 799.1050 Chlorinated benzenes."

The principal uses of these chlorobenzenes are summarized in Table 1.

TABLE 1.—PRINCIPAL USES OF SPECIFIC CHLOROBENZENES [1]

Chlorinated benzene	CAS No.	Principal uses
Monochlorobenzene.	108-90-7	Intermediate in dye and herbicide manufacture; solvent in pesticide [1] and degreasing formulations.
1,2-Dichlorobenzene.	95-50-1	Production of 3,4-dichloroaniline; intermediate in manufacture of herebicides, dyes, polyethers, and epoxy resins; organic solvent.
1,4-Dichlorobenzene.	106-46-7	Space deodorants and moth-control.[1]
Trichlorobenzene:		
1,2,3-Trichlorobenzene.	87-61-6	Organic intermediates; solvents; dye carriers; transformer and dielectric fluids.
1,2,4-Trichlorobenzene.	120-82-1	Do.

[1] Use of chlorinated benzenes as pesticide products or as solvents in such pesticides is regulated under the Federal Insecticide Fungicide and Rodenticide Act and was not considered in this rulemaking.

The ranges of production in and/or import into the United States of these chlorinated benzenes are presented in Table 2.

TABLE 2.—UNITED STATES PRODUCTION AND/OR IMPORT OF CERTAIN CHLORINATED BENZENES

Chlorinated benzene	Production and/or import volume (lbs/year)[1]
Monochlorobenzene	195,000,000 to 284,000,000.
1,2-Dichlorobenzene	40,300,000 to 47,300,000.
1,4-Dichlorobenzene	62,300,000.
1,2,3-Trichlorobenzene	51,300 to 1[illegible]000.
1,2,4-Trichlorobenzene	2,750,000 to 8,070,000.

[1] Data were derived from information reported under the TSCA section 8(a) Preliminary Assessment Information Rule published on June 22, 1982 (47 FR 26992), the techniques for aggregating data described in 48 FR 27041 (June 13, 1983), and EPA communications with the chlorobenzene manufacturers and rounded off to three significant figures.

B. ITC Recommendations

Section 4(e) of TSCA established an Interagency Testing Committee (ITC) to recommend to EPA a list of chemicals to be considered for testing under section 4(a) of the Act.

The ITC designated the chlorinated benzenes for priority consideration in its Initial (mono- and dichlorinated benzenes), and Third (tri-, tetra-, and pentachlorinated benzenes) Reports, published in the **Federal Register** of October 12, 1977 (42 FR 55026) and October 30, 1978 (43 FR 50630), respectively. The ITC recommended that mono-, di-, tri-, tetra-, and pentachlorinated benzenes be considered for health and environmental effects testing. EPA's response to the ITC's health effects testing recommendations for these chlorinated benzenes was published in the **Federal Register** of July 18, 1980 (45 FR 48524).

The ITC's testing recommendations for mono- and dichlorinated benzenes were based on the reported large U.S. production volumes of these compounds. The ITC's Initial Report stated that the U.S. production of monochlorobenzene was over 300 million pounds/year. Production of 1,2- and 1,4-dichlorobenzene was estimated by the ITC at 50 million pounds each. In addition, the ITC was concerned that the manufacture of mono- and dichlorobenzene and their use alone and in products could present an environmental hazard, particularly in light of the high release rate of mono- and dichlorobenzene and their anticipated persistence in the environment.

The ITC's recommendations for tri-, tetra-, and pentachlorinated benzenes were based on reports of contamination of air, water, soil and food chains by chlorinated benzene compounds. The ITC cited several possible sources of contamination, which included the use of chlorinated benzenes as chemical intermediates, as solvents in the manufacture of dyes, as lubricants and pesticides, and as transformer oils. The ITC also speculated that a reduction in the use of polychlorinated biphenyls may result in increased use of trichlorobenzenes as transformer oils.

C. Proposed Rule

In the **Federal Register** of January 13, 1984 (49 FR 1760), EPA issued a proposed rule which would require chemical fate and environmental effects testing for various chlorinated benzenes.

1. *TSCA section 4(a)(1)(B).* EPA based its proposed testing of monochlorobenzene, 1,2- and 1,4-dichlorobenzene and 1,2,4-trichlorobenzene on the authority of section 4(a)(1)(B) of TSCA. EPA concluded that monochlorobenzene, 1,2- and 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene are produced in substantial quantities, and may enter the environment in substantial quantities. Furthermore, EPA concluded that there are insufficient data available to either reasonably determine or predict the results of this exposure in the areas of chemical fate and environmental effects and that testing is necessary to develop such data.

EPA reached these conclusions for the following reasons:

a. Available information indicates that the annual United States production and/or import volumes for monochlorobenzene, 1,2- and 1,4-dichlorobenzene and 1,2,4-trichlorobenzene are substantial (see Table 2).

b. Available information indicates that there are substantial amounts of monochlorobenzene, 1,2- and 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene released to the environment each year via manufacturing, processing and/or use activities. Environmental release estimates of chlorinated benzenes resulting from their manufacture are presented in Table 3.

TABLE 3—ANNUAL ENVIRONMENTAL RELEASE ESTIMATES DURING THE MANUFACTURE OF FOUR CHLORINATED BENZENES

Chlorinated benzene	Annual release estimate in pounds[1]
Monochlorobenzene	420,000–605,000
1,2-Dichlorobenzene	65,800
1,4-Dichlorobenzene	365,000–592,000
1,2,4-Trichlorobenzene	801–2,033

[1] (Aggregated environmental release estimates from TSCA section 8(a) Preliminary Assessment Information Rule 47 FR 26992 and rounded off to three significant figures.)

In addition, available data indicate that the uses of these chlorinated benzenes may result in substantial release of monochlorobenzene, 1,2- and 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene into the environment (see Table 4).

TABLE 4—ESTIMATED RELEASES OF CERTAIN CHLORINATED BENZENES TO THE ENVIRONMENT FROM USES [1]

Chlorinated benzene	Million pounds to air	Million pounds to water	Million pounds to land
Monochlorobenzene	2	70	
1,2-Dichlorobenzene	<0.1	9.1	<0.1
1,4-Dichlorobenzene	15.7	11.8	0.6
1,2,4-Trichlorobenzene		3.2	

[1] (Refs. 1 and 2.)

c. EPA concluded that there are insufficient data on the chemical fates and environmental effects of monochlorobenzene, 1,2- and 1,4-dichlorobenzene and 1,2,4-trichlorobenzene to reasonably determine or predict the results of their environmental releases, and that testing is necessary to develop such data.

2. *TSCA section 4(a)(1)(A).* EPA based its proposed testing of 1,2,3-trichlorobenzene on the authority of TSCA section 4(a)(1)(A), because EPA concluded that 1,2,3-trichlorobenzene may present an unreasonable risk of injury to organisms in the aquatic environment. EPA reached this conclusion for the following reasons:

a. Existing toxicity data indicate that among the mono-, di-, and trichlorobenzenes, 1,2,3-trichlorobenzene is the most toxic to aquatic organisms (Ref. 3). Toxicity measurements include reported 48-hour LC50's of 0.71 mg/L and 3.1 mg/L for rainbow trout and zebra danios, respectively, and a 24-hour daphnid LC50 of 0.35 mg/L (Ref. 3). In addition, chronic toxicity data on daphnids show significant effects at concentrations as low as 0.1 mg/L (Ref. 3).

b. Available information indicates that the manufacture and uses of 1,2,3-trichlorobenzene (dye carrier, organic solvent, intermediate and dielectric fluid) are the principal sources of its environmental release. Ware and West (1977) reported levels of 0.021 to 0.046 mg/L of 1,2,3-trichlorobenzene in municipal discharges (Ref. 5). Using these measured levels of 1,2,3-trichlorobenzene and its potential bioconcentration factor in fish of 1200–2600X (Ref. 4), the potential concentration of 1,2,3-trichlorobenzene in fish is in the range of 25 to 120 mg/L (measured levels in water X BCF's for rainbow trout = potential concentration of 1,2,3-trichlorobenzene in fish). Due to this potential bioconcentration of 1,2,3,-trichlorobenzene, and its reported LC_{50} of 0.71 ml/L for rainbow trout, the Agency has determined that 1,2,3-trichlorobenzene may present an unreasonable risk to aquatic organisms.

c. EPA concluded that there are insufficient data on the environmental effects of 1,2,3-trichlorobenzene to reasonably determine or predict the effects of its environmental release and that testing is necessary to develop such data.

On the basis of these findings, the Agency proposed the test requirements summarized in Table 5.

TABLE 5—PROPOSED TESTING REQUIREMENTS FOR MONO-, 1,2-DI-, 1,4-DI-, AND 1,2,4-TRI-CHLORINATED BENZENES

Chlorinated benzene	Proposed testing requirements
Monochlorobenzene	Chemical fate: Atmospheric oxidation via hydroxyl radical. Environmental effects: Seed germination, root elongation, and early seedling growth in terrestrial macrophytes.
1,2- and 1,4-Dichlorobenzene	Chemical fate: Atmospheric oxidation via hydroxyl radical; and soil adsorption coefficient. Environmental effects: Seed germination, root elongation, and early seedling growth in terrestrial macrophytes.
1,2,4-Trichlorobenzene	Chemical fate: Atmospheric oxidation via hydroxyl radical, soil adsorption coefficient. Environmental effects: Acute and chronic toxicity to mysid shrimp, acute toxicity to the aquatic macrophyte *Lemna gibba*, seed germination, root elongation, and early seedling growth in terrestrial macrophytes.
1,2,3-Trichlorobenzene	Environmental effects: 96-hour LC50 for fathead minnow; 96-hour EC50 for one species of *Gammarus*, acute toxicity to the aquatic macrophyte *Lemna gibba*, acute toxicity to mysid shrimp and silversides, chronic toxicity to mysid shrimp if mysid shrimp LC50 is <1 ppm.

For 1,3-dichlorobenzene, the Agency concluded that no further testing should be proposed at this time. Existing data for 1,3-dichlorobenzene adequately characterize its toxicity to aquatic organisms and available information provides no basis for believing that 1,3-dichlorobenzene may present an unreasonable risk to the terrestrial environment.

For 1,3,5-trichlorobenzene, the Agency concluded that no further testing should be proposed under either TSCA sections 4(a)(1) (A) or (B) at this time. That conclusion was based primarily on the fact that data submitted under TSCA section 8(a) indicate that 1,3,5-trichlorobenzene is not currently produced in the United States and that the primary uses of 1,3,5-trichlorobenzene, for which it is imported into the United States, are expected to result in low environmental releases and exposures. The anticipated low level of exposure and the limited data on the chemical fate and environmental effects of 1,3,5-trichlorobenzene do not support a finding that this compound may pose an unreasonable risk of injury to organisms in the aquatic or terrestrial environments.

For pentachlorobenzene, the Agency concluded that no additional testing should be proposed at this time. That conclusion was based on the fact that pentachlorobenzene is neither produced in nor imported into the United States at this time. The only former U.S. pentachlorobenzene manufacturer and/or importer notified EPA that it no longer manufactures and/or imports pentachlorobenzene.

With regard to the tetrachlorobenzenes, the Chlorobenzenes Proposed Rule (January 13, 1984, 49 FR 1760) also contained an Advance Notice of Proposed Rulemaking. In reviewing information related to the manufacture of the various chlorinated benzenes, the Agency determined that 1,2,4,5- and 1,2,3,5-tetrachlorobenzenes were neither produced in nor imported into the United States and therefore EPA initially decided not to propose environmental effects testing for these two chemicals. However, in September 1983, EPA was informed that a chlorinated benzene manufacturer in the United States had received and accepted an order for a mixture of tri- and tetrachlorinated benzenes to be used as a substitute for polychlorinated biphenyls (PCBs) in transformers. EPA believes that the use of tetrachlorobenzenes in transformers may result in environmental release and exposure similar to that demonstrated with PCBs. It was EPA's belief that an ANPR would be an appropriate mechanism to obtain information on the potential production, use, and environmental release of tetrachlorobenzenes as a PCB substitute.

III. Response to Public Comments

The only comments received by the Agency in response to the January 13, 1984, Chlorobenzenes Proposed Rule were from the Chlorobenzene Producers Association (CPA) (Ref. 6). The major issues identified during the comment period are discussed below in Unit III., A. through C.

A. Production, Usage, and Environmental Release

The Chlorobenzene Producers Association (CPA) submitted comments regarding EPA's estimates and consequent 4(a)(1)(B) findings that substantial quantites of monochlorobenzene (MCB), 1,2-dichlorobenzene (1,2-DCB), 1,4-dichlorobenzene (1,4-DCB), and 1,2,4-trichlorobenzene (1,2,4-TCB) are released to water, and smaller quantities of MCB, 1,2-DCB, and 1,4-DCB are released to air.

The CPA stated that the agency's proposed rule is based on outdated information that does not reflect current usage and releases of the chlorobenzenes and used MCB as an example. They stated that EPA has relied principally on a materials balance report from 1979 (Ref. 1), and not the more current data by Hull and Company (Refs. 8 and 9) submitted by the CPA.

Aside from these general claims, the CPA discussed briefly the uses and possible releases of only MCB.

EPA's review of the industry comments and the existing data, however, indicates that the Agency did consider the Hull survey and that the production and release levels of

monochlorobenzene are most likely similar to those stated by the Agency in the proposed rule (Ref. 7). Further, the CPA has not submitted any technical arguments or new data that reduces our concerns regarding the other chlorinated benzenes and the Agency sees no reason to question its original conclusions regarding the uses and releases of these compounds.

Data still indicate that monochlorobenzene is present in the environment. In the proposed rule the Agency stated that in a ranking of organic chemicals by frequency of reported detectable levels in finished (treated) surface drinking water (SRI, NOMS, and NORS data bases), the frequencies of 1,4-dichlorobenzene and 1,3,4-trichlorobenzene in surface water were 12.5 percent and 11.5 percent, respectively. In groundwater, 1,4,-dichlorobenzene was found to occur in 12.95 percent of all samples, and monochlorobenzene occurred in 7.1 percent of the samples (Ref. 11).

Since the publication of the proposed rule, the Agency had identified data that indicate monochlorobenzene has been detected in sediments of the Buffalo and Niagara Rivers of New York at a level of 30.97 mg/kg dry weight (Ref. 12).

B. Photodegradation and Soil Adsorption

The CPA commented that EPA is proposing studies of atmospheric oxidation by hydroxyl radical for MCB, 1,2-dichlorobenzene (1,2-DCB), 1,4-dichlorobenzene (1,4-DCB), and 1,2,4-trichlorobenzene (1,2,4-TCB). Data from Monsanto studies on MCB were submitted to EPA in 1983 (Ref. 13), under TSCA section 8(d). The atmospheric oxidation half-life for MCB was found to be less than 8 days. Based upon limited data with chlorinated alkanes, the CPA anticipates that hydroxyl radical oxidation rates would decrease as chlorination increases.

The CPA concludes that it is unnecessary to require testing of both DCB's and 1,2,4-TCB. They state that the hydroxyl radical oxidation rates of these chlorinated benzenes could be adequately characterized if 1,2,4-TCB were studied and if the results of MBC and TCB are used to estimate the rates for the DCB's.

The EPA acknowledges the monochlorobenzene atmospheric oxidation data submitted by Monsanto and the Agency has also identified atmospheric oxidation data (Refs. 16 and 17) for 1,2- and 1,4-dichlorobenzene and 1,2,4-trichlorobenzene. Therefore, the Agency is not requiring any testing for atmospheric oxidation via the hydroxyl radical for any of the chlorobenzenes in this final rule.

The CPA also notes that the Agency has proposed soil adsorption testing (Ref. 10) for DCB's and 1,2,4-TCB. The CPA comments that the support document presents reasonable evidence that soil partition coefficients can be adequately predicted from aqueous solubility. In addition, measured soil partition coefficients for 1,2-dichlorobenzene have been reported and do agree with the calculated value (Ref. 14). Predicted soil partition coefficients are comparatively low 1×10^2 to 7×10^3), which indicates that chlorobenzenes do not partition strongly to soil. Therefore, the CPA concluded that EPA's proposed soil absorption testing is not scientifically justified for these materials.

The CPA maintains that the soil adsorption coefficients (K_{oc}) and rates of atmospheric oxidation for some of the CB's can be estimated from experimental data that already exist for other chlorinated benzene congeners. Although the experimentally determined value of K_{oc} for 1,4-dichlorobenzene is in good agreement with the estimated value, this does not necessarily mean that the values for higher congeners will be within acceptable limits (a factor of 10) of experimental values. In fact, properties like K_{oc} become more difficult to predict as more substituents are added to the base molecule. Thus, for higher members in a series, estimated values may deviate from experimentally determined values by factors of 100 or greater. Such deviations are considered too great for conducting risk assessments, particularly for compounds such as 1,2,4-trichlorobenzene which appears to be one of the more toxic chlorinated benzenes.

In conclusion, EPA believes that testing is justified on the basis of lack of experimental data on the K_{oc}. The Agency also sees the need for soil absorption coefficient testing for monochlorobenzene but neglected to propose these studies. Therefore, EPA will perform this testing.

C. Aquatic Toxicity Testing

The CPA notes that EPA has proposed acute and chronic toxicity testing for mysid shrimp with 1,2,4- and 1,2,3-TCB and acute toxicity testing of 1,2,3-TCB for fathead minnows, silversides, and *Gammarus*.

The CPA has stated that much of the testing on 1,2,3-trichlorobenzene is not justified. No comments were submitted on the proposed testing for the remaining mono-, di-, and trichlorobenzenes.

1. The CPA comments that because of the low production volume and only moderate acute toxicity to fish, algae and invertebrates, chronic toxicity testing of 1,2,3-TCB is not justified. They state that existing fish and *Daphnia* data cited by EPA should be sufficient to characterize the effects of 1,2,3-TCB (Ref. 6). They note that acute toxicity testing with mysid shrimp may be appropriate. However, CPA comments that as long as both acute and chronic testing is done with 1,2,4-TCB on mysid shrimp, there is no need to perform both acute and chronic testing with 1,2,3-TCB on mysids. Acute testing alone would be adequate to establish their relative toxicities. They state that a chronic toxicity estimate for 1,2,3-TCB can be obtained by applying the acute toxicity ratio to the 1,2,4-TCB chronic end point. If these data indicate comparable or lower toxicity of TCB's to mysid shrimp than to *Daphnia*, chronic testing with mysid should not be required. Unless widespread TCB levels in nature approached the LC50 level for *Daphnia* (0.35 mg/L), adjusted to allow a safety factor, then chronic testing would not be justified.

The testing for 1,2,3-trichlorobenzene was proposed under section 4(a)(1)(A) of TSCA, based on potential unreasonable risk, and not significant environmental release. The CPA has not submitted any new data that would dissuade this concern. The Agency notes that 1,2,3-TCB is the most toxic of the mono-, di-, and trichlorinated benzenes, with LC/EC50 values below 1 mg/L for fish, aquatic invertebrates, and algae. The Agency does not consider such values as only "moderate acute toxicity".

EPA disagrees that acute data on 1,2,3-TCB are sufficient for comparing toxicity with 1,2,4-TCB, even with chronic toxicity data on the latter. Data presented by Calamari et al. (Ref. 3), show that relative toxicity of the various chlorobenzenes is inconsistent to the extent that estimating chronic toxicity for the most toxic of the mono-, di-, and trichlorinated benzenes from acute toxicity of a less toxic isomer is inappropriate. In conducting 48-hour static bioassays of a number of the chlorobenzenes using rainbow trout and zebra fish, Calamari reported that the amount of chemical required to elicit an LD50 response decreased with increasing chlorine substitution (from mono- to trichlorobenzene). 1,2,3-TCB was the most toxic of the compounds tested, with more than twice the amount of 1,2,4-TCB required to produce the same effect.

In addition, since 1,2,3-TCB appears to be the most toxic of these chlorobenzenes based on existing acute toxicity data, it is particularly relevant to have chronic toxicity data on this isomer. It should be further noted that chronic toxicity testing with 1,2,3-TCB on mysid shrimp is only required if the acute toxicity to mysids is less than 1 mg/L.

2. The CPA comments that the acute toxicity testing of 1,2,3-TCB in *Gammarus* appears scientifically inappropriate. The CPA states that there are apparently few, if any, chlorobenzene studies reported for this species. Therefore, the test results with *Gammarus* would not be as useful in making comparisons among the chlorobenzenes as test results with other species. They add that acute tests with *Daphnia* or midge and Sheepshead minnow would be more appropriate. Such test results could then be compared with results from other chlorobenzenes.

EPA considers that testing *Gammarus* with 1,2,3-TCB is quite appropriate. The purpose of such testing is not to compare toxicity of the various chlorobenzenes, but rather to develop a sound basis for evaluating the hazard and risk of this chemical. When the aquatic LC50 of a chemical is less than 1 mg/L, then a search for other sensitive species is warranted. Additional testing with *Gammarus* will ascertain if the high sensitivity of daphnids (0.35 mg/L, (Ref. 15) is unusual or if it is comparable with other freshwater invertebrates.

The Agency proposed testing of both 1,2,3-TCB and 1,2,4-TCB on the aquatic macrophyte *Lemna gibba*. EPA believes that information concerning macrophytes is useful and, through a testing program conducted by EPA, will develop data to determine comparative toxicological profiles between the aquatic macrophyte *Lemna gibba* and the aquatic algae *Selenastrum capricornutum*, for which the Agency already has toxicity data concerning 1,2,3-TCB and 1,2,4-TCB.

The Agency also is not requiring the seed germination, root elongation and early seedling growth testing in terrestrial macrophytes. Although these tests were included in the proposed rule for MCB, 1,2-DCB, 1,4-DCB and 1,2,4-TCB, after reevaluating the release patterns, the Agency does not believe there will be widespread exposure to terrestrial plants from soils contaminated with the chlorinated benzenes.

IV. Final Test Rule for Monochlorobenzene, 1,2- and 1,4-Dichlorobenzene, 1,2,3- and 1,2,4-Trichlorobenzene

A. Findings

1. *TSCA section 4(a)(1)(B).* The EPA is basing the testing of monochlorobenzene, 1,2- and 1,4-dichlorobenzene and 1,2,4-trichlorobenzene on the authority of section 4(a)(1)(B) of TSCA. EPA has concluded that these chemicals are produced in substantial quantities, and may enter the environment in substantial quantities. Furthermore, EPA has concluded that there are insufficient data available to either reasonably determine or predict the results of these exposures in the areas of chemical fate and environmental effects and that testing is necessary to develop such data.

EPA has reached these conclusions for the following reasons:

a. Available information indicates that the annual United States production and/or import volumes for monochlorobenzene, 1,2- and 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene are substantial (see Table 2).

b. Available information indicates that there are substantial amounts of monochlorobenzene, 1,2- and 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene released to the environment each year via manufacturing, processing and/or use activities (see Tables 3 and 4).

c. The EPA had concluded that there are insufficient data on the chemical fates and environmental effects of monochlorobenzene, 1,2- and 1,4-dichlorobenzene, and 1,2,4-trichlorobenzene to reasonably determine or predict the results of their environmental releases, and that testing is necessary to develop such data.

2. *TSCA section 4(a)(1)(A).* The EPA is basing the testing of 1,2,3-trichlorobenzene on the authority of TSCA section 4(a)(1)(A), because EPA has concluded that 1,2,3-trichlorobenzene may present an unreasonable risk of injury to organisms in the aquatic environment. EPA has reached this conclusion for the following reasons:

a. Existing toxicity data indicate that among the mono-, di-, and trichlorobenzene, 1,2,3-trichlorobenzene is the chlorinated benzene most toxic to aquatic organisms (Ref. 3).

b. Available information indicates that the manufacture and uses of 1,2,3-trichlorobenzene are the principal sources of its environmental release. Ware and West reported levels of 0.021 to 0.046 mg/L of 1,2,3-trichlorobenzene in municipal discharges (Ref. 5). Considering these measured levels, of 0.021 to 0.046 mg/L, an estimated 10 to 100 fold dilution by a receiving stream (Ref. 7), and 1,2,3-trichlorobenzene's reported bioconcentration factor in fish of 1,200–2,600X (Ref. 4), the potential concentration in fish is in the range of 0.25 mg/kg to 12.0 mg/kg (measured levels in municipal discharges X estimated dilution factors X BCF's for rainbow trout=potential concentration of 1,2,3-TCB in fish). Due to this potential bioconcentration of 1,2,3-trichlorobenzene, and its reported LC50 of 0.71 ml/L for rainbow trout, the Agency has determined that 1,2,3-trichlorobenzene may present an unreasonble risk to aquatic organisms.

c. EPA has concluded that there are insufficient data on the environmental effects of 1,2,3-trichlorobenzene to reasonably determine or predict the result of its environmental release and that testing is necessary to develop such data.

B. Required Testing

On the basis of these findings, the Agency is requiring the testing summarized in Table 9 to be conducted in order to determine the chemical fate and/or environmental effects of 1,2- and 1,4-dichlorobenzene, 1,2,4-trichlorobenzene and 1,2,3-trichlorobenzene.

C. Test Substances

EPA is requiring that chlorinated benzenes of 99 percent purity, available commercially, be used as the test substances for the chemical fate and environmental effects testing. This stipulation increases the likelihood that any toxic effects observed are related to the chlorinated benzenes and not to any impurities.

D. Person Required to Test

Section 4(b)(3)(B) of TSCA specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures giving rise to the potential risk occur during use, distribution, or disposal.

EPA has found that (1) mono-, 1,2, di-, 1,4 di-, and 1,2,4-trichlorinated benzene

are produced in substantial quantities and that their manufacture, processing, and use are likely to result in significant or substantial exposure to the environment, and that there are insufficient data and experience regarding these activities to reasonably predict the effects on the environment, (2) for 1,2,3-trichlorobenzene, manufacture, processing and use may lead to unreasonable risks to organisms in the aquatic environment and that there are insufficient data and experience upon which the effects of the manufacture, processing and use of 1,2,3-TCB on the environment can reasonably be determined or predicted.

TABLE 6—TESTING REQUIREMENTS FOR MONO-, 1,2,DI, 1,4-DI- AND 1,2,4-TRICHLORINATED BENZENES

Chlorinated benzene	EPA proposal	Final testing requirements
Monochlorobenzene	Chemical fate: Atmospheric oxidation via hydroxyl radical. Environmental effects: seed germination, root elongation and early seedling growth in terrestrial macrophytes.	No industry testing required. (1) Atmospheric oxidation testing eliminated.[1] (2) Soil adsorption coefficient test added.[2] (3) Environmental effects testing eliminated.[3]
1,2- and 1,4-Dichlorobenzene	Chemical fate: Atmospheric oxidation via hydroxyl radical and soil adsorption coefficient. Environmental effects: seed germination, root elongation and early seedling growth in terrestrial macrophytes.	As proposed, with exceptions: (1) Atmospheric oxidation testing eliminated.[1] (2) Environmental effects testing eliminated.[3]
1,2,4-Trichlorobenzene	Chemical fate: Atmospheric oxidation via hydroxyl radical, and soil adsorption coefficient. Environmental effects: Acute and chronic toxicity to mysid shrimp (*Mysidopis bahia*); acute toxicity to the aquatic macrophyte *Lemna gibba*; seed germination, root elongation and early seedling growth in terrestrial macrophytes.	As proposed, with exceptions: (1) Atmospheric oxidation testing eliminated.[1] (2) *Lemna gibba* eliminated.[4] (3) Terrestrial macrophyte testing eliminated.[3]
1,2,3-Trichlorobenzene	Environmental effects: 96-hour LC50 for fathead minnow (*Pimephales promelas*); 96-hour EC50 for one species of *Gammarus*; acute toxicity to the aquatic macrophyte *Lemna gibba*; acute toxicity to mysid shrimp (*Mysidopis bahia*) and silversides (*Menidia mendia*); chronic toxicity to mysid shrimp (*Mysidopis bahia*) if LC50 is <1 ppm.	As proposed, with exception: (1) *Lemna gibba* eliminated.[4]
1,3-Dichlorobenzene		No testing required.
1,3,5-Trichlorobenzene		No testing required.
Pentachlorobenzene		No testing required.
Tetrachlorobenzenes		To be addressed in a forthcoming notice.

[1] Atmospheric oxidation data received by EPA satisfy this requirement.
[2] This testing was not proposed by the Agency; will be conducted by EPA.
[3] Agency does not believe there is widespread exposure to terrestrial plants.
[4] Federal testing will be conducted.

Thus, EPA is requiring that persons who manufacture or process, or who intend to manufacture or process these chemicals, at any time from the effective date of this test rule to the end of the reimbursement period, be subject to the rule. The end of the reimbursement period will be 5 years after the mysid shrimp chronic toxicity test final report is submitted. As discussed in the Agency's test rule and exemption procedures (40 CFR Part 790), EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

EPA is, however, exempting from these testing requirements those manufacturers and processors which produce and process chlorinated benzenes only as an impurity. "Impurity" is defined in 40 CFR 790.3 to mean "a chemical substance which is unintentionally present with another chemical substance." The Agency is exempting those manufacturers and processors because the EPA's findings under section 4(a)(1) (A) and (B) are based on exposures to chlorinated benzenes which are a result of intentional processing, distribution in commerce and use, and which represent a potential unreasonable risk. The Agency would find it difficult to apply both the exemption and reimbursement processes to those who manufacture and/or process chlorinated benzenes solely as an impurity. In fact, the Agency's reimbursement regulations issued pursuant to section 4(c) state that those who manufacture or process chemical substances as impurities will not be subject to test requirements unless the rule specifically states otherwise (40 CFR 791.48(b)).

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to a test rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement. The Agency anticipates that the current manufacturers of chlorinated benzenes will form a reimbursement pool and sponsor the testing required. Manufacturers and processors who are subject to the testing requirements of this rule must comply with the test rule and exemption procedures in 40 CFR Part 790. EPA is not requiring the submission of equivalence data as a condition for exemption from the required testing. As noted in Unit IV. B, EPA is interested in evaluating the effects attributable to the chlorinated benzenes themselves and has specified relatively pure substances for testing.

E. Test Rule Development and Exemptions

Elsewhere in this issue of the **Federal Register**, the Agency is proposing that certain TSCA test guidelines be utilized as test standards for the development of data under this rule for chlorinated benzenes. As discussed in that notice and in previous notices (50 FR 20652), EPA has reviewed the method for development of test rules and has decided that for most section 4 rulemakings, the Agency will utilize single-phase rulemaking. In light of this decision, EPA has reevaluated the process for developing test standards for section 4 rulemakings initiated under a two-phase process and has determined that for certain of these two-phase rules, TSCA test guidelines are available for promulgation as relevant test standards. EPA has decided that where TSCA or other appropriate test guidelines are available, the Agency in most cases will

propose the relevant guidelines as the test standards for those rules.

EPA believes that, in line with its commitment to expedite the section 4 rulemaking process, it is appropriate to propose the applicable TSCA test guidelines as test standards at the same time a Phase I final test rule is issued. With regard to the rulemaking for chlorinated benzenes, TSCA test guidelines are available for all the testing requirements included in this Phase I final rule. Thus, in the accompanying notice, the Agency is proposing these TSCA test guidelines as test standards.

The public, including the manufacturers and processors subject to the Phase I rule, will have an opportunity to comment on the use of the TSCA test guidelines. The Agency will review the submitted comments and will modify the TSCA guidelines, where appropriate, when the test standards are promulgated.

During the development of a test rule under the two-phase process, persons subject to the Phase I final rule are normally required to submit proposed study plans within 90 days after the effective date of the Phase I rulemaking (40 CFR 790.30(a)(2)). However, because EPA is proposing applicable TSCA test guidelines as the test standards for the studies required by this Phase I final rule, persons subject to the rule, i.e., manufacturers and processors of chlorinated benzenes, are not required to submit proposed study plans for the required testing at this time. Persons subject to this rule, however, are still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25. Once the test standards are promulgated, persons who have notified EPA of their intent to test must submit study plans which adhere to the promulgated test standards, no later than 30 days befoe the initiation of each required test.

Processors of chlorinated benzenes subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent, exemption applications or study plans (before testing is initiated) unless manufacturers fail to sponsor the required tests. The basis for this decision is that manufacturers are expected to pass an appropriate portion of the testing costs on to processors through the pricing of products containing chlorinated benzenes.

EPA's final regulations for the issuance of exemptions from testing requirements are in 40 CFR Part 790. In accordance with those regulations, any manufacturer or processor subject to this Phase I test rule may submit an application to EPA for an exemption from conducting any or all of the tests required under this rule. If manufacturers perform all the required testing, processors will be granted exemptions automatically without having to file applications.

Because persons subject to this rule for chlorinated benzenes are not required to submit proposed study plans for approval, EPA will grant conditional exemptions under this rule. These exemptions will be granted following EPA's receipt of a letter of intent to conduct the required tests rather than after receipt and approval of a study plan. Notice of EPA's adoption of the proposed test standards and deadlines will be announced in a final Phase II test rule.

In an accompanying document published elsewhere in this issue of the Federal Register, EPA is proposing deadlines for the submission of test data. Such deadlines are required under section 4(b)(1)(C) of TSCA. These proposed data submission deadlines are open for public comment and may be modified, where appropriate, when the final Phase II test rule is promulgated.

F. Reporting Requirements

EPA is requiring that all data developed under this rule be reported in accordance with the TSCA Good Laboratory Practice (GLP) standards which apper at 40 CFR Part 792.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing these deadlines elsewhere in this issue of the Federal Register.

TSCA section 12(b) requires that persons who export or intend to export to a foreign country any chlorinated benzenes subject to the testing requirements of this rule notify EPA of such exportation or intent to export. While the results of required testing may not be available for some time, a notice to the foreign government that these exported substances are subject to test rules serves to alert them to the Agency's concern about the substances. It gives these governments the opportunity to request such data that the Agency may currently possess plus whatever data may become available as a result of testing activities. Thus, upon the effective date of this rule, persons who export or intend to export any of the chlorinated benzenes subject to this rule must submit notices to the Agency pursuant to TSCA section 12(b)(1) and 40 CFR Part 707. For additional information, see the Federal Register of November 19, 1984 (49 FR 45581).

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will announce the receipt within 15 days in the Federal Register as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

G. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records, (2) submit reports, notices; or other information, or (3) permit access to or copying of records required by the Act or any regulation issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce. . . ." The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits/inspections will be conducted periodically in accordance with the procedures outlined in TSCA section 11 by designated representatives of the EPA for the purpose of determining compliance with the final rule for chlorinated benzenes. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to the TSCA GLP standards and the test standards proposed rule of this rulemaking.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data.

These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under testing rules

are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they had never submitted their data. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation with each day of operation in violation constituting a separate violation. This provision would be applicable to manufacturers or processors who will fail to submit a letter of intent or an exemption request and who continue manufacturing or processing after the deadlines for such submissions. International violations could lead to the imposition of criminal penalties of up to $25,000 for each day of violation and imprisonment of up to 1 year. In determining the amount of penalty, EPA will take into account the seriousness of the violation and the degree of culpability of the violator as well as the other factors listed in section 16. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA.

EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular, this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Economic Analysis of Final Rule

To assess the potential economic impact of this rule, EPA has prepared an economic analysis (Ref. 2) that evaluates the potential for significant economic impacts on the industry as a result of the required testing. The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these test costs by examining four market characteristics of these chlorinated benzenes: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations. If these indications are negative, no further economic analysis will be performed; however, if the first level of analysis indicates a potential for significant economic impact, a more comprehensive and detailed analysis is conducted which more precisely predicts the magnitude and distribution of the expected impact.

Total testing costs for the final rule for the dichlorobenzenes are estimated to range from $4,742 to $6,410 and for the trichlorobenzenes are estimated to range from $24,437 to $32,339. The annualized test costs (using a cost of capital of 25 percent over a period of 15 years) range from $1,242 to $1,660 for the dichlorobenzenes and from $6,330 to $8,380 for the trichlorobenzenes. Based on the 1984 estimated production volumes of 134.3 million pounds for dichlorobenzenes and 17.05 million pounds for trichlorobenzenes, the unit costs range from 0.001 to 0.012 cents per pound for the dichlorobenzenes, and 0.04 to 0.05 cents per pound (adjusted for upstream testing costs) for the trichlorobenzenes. These costs, relative to 1985 selling prices, are 0.0025 to 0.0033 percent for dichlorobenzenes. For the trichlorobenzenes, these costs represent 0.07 to 0.08 percent of price.

Based on these costs and the uses of these chlorinated benzenes, the economic analysis indicates that the potential for significant adverse economic impact as a result of this test rule is extremely low. This conclusion is based on the following observations:

1. The annual unit cost of the testing required in this rule is extremely low; and

2. Since chlorobenzenes are primarily used as intermediates, these test cost will contribute a very small part of the total cost of the final products.

Refer to the economic analysis (Ref. 2) for a complete discussion of test cost estimation and the potential for economic impact resulting from these costs.

VI. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by section 4 test rules. Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," October, 1981, can be obtained through the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161 (PB 82-140773).

On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this test rule.

VII. Public Record

EPA has established a record for this rulemaking (docket number OPTS-42050A). This record includes the basic information the Agency considered in developing this rule, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

This record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notices pertaining to this rule consisting of:

(a) Notice of chemical fate and environmental effects final rule on chlorinated benzenes.

(b) Notice of proposed rule on chlorinated benzenes (January 13, 1984, 49 FR 1760).

(c) Notices containing the ITC designation of chlorinated benzenes to the Priority list, October 12, 1977 (42 FR 55026) and October 30, 1978 (43 FR 50630).

(d) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (November 29, 1983, 48 FR 53922).

(e) Notice of final rule on test rule development and exemption procedures (October 10, 1984, 49 FR 39774).

(f) Interim final rule for Test Rule Development and Exemption Procedures (May 17, 1985, 50 FR 20652).

(g) Notice of final rule concerning data reimbursement (July 11, 1983, 48 FR 31786).

(2) Support documents consisting of:

(a) Chlorinated benzenes technical support document for proposed test rule.

(b) Economic impact analysis of final test rule for chlorinated benzenes.

(3) Communications consisting of:

(a) Written public comments.

(b) Summaries of telephone conversations.

(c) Meeting summaries including transcript of public meeting on proposed test rule.

(d) Reports—published and unpublished factual materials, including contractors' reports.

B. References

(1) Johnston, P., Hodge, V., and Slimak, K. Materials Balance- Task #4- Chlorobenzenes. Prepared by J.R.B. Associates, Inc., for Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency. Report 560/13-80-001. (December 31, 1979).

(2) Mathtech, Inc. Draft Report Level I Economic Evaluation Chlorobenzenes. Prepared for Economics and Technology Division, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Contract No. 68–01–6630. (1983).

(3) Calamari, D., Galassi, S., Setti, F., and Vighi, M. "Toxicity of selected chlorobenzenes to aquatic organisms." *Chemosphere* 12(2):253–262. (1983).

(4) Oliver, B.G., and Niimi, A. "Bioconcentration of chlorobenzenes from water by rainbow trout: Correlations with partition coefficients and environmental residues." *Environmental Science Technology* 17(5):287–291. (1983).

(5) Ware, S.A., and West, W.L. "Investigation of selected potential environmental contaminants: halogenated benzenes." Report 560/2–77–004. U.S. Environmental Protection Agency, Office of Toxic Substances. (1977).

(6) Cleary, Gottlieb, Steen and Hamilton. Comments Filed by the Chlorobenzene Producers Association in Response to the Mono-, Di-, Trichlorinated Benzenes Proposed Environmental Effects Test Rule (January 13, 1984). (March 13, 1984).

(7) USEPA. Memorandum from Dave Price to the file. Chlorobenzene Producers Association comments on production and usage of chlorinated benzenes. (December 12, 1985).

(8) Hull and Company. "Employee exposure to chlorobenzene products." (February, 1980).

(9) Hull and Company. "Investigation of National Hazard Survey (NOHS) survey procedures as they affect exployee exposure reported for mono- and di-chlorobenzene." (April 14, 1980).

(10) USEPA. "Assessment of environmental testing needs: Mono-, di-, tri-, tetra, and penta- chlorinated benzenes." Technical Support Document. (January 13, 1984).

(11) Coniglio, W.A., Miller, K. and MacKeever, D. "The occurrence of volatile organics in drinking water." Briefing Document. Criteria and Standards Division. USEPA, Washington, DC. (1980).

(12) USEPA. 1981 Buffalo, New York Area Sediments Survey. EPA 905/3–84–001. (April 1984).

(3) Monsanto. Atmospheric photochemistry of monochlorobenzene: Reaction with hydroxyl radical." Report ES–80–SS–40. (Submitted January 18, 1983).

(14) Chion, C.T., Peters, L.J., and Freed, V.H. "A physical concept of soil water equilibria for nonionic organic compounds." *Science* 206: 331–332. (1979).

(15) Gilford, J. Memoranda from J. Gilford (HERD) to D. Delarco (ECAD/TRDB). (1983).

(16) Wahner, A. and Zetzsch, C. "Rate constants for the addition of OH to aromatics and the unimolecular decay of the adduct." Kinetics into a Quasi-Equilibrium. *Journal of Physical Chemistry* 87: 4945–4951. (1983).

(17) Atkinson, R. "Kinetics and mechanisms of gas phase reactions of the hydroxyl radical with organic compounds under atmospheric conditions." Statewide Air Pollution Research Center, University of California, Riverside. (May 19, 1985.)

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. E–107, 401 M St., SW., Washington, DC.

VIII. Other Regulatory Requirements

A. Classification of Rule

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. The regulation for these chemical substances is not major because it does not meet any of the criteria set forth in section 1(b) of the order. First, the annual costs of testing are expected to range from $26,000 to $54,000 over the expected market life of these chlorinated benzenes (Ref. 2). Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on producers' costs or users' prices for these chemical substances. Finally, taking into account the nature of the market for these substances, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments from OMB to EPA, and any EPA response to those comments, are included in the public record.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA certifies that this test rule will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There are no small manufacturers of chlorinated benzenes.

2. Small processors are not expected to perform testing themselves, or to participate in the organization of the testing effort.

3. Small processors will experience only minor costs if any in securing exemption from testing requirements.

4. Small processors are unlikely to be affected by reimbursement requirements.

EPA concludes that there will be no significant adverse economic impact of any type as a result of this rule.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number 2070–0033. Submit comments on these requirements to the Office of Information and Regulatory Affairs: OMB; 726 Jackson Place, NW.; Washington, DC 20503 marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: March 27, 1986.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, 40 CFR Part 799 is amended as follows:

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. By adding § 799.1052 to read as follows:

§ 799.1052 Dichlorobenzenes.

(a) *Identification of test substances.* (1) 1,2,- and 1,4-dichlorobenzenes, CAS Numbers 95–50–1 and 106–46–7 respectively, shall be tested in accordance with this section.

(2) The substances identified in paragraph (a)(1) of this section shall be 99 percent pure and shall be used as the test substances in each of the tests specified.

(b) *Persons required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process substances identified in paragraph (a)(1) of this section, other than as an impurity, from May 21, 1986, to the end of the reimbursement period, shall submit letters of intent to test or exemption applications and shall conduct tests, in accordance with Part 792 of this Chapter, and submit data as specified in this section, Subpart A of this Part and Part 790 of this Chapter for two-phase rulemaking.

(2) Persons subject to this section are not subject to the requirements of § 790.30(a)(2), (5), (6) and (b) and § 790.87(a)(1)(ii) of this Chapter.

(3) Persons who notify EPA of their intent to conduct tests in compliance with the requirements of this section must submit plans for those tests no later than 30 days before the initiation of each of those tests.

(4) In addition to the requirements of § 790.87(a) (2) and (3) of this chapter, EPA will conditionally approve exemption applications for this rule if EPA has received a letter of intent to conduct the testing from which exemption is sought and EPA has adopted tests standards and schedules in a final Phase II test rule.

(c) *Chemical fate testing.* 1,2,- and 1,4-dichlorobenzene shall each be tested for chemical fate in accordance with this section.

(1) *Soil adsorption coefficient test*—(i) *Required testing.* Testing, using a system that controls for evaporation of the test substance, shall be conducted for 1,2- and 1,4-dichlorobenzene to develop data on the absorption of the above chlorobenzenes to sediments.

(ii) [Reserved]

(2) [Reserved]

3. By adding § 799.1053 to read as follows:

§ 799.1053 Trichlorobenzenes.

(a) *Identification of testing substance.* (1) 1,2,3- and 1,2,4-trichlorobenzenes, CAS Numbers 87-61-6 and 120-82-1 respectively, shall be tested in accordance with this section.

(2) The substances identified in paragraph (a)(1) of this section shall be 99 percent pure and shall be used as the test substances in each of the tests specified.

(b) *Persons required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process substances identified in paragraph (a)(1) of this section, other than an impurity, from May 21, 1986, to the end of the reimbursement period, shall submit a letter of intent to test or exemption applications and shall conduct tests, in accordance with Part 792 of this Chapter, and submit data as specified in this section, Subpart A of this Part and part 790 of this Chapter for two-phase rulemaking.

(2) Persons subject to this section are not subject to the requirements of § 790.30(a)(2), (5), (6) and (b) and § 790.87(a)(1)(ii) of this Chapter.

(3) Persons who notify EPA of their intent to conduct tests in compliance with the requirements of this section must submit plans for those tests no later than 30 days before the initiation of each of those tests.

(4) In addition to the requirements of § 790.87(a) (2) and (3) of this chapter, EPA will conditionally approve exemption applications for this rule if EPA has received a letter of intent to conduct the testing from which exemption is sought and EPA has adopted test standards and schedules in a final Phase II test rule.

(c) *Chemical fate testing.* 1,2,4-trichlorobenzene shall be tested for chemical fate in accordance with this section.

(1) Soil absorption coefficient test—(i) *Required testing.* Testing, using a system that controls for evaporation of the test substance, shall be conducted for 1,2,4-trichlorobenzene to develop data on the absorption of the above chlorobenzene to sediments.

(ii) [Reserved]

(2) [Reserved]

(d) *Environmental effects testing.* 1,2,3- and 1,2,4-trichlorobenzenes shall be tested in accordance with this section.

(1) *Marine invertebrate acute toxicity testing*—(i)— *Required testing.* Testing using measured concentrations, flow through or static renewal systems, and systems that control for evaporation of the test substance, shall be conducted for 1,2,3- and 1,2,4-trichlorobenzenes. Testing shall be conducted with mysid shrimp (*Mysidopis bahia*) to develop data on the acute toxicity of the above chlorobenzene isomers to marine invertebrates.

(ii) [Reserved]

(2) *Marine fish acute toxicity testing*—(1) *Required testing.* Testing using measured concentrations, flow through systems, and systems that control for evaporation of the test substance shall be conducted for 1,2,3-trichlorobenzene. Testing shall be conducted with Silversides (*Menidia menidia*) to develop data on the acute toxicity of 1,2,3-trichlorobenzene to saltwater fish.

(ii) [Reserved]

(3) *Freshwater fish acute toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through systems, and systems that control evaporation of the test substance shall be conducted for 1,2,3-trichlorobenzene. A 96-hour LC50 test shall be conducted with the fathead minnow (*Pimephales promelas*) to develop data on the acute toxicity of 1,2,3-trichlorobenzene to freshwater fish.

(ii) [Reserved]

(4) *Freshwater invertebrate acute toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through or static renewal systems, and systems that control for evaporation of the test substance shall be conducted for 1,2,3-trichlorobenzene. A 96-hour EC50 shall be conducted for one species of *Grammarus* to develop data on the acute toxicity of 1,2,3-trichlorobenzene to aquatic freshwater invertebrates.

(ii) [Reserved]

(5) *Mysid shrimp chronic toxicity testing*—(i) *Required testing.* Testing using measured concentrations, flow through or static renewal systems, and systems that control for evaporation of the test substance shall be conducted for 1,2,4-trichlorobenzene. Testing shall be conducted with mysid shrimp (*Mysidopsis bahia*) to develop data on the chronic toxicity of 1,2,4-trichlorobenzene, should the acute LC50 of this chemical to mysid shrimp be determined to be less than 1 ppm.

(ii) [Reserved]

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070-0033)

[FR Doc. 86-7475 Filed 4-4-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

[Docket No. 512135213]

Regulations Governing Small Takes of Marine Mammals Incidental To Specified Activities

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

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations that govern the taking of small numbers of non-depleted seals and sea lions by the Department of the Air Force incidental to launches of the space shuttle from Vandenberg Air Force Base over the Northern Channel Islands, California from 1986 through 1991. The Marine Mammal Protection Act (MMPA) reguires NMFS to issue regulations

when a request is made for a small take of marine mammals if NMFS finds that the taking will have a negligible impact on the species.

EFFECTIVE DATE: May 7, 1986, through May 7, 1991.

FOR FURTHER INFORMATION CONTACT: Margaret C. Lorenz (Protected Species Division), 202–634–7529.

SUPPLEMENTARY INFORMATION:

Background

A 1981 amendment to the Marine Mammal Protection Act (MMPA) directs the Secretary of Commerce or Interior (depending on the species involved) to allow, on request by U.S. citizens engaged in a specified activity (other than commercial fishing) in a specified geographical region, the incidental, but not intentional, taking of small numbers of marine mammals. Under the MMPA, the term taking means to harass, hunt, capture or kill. Permission for incidental taking may be granted for a period of five years or less. Taking may be allowed only if the species is not depleted, and if the Secretary, after notice and opportunity for public comment, finds that the total taking will have a negligible impact on the species and its habitat and on the availability of the species for subsistence uses. Regulations must be issued which include permissible methods of taking and means to reduce any adverse impact on the species and its habitat. The regulations must include procedures for monitoring and reporting such taking. General regulations implementing section 101(a)(5) were issued by NMFS on May 18, 1982 (50 CFR Part 228, Subpart A), and they include the methods for making the request and the mechanism for allowing the taking (by Letter of Authorization). Among other things, Letters of Authorization may specify the period of validity and any additional terms and conditions appropriate to the specific request.

After receiving a request from the Air Force for a small take of marine mammals incidental to space shuttle activities, NMFS published a notice of receipt of request for rulemaking and request for information in the **Federal Register** on May 4, 1984, and placed legal notices in the Santa Barbara California News-Press, the Los Angeles Times, and the Ventura California Star Press in August 1984 requesting information and comments from the public concerning the request. Proposed regulations with a 30-day comment period were published on August 1, 1985.

Summary of Regulations

The final regulations will govern the incidental taking of five species of seals and sea lions when the space shuttle is launched by the U.S. Air Force from Vandenberg Air Force Base (VAFB), California, from 1986 through 1991. These regulations do not regulate or restrict space shuttle activities but rather the taking of seals and sea lions incidental to those activities. These regulations are based on a finding that space shuttle launches from VAFB over the Northern Channel Islands off the coast of California over the next five years may involve the taking of small numbers of non-depleted marine mammals, specifically California sea lions, northern sea lions, northern elephant seals, harbor seals, and northern fur seals. Further, NMFS believes that the total impact of the taking will have a negligible impact on the species, on their habitat, and on the availability of these species for subsistence uses.

The regulations in Subpart C apply only to space shuttle launches and associated activities over the Northern Channel Islands off the coast of southern California which may involve the incidental taking of small numbers of seals and sea lions from 1986 through 1991. All activities must be conducted in a manner that minimizes adverse effects on the five species of seals and sea lions (pinnipeds) authorized to be taken and their habitat. No taking will be authorized during times of the year for which NMFS cannot determine that the incidental taking will have a negligible impact on marine mammals. Currently, NMFS cannot determine that takings resulting from shuttle launches will be negligible during the most sensitive pupping and breeding seasons on San Miguel, the Northern Channel island that will be most affected by the shuttle activities. These seasons are the periods from January 1 through February 15, and from May 15 through July 31. The regulations require the holder of the Letter of Authorization to cooperate with NMFS and any other Federal, state or local agency monitoring the impacts of the space shuttle launches on these species. The regulations require the Air Force to monitor the pinniped populations on San Miguel Island before, during, and after the first two launches that produce focused sonic booms over the Islands. In addition, a report must be submitted to NMFS within 90 days after any launch that produces a focused sonic boom over the Islands. At its discretion, NMFS will place an observer on San Miguel Island to monitor the impact of the sonic boom on the seals and sea lions. Under the general regulations which were issued in May 1982, a Letter of Authorization is required for the Department of the Air Force to take marine mammals incidental to space shuttle launches over the Northern Channel Islands. Any substantive changes to the Letter of Authorization will be subject to public review unless NMFS determines that an emergency exists which requires immediate action.

Summary of Request

On May 9, 1983, NMFS received a request from the Headquarters Space Division, Department of the Air Force, Los Angeles, California, to allow taking small numbers of marine mammals incidential to space shuttle launches from VAFB. Additional information was received from the Air Force on November 8, 1983, August 16, 1984, November 20, 1984, and March 5, 1985. The taking is described as infrequent, incidential, and unintentional harassment due to focused sonic boom generated over the Northern Channel Islands when the space shuttle is launched from VAFB. Launches are expected to begin no earlier than January 1986 and continue through 1994. Out of 80 planned launches, a maximum of 7 are predicted to occur in trajectories that will produce focused sonic boom over the Northern Channel Islands. Focused sonic booms occur when the space shuttle curves toward the horizontal, and its sonic boom is focused into a narrow zone of particularly high sound pressure that could potentially result in overpressure of up to 10 psf (pounds per square foot). This overpressure of 10 psf is equal to 147.6 decibels. When the shuttle returns to VAFB, it is expected to produce low intensity (0.5 to 2 psf) sonic booms over some of the Northern Channel Islands. Since the noise level from the return flights is about the same as from current supersonic military aircraft, this ruling is concerned only with launches.

The Department of the Air Force prepared a Final Environmental Impact Statement in January 1978 and a Supplement to the Final Environmental Impact Statement in July 1983 for the Space Shuttle Program at VAFB. Also, it has prepared a plan to monitor sound pressure levels and marine mammal responses to sonic booms during the first two launches that produce a "focused" sonic boom over San Miguel Island. The information required by 50 CFR 228.24 was provided by the Air Force in its request.

The Air Force's request involved six species of pinnipeds including the

harbor seal (*Phoca vitulina*), California sea lion (*Zalophus californianus*), northern sea lion (*Eumetopias jubatus*), northern elephant seal (*Mirounga angustirostris*), northern fur seal (*Callorhinus ursinus*), and Guadalupe fur seal (*Arctocephalus townsendi*). Since NMFS has added the Guadalupe fur seal to the list of threatened species under the Endangered Species Act (ESA), we cannot consider allowing a take under this section of the MMPA. Any marine mammal listed as threatened or endangered under the ESA is considered depleted under the MMPA.

Pinnipeds of the Northern Channel Islands

The Northern Channel Islands are the above-surface projections of a western, largely submarine extension of the Santa Monica Mountains. The four islands (also called the Santa Barbara Channel Islands), from west to east, are San Miguel, Santa Rosa, Santa Cruz, and Anacapa. These islands lie between 11 and 28 miles from the mainland and together comprise about 200 square miles of land.

In 1980, San Miguel, Santa Rosa, Santa Barbara, Anacapa, and Santa Cruz Islands were designated as the Channel Islands National Park. In 1980, the six nautical miles surrounding San Miguel, Santa Rosa, Anacapa, Santa Cruz, and Santa Barbara Islands were designated as a National Marine Sanctuary administered by NOAA. Prior to this, San Miguel Island was controlled by the U.S. Navy and managed by the U.S. National Park Service; it was used for sheep ranching from the mid-1890's to the 1920's.

Since the Northern Channel Islands mark the southern breeding limit of some northern cold-temperate species of marine mammals and seabirds and the northern limit of some southern warm-temperate species, there is a diverse group of animals on the islands. Six pinniped species inhabit these islands including the Guadalupe fur seal at its northern limit and the northern fur seal and the northern sea lion at their southern limit. All of the islands are used by pinnipeds for some purposes, but most of the breeding and pupping occurs on San Miguel Island. At some places on this island (Point Bennett, for example), the rookery areas of all five breeding species (the Guadalupe fur seal has not established a breeding colony on the Channel Islands) are virtually side by side.

Although the populations of most of these pinnipeds were severely depleted by hunting in the latter part of the nineteenth century, some have recovered in recent years. NMFS estimates that 10,000 to 25,000 seals and sea lions may haul out at any one time on San Miguel Island at different seasons of the year, and the breeding and pupping months include mid-December through July.

TABLE 1.—POPULATION ESTIMATES OF SEALS AND SEA LIONS

Species	World	Pacific Ocean N. America (including Alaska)	Southern California Bight	San Miguel Island (breeding season)
California Sea Lion *Zalophus californianus*	177,000	157,000	74,000	May 15 to July 31 30,000
Seller (Northern) Sea Lion *Eumetopias jubata*	230,000 to 240,000	210,000	100	May 15 to July 31 <10
Northern Elephant Seal *Mirounga angustirostris*	100,000	100,000	30,000 to 35,000	Dec 15 to Feb 28 30,000
Harbor Seal *Phoca vitulina*	340,000 to 413,000	302,000	3,000	March 1 to Apr 30 1,000
Northern Fur Seal *Callorhinus ursinus*	1,332,000	869,000	4,000	May 15 to July 31 4,000
Guadalupe Fur Seal *Arctocephalus townsendi*	1,600	1,600	1 to 5	1

While NMFS believes that focused sonic booms at a predicted level of 10 psf (147 decibels) may affect some of the pinnipeds on the Island, the available data indicates that the taking will have a negligible impact on the populations of the five species that use the Island if the taking does not occur during the most sensitive pupping and breeding seasons. After we have had an opportunity to evaluate information obtained from monitoring launches that produce a focused sonic boom over San Miguel or any other new information, we will determine whether the effects of future launches are likely to be negligible. Based on any new information, we will consider allowing a take at other times of the year. The Letter of Authorization will not allow takings during the most sensitive seasons, January 1 through February 15 and May 15 through July 31. Section 101(a)(5) of the MMPA requires the Secretary of Commerce to withdraw or suspend the permission to take marine mammals if it is found that the taking is having, or may have, more than a negligible impact on one or more of the species. Any substantive modifications of the Letter of Authorization will be subject to public review and comment except in an emergency situation.

None of the pinniped populations present on the Northern Channel Islands are used for subsistence in this region. Two of the northern ranging species, the northern fur seal and the harbor seal, are taken for subsistence purposes in Alaskan waters. Populations inhabiting California and/or Mexican waters, such as the California sea lion and the northern elephant seal, are not taken for subsistence.

Comments and Discussion

Comments: During a 30-day comment period, MNFS received nine (9) letters. Most commenters favored the regulations; two deferred to other agencies. The following organizations provided comments: Department of the Interior, Defenders of Wildlife, Department of the Air Force, Center for Environmental Education, Marine Mammal Commission, Friends of the Sea Lion, and the National Ocean Service, NOAA.

The Western Region of the National Park Service, Department of the Interior, emphasized that space shuttle launches should not take place during the breeding periods of marine mammals at the Channel Islands. The defenders of Wildlife generally supported the proposed regulations, and stated that the initial launches should not take place during breeding seasons. They recommended amending § 228.24 to specifically prohibit any take during the breeding season for at least two shuttle launches, and further prohibit any take at these or other periods in the future unless the results from earlier launches indicate that there would be only a negligible impact. Friends of the Sea

Lion are concerned that sonic booms will trigger stampedes and pups will be killed or injured.

The Marine Mammal Commission concurs with NMFS that a take should not be authorized from January 1-February 15 and May 15-July 31. They believe that its impossible to judge whether monitoring only the first two launches will provide the data needed; monitoring the first two launches should be a minimum requirement. The Commision believes that since NMFS proposed to list the Guadalupe fur seal as threatened under the provisions of the Endangered Species Act, the Air Force should confer with NMFS to determine whether the proposed action is likely to jeopardize the continued existence of the species. In addition, the Commission recommended that NMFS not authorize a take until NMFS reviews the monitoring plan proposed by the Air Force.

The Center for Environmental Education (CEE) is concerned that hearing loss and stampeding may not be minor, and there is a greater chance of startling during pupping and breeding seasons. They believe that experiments regarding hearing and behavior should be conducted before an exemption is allowed, and no taking should be allowed during sensitive times until impacts are better known. Also, CEE believes that restrictions of damaging flights should not only include the breeding seasons but also other times of the year when the animals congregate on the islands. Also CEE stated that if the Guadalupe fur seal is listed as threatened, Air Force activities should be planned so as not to endanger it.

The Channel Islands National Marine Sanctuary, National Ocean Service, strongly supports seasonal restrictions and monitoring. They recommend amending § 228.24 to specifically prohibit a take from January 1–February 15 and May 15–July 31 for the first launch over San Miguel and to prohibit a take during subsequent launches unless the monitoring results from the initial launch indicate impacts will be negligible.

The Department of the Air Force believes that while the limitations to the proposed authorization are not necessary given the probable insignificant effects to these animals, they concur with the proposed grant of authority for the incidental take. The Air Force believes that taking, even during the pupping and breeding season, will have a negligible impact. They ask that specific dates prohibiting a take not be included in the Letter of Authorization since they are adequately defined in the proposed regulations and the preamble to these regulations. They state that the Air Force will work with NMFS to minimize impacts to the marine mammals. Also, substantial monitoring and data collection will accompany the first two launches from VAFB. Thereafter, monitoring of impacts will continue for any launch anticipated to produce a focused sonic boom over San Miguel and the Channel Islands.

Discussion

Guadalupe Fur Seal

Two organizations were concerned about the effects of space shuttle launches on the Guadalupe fur seal. On December 16, 1985, NMFS listed this species as threatened, according to the provisions of the Endangered Species Act of 1973. Guadalupe fur seals are known to breed only on Guadalupe Island in Mexico. Food habits have not been studied and foraging habitat has not been determined. A few non-breeding individuals have been observed on San Miguel Island each year since 1969 during their breeding season; solitary individuals have been sighted sporadically at San Nicolas, Santa Barbara, and San Clemente Islands and a few other widely scattered locations. However, the areas in southern California waters are not known to be essential to the conservation of the species and are occupied by a very small number of non-breeding individuals.

In its final ruling listing this species as threatened, NMFS noted that these proposed activities (shuttle launches) may alter the acoustic environment of the Channel Islands and have the potential to cause short-term disturbance to individuals; however, these activities are not likely to result in significant adverse impacts to the species. Also, while NMFS recognizes that recolonization may occur in the Channel Islands, it does not believe that rookery sites on the Channel Islands or feeding areas in U.S. waters are essential to the conservation of the species. Activities considered as essential for recovery include breeding and feeding. NMFS has identified recolonization of one or more historic breeding sites as one indication of a recovering population. The Channel Islands are only one of several island groups where recolonization may eventually occur.

NMFS concluded in its final rule listing this species as threatened that activities such as high-intensity sonic booms may adversely affect individual Guadalupe fur seals. However, they are not likely to pose a threat to the continued existence of the population breeding on Guadalupe Island or those individuals which haul out on the California Channel Islands.

Restricted Seasons

All commenters, except the Air Force, agreed with NMFS that a take should not be allowed during the most sensitive breeding seasons, which NMFS believes to be January 1 through February 15 and May 15 through July 31, until it can be determined that the effects of the focused sonic booms are having only a negligible effect on the species. Although the proposed regulations did not include the specific dates, they were included in the preamble and they will be included in the Letter of Authorization. Several commenters were especially concerned about not allowing a take during these seasons until after the Air Force has monitored the effects of the first two launches that produce a focused sonic boom over San Miguel. It is the intention of NMFS not to allow a taking during these seasons until new information is presented that would allow NMFS to determine that such takings would be negligible. The Air Force has declared its intention to have Hubbs Marine Research Institute and San Diego State University monitor the first two launches that produce a focused sonic boom over San Miguel in order to obtain the necessary data. It is not known at this time whether this monitoring program will produce the information necessary for NMFS to change its current determination.

Monitoring

The Marine Mammal Commission said that it is impossible to judge whether monitoring only the first two launches will give the data needed; two should be a minimum; more may be needed. NMFS agrees that monitoring the first two launches should be the minimum. However, we will consider new information whenever it is presented. As a practical matter, this information will probably not be available until the effects of the first two launches over San Miguel are evaluated, and it is possible that more monitoring will be necessary. As stated previously, NMFS does not intend to alter the restrictions until new information demonstrates that the impacts of future launches will be negligible on the seals and sea lions on San Miguel. The Air Force requested NMFS to comment on the draft monitoring plan prepared for them by the contractor. Comments were forwarded to the Air Force on April 1, 1985.

Additional Research

The Center for Environmental Education believes that experiments should be conducted before an exemption is allowed so that hypothetical impacts of loud noise on pinniped hearing and startle behavior can be tested.

In their request for an exemption, the Air Force noted two studies they had sponsored to determine the impact of sonic booms on Channel Island pinnipeds. One study on San Miguel concerned time-lapse photographic monitoring of pinnipeds in response to a specific stimulus. Also, tests were conducted on San Nicolas Island using a carbide pest control cannon to simulate the loud impulse sound of a sonic boom. These studies concluded that habitat use, population growth, and pup survival were unaffected by the simulated sonic boom noises. However, none of these studies actually duplicated the overpressure and frequency of a focused sonic boom. The Air Force, in response to a question from NMFS regarding further research before an actual launch, stated that it would be extremely difficult or impossible to duplicate a focused sonic boom in the lab and individual animals may not mirror expected population results NMFS agrees with the Air Force and will not require additional research before the exemption is granted.

Air Force

The Air Force believes that limitations to the authorization are not necessary given the probable insignificant effects to the marine mammals on the Channel Islands. They believe that the proposed rules do not go far enough, considering the weight of available evidence, in permitting the small take. They believe that NMFS overemphasized the worst-case scenario of the unlikely effects of a focused sonic boom over San Miguel Island and that the pertinent literature and data on the subject demonstrated that taking would be unlikely even during the pupping and breeding seasons. At most, they believe it is possible that some pinnipeds may react or may be disturbed by some level of noise from the launch—clearly a negligible impact on the species.

The Air Force understands that the proposed rule will allow NMFS to reexamine "the issue of the significance of any disturbance to marine mammals after they have collected and presented additional data from actual shuttle launches. Any resultant modification to the authorization or its limiting prohibitions may include the reduction or elimination of those periods identified in the rule's preamble as the most sensitive pupping and breeding seasons . . . May 15 through July 31 and January 1 through February 15 (50 FR 31204). Consistent with the applicable provisions of the Act and the implementing regulations, those particular dates, during which NMFS is not yet convinced any taking would have negligible impact, need not and should not be part of the soon to be drafted Letter of Authorization. In that regard, the regulation and its preamble adequately define the period of time having negligible impact on the species."

According to the Air Force, they will continue to work with NMFS to minimize any possible impacts to the marine mammals of the Northern Channel Islands. Substantial monitoring and data collection efforts will accompany the first two space shuttle launches from Vandenbery Air Force Base; thereafter, monitoring of impacts will continue for any launch anticipated to produce a focused sonic boom on the affected areas of San Miguel and the Channel Islands.

NMFS is not allowing a take of marine mammals during the most sensitive breeding seasons because there is not enough information at this time to determine that a take will be negligible. In a report to the Air Force, one of its contractors stated that although no significant increase in stress related pathology is anticipated nor is any disruption of the reproductive cycle considered probable, the possibility of more serious consequences cannot be ruled out since the information available in the literature regarding hearing is sparse. Scientists from NMFS and the Marine Mammal Commission continue to be concerned that the overpressures of the magnitude possible could cause significant hearing damage and disruption of pupping and breeding activities.

Applicability to Other Laws, Regulations, and Requirements

The regulations would authorize the Air Force to take small numbers of seals and sea lions incidental to space shuttle activities over the northern Channel Islands in California from 1986 through 1991.

NMFS prepared an Environmental Assessment that determined that the regulations allowing a take would not have a significant impact on the human environment and, therefore, did not constitute a major action under the National Environmental Policy Act.

The NOAA Administrator determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The estimated impact of this rulemaking is expected to be minor since the only expense involves the Air Force monitoring the effects of the focused sonic booms on the pinnipeds on San Miguel Island, an activity which the Air Force planned to do before it requested a take of marine mammals. Therefore, the regulatory impact review prepared by NMFS concludes that the rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs of prices for consumers, individual industries, or government agencies; or significant adverse effect on competition, employment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that the action will not significantly impact a substantial number of small entities.

The Paperwork Reduction Act does not apply since the Department of Commerce is requesting reports from only the Department of the Air Force.

List of Subjects in 50 CFR Part 228

Marine mammals, Reporting and recordkeeping requirements.

Dated: March 28, 1986.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

Based on the discussion in the preamble, 50 CFR Part 228 is amended as follows:

PART 228—[AMENDED]

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

Authority: 16 U.S.C. 1371(a)(5).

2. New Subpart C is added to Part 228 to read as follows:

Subpart C—Taking of Marine Mammals Incidental to Space Shuttle Activities

Sec.

Subpart C—Taking of Marine Mammals Incidental to Space Shuttle Activities

§ 228.21 Specified activity and specified geographical region.

Regulations in this subpart apply only to the incidental taking of California sea lions (*Zalophus californianus*), northern sea lions (*Eumetopias jubatus*), northern elephant seals (*Mirounga angustirostris*), harbor seals (*Phoca vitulina*), and northern fur seals (*Callorhinus ursinus*) by U.S. citizens engaged in space shuttle activities at Vandenberg Air Force Base, California that result in focused sonic booms over the Northern Channel Islands off southern California.

§ 228.22 Effective dates.

These regulations are effective from May 7, 1986, through May 7, 1991.

§ 228.23 Permissible methods.

(a) The incidental, but not intentional, taking of seals and sea lions by U.S. citizens holding a Letter of Authorization is permitted during the course of the following activity: Space Shuttle Transportation System (STS) launches from Vandenberg Air Force Base, California.

(b) The activity identified in § 228.23(a) must be conducted in a manner which minimizes to the greatest extent possible adverse impacts on seals and sea lions and their habitat.

§ 228.24 Prohibitions.

(a) A take will not be authorized for those times of the year for which NMFS cannot determine that the incidental taking will have a negligible impact on marine mammals.

§ 228.25 Requirements for monitoring and reporting.

(a) Holders of Letters of Authorization (see § 228.6) are required to cooperate with the National Marine Fisheries Service and any other Federal, State, or local agency monitoring the impacts on seals and sea lions. The Holder must notify the Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island CA, 213–548–2575, of any potential take at least two weeks prior to the launch in order to satisfy § 228.25(d).

(b) Holders of Letters of Authorization must designate an individual or individuals to observe and record the effects of focused sonic booms on seals and sea lions that inhabit the Northern Channel Islands.

(c) The pinniped populations on San Miguel Island must be monitored before, during and after the first two launches that produce focused sonic booms over San Miguel. Special attention must be paid to the effects on hearing in pinnipeds and their behavioral responses.

(d) At its discretion, the National Marine Fisheries Service may place an observer on San Miguel Island to monitor the research and sonic boom impact on the seals and sea lions.

(e) A report must be submitted to the Assistant Administrator for Fisheries within 90 days of any launch that produces a focused sonic boom over the Northern Channel Islands. This report must include the following information:

(1) Date and time of the launch;

(2) Dates and locations of any research activities related to monitoring the effects of the focused sonic booms on pinniped populations;

(3) Results of any monitoring activities concerning hearing and behavioral responses.

(4) Results of any population studies made on pinnipeds on the Channel Islands before and after the launch.

§ 228.26 Modification of Letters of Authorization.

(a) In addition to the provisions of § 228.6, any substantive modifications of the Letters of Authorization will be made after notice and opportunity for public comment.

(b) The requirement for notice and public review in § 228.26(a) will not apply if the National Marine Fisheries Service determines that an emergency exists which poses a significant risk to the well-being of the species or stocks of marine mammals concerned or which significantly and detrimentally alters the scheduling of space shuttle launches.

[FR Doc. 86–7394 Filed 4–4–86; 8:45 am]
BILLING CODE 3510-22-M

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50 CFR Part 655

[Docket No. 60218–6055]

Atlantic Mackerel, Squid, and Butterfish Fisheries; Initial Specifications

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

ACTION: Final initial annual specifications for Atlantic mackerel and butterfish.

SUMMARY: NOAA issues this notice to provide final initial specifications for the Atlantic mackerel and butterfish fisheries for the fishing year 1986–1987. Regulations governing these fisheries require that the Secretary of Commerce (Secretary) publish his final determination of the specifications for the upcoming fishing year. This action is intended to continue the development of the U.S. Atlantic mackerel fishery and the orderly maintenance of the domestic butterfish fishery.

EFFECTIVE DATE: These specifications are effective April 1, 1986.

ADDRESS: Copies of the regulatory flexibility analysis are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, DE 19901.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617–281–3600, extenstion 273.

SUPPLEMENTARY INFORMATION: Proposed preliminary initial 1986–1987 annual specifications for Atlantic mackerel, squid, and butterfish under the Fishery Management Plan for Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) were published on February 7, 1986 (51 FR 4777). Public comments were requested until March 10, 1986. Five comments were received, all directed toward the squid specifications. Comments were not received on the Atlantic mackerel or butterfish specifications.

In order not to adversely affect the U.S. and foreign mackerel fisheries by causing fishing to halt with the end of the 1985–1986 fishing year on March 31, 1986, the Secretary maintains the initial annual specifications of Atlantic mackerel unchanged. Since comments were not received on butterfish, the Secretary is also publishing the butterfish specifications; however, the total allowable level of foreign fishing (TALFF) and the initial optimum yield (IOY) amounts have been increased by 188 metric tons (mt) each. This 188-mt increase represents one percent of the silver hake TALFF of 13,400 mt plus one percent of the red hake TALFF of 5,400 mt. This amount was unintentionally not included within the TALFF calculation; it is required by regulations. The revised butterfish TALFF is now 866 mt with an increased initial optimum yield of 12,866 mt. Squid specifications, with responses to comments, will be published separately.

Specifications

The following table lists the final initial annual specifications for the Maximum Optimum Yield (Max OY), Allowable Biological Catch (ABC), Initial Optimum Yield (IOY), Domestic Annual Harvest (DAH), Domestic Annual Processing (DAP), Joint Venture Processing (JVP), and Total Allowable Level of Foreign Fishing (TALFF) for mackerel and butterfish. These annual specifications are amounts that the Director, Northeast Region, NMFS, has

determined to be the appropriate levels of harvest for the start of the 1986–1987 fishing year. These levels are subject to modification based on performance as the fishing year progresses.

FINAL INITIAL ANNUAL SPECIFICATIONS FOR FISHING YEAR—APRIL 1, 1986 TO MARCH 31, 1987

[In metric tons]

Specification	Mackerel	Butterfish
Max OY [1]	285,000	[2] 16,000
ABC		[2] 16,000
AC	262,000	
IOY	262,000	12,866
DAH	[2] 126,500	12,000
DAP	14,000	12,000
JVP	100,000	
Reserve	67,750	
TALFF	67,750	866

[1] These are the maximum OYs as stated within the FMP.
[2] Up to the amount noted.
[3] This amount includes 12,500 mt projected recreational catch.

Classification

This action is required by 50 CFR Part 655 and complies with Executive Order 12291.

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

Dated: March 31, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant, Administrator for Fisheries.

[FR Doc. 86–7598 Filed 4–2–86; 12:19 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 66
Monday, April 7, 1986

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Frozen Leafy Greens

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary United States Standards for Grades of Frozen Leafy Greens. The revision was developed by the U.S. Department of Agriculture at the request of the frozen vegetable industry. The rule would change the allowance for blemishes in leaf style spinach by allowing a larger tolerance (area measurement) for blemished leaves. Its effect will be to imporve the standards and encourage uniformity and consistency in commercial practices which would facilitate the trading of frozen leafy greens.

DATES: Written comments must be received on or before May 7, 1986.

ADDRESS: Interested person are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Harold A. Machias, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant adverse effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because if reflects current marketing practices.

The current voluntary grade standards for frozen leafy greens have been in effect since October 12, 1983. The grade standards were last revised to include frozen spinach under the grade standards for frozen leafy greens since they contained similar narrative test. Spinach was included as a "type" of leafy greens.

In May 1984, the USDA received a request from the American Frozen Food Institute (AFFI) to change the U.S. grade standards for frozen leafy greens on the behalf of frozen spinach processors from California. The industry stated that applying frozen leafy greens allowances for blemished leaves to frozen spinach has resulted in a more restrictive tolerance than was applied to frozen spinach in the previous standards. Industry studies conducted by technical personnel indicated that increasing the tolerance for leaf style spinach from each four square centimeters to each six square centimeters, using the same acceptance quality level criteria, would be more in line with the previous grade standards.

After review of this information, the USDA has determined the proposed change in § 52.1374, Definitions of terms, (b) *Blemished*, would improve the grade standards and encourage uniformity and consistency in commercial practices which would facilitate the trading of frozen leafy greens.

List of Subjects in 7 CFR Part 52

Fruits, Vegetables, Food Grades and Standards.

PART 52—[AMENDED]

Accordingly, the Subpart—United States Standards for Grades of Frozen Leafy Greens (7 CFR Part 52.1371–52.1381) would be revised as follows:

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

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, 1090, as amended (7 U.S.C. 1622, 1624).

(2) In Part 52, § 52.1374, paragraph (b) is revised to read as follows:

§ 52.1374 Definitions of terms.

* * * * *

(b) *Blemished* means any unit affected by discoloration or other means to the extent that the appearance or eating quality is adversely affected. For leafy greens other than leaf style spinach, each 4 cm^2 in leaf style or each 2 cm^2 in chopped and pureed styles (aggregate areas measurement) is counted as one defect. In leaf style spinach only, each 6 cm^2 is counted as one defect.

* * * * *

Done at Washington, DC on March 31, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86–7594 Filed 4–4–86; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1493

CCC Export Credit Guarantee Program (GSM–102)

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Termination of advance notice of proposed rule making.

SUMMARY: On July 15, 1983, the Commodity Credit Corporation (CCC) published an advance notice of proposed rulemaking in the **Federal Register** (48 FR 32355) to advise the general public that it was contemplating a change in the structure of the CCC Export Credit Guarantee Program (GSM–102) for the purpose of reducing the administrative burden for all U.S. parties involved in the program. Many of the responses received favored a change in the structure of the program while many preferred no change in the structure of the program. After giving

consideration to all of the comments received, the Corporation has concluded that the proposed structure of the GSM–102 program would not have necessarily reduced the paperwork and other administrative burdens for the exporters, financial institutions, or CCC nor would it have improved the overall operations of the program. Therefore, the Corporation has concluded that the structure of the program should not be changed at this time.

The response to CCC's request is gratifying and the Corporation extends its thanks to those who responded. This notice terminates the advance notice of proposed rulemaking published July 15, 1983 (48 FR 32355).

FOR FURTHER INFORMATION CONTACT: Larry McElvain, (202) 447–6225.

Dated: March 28, 1986

Melvin E. Sims,

General Sales Manager and Associate Administrator, FAS and Vice President, Commodity Credit Corporation.

[FR Doc. 86–7402 Filed 4–4–86; 8:45 am]

BILLING CODE 3410–10–M

FARM CREDIT ADMINISTRATION

12 CFR Part 620

Disclosure To Shareholders

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Acting Chairman of the Farm Credit Administration Board (Board), publishes for comment a proposed amendment to 12 CFR Part 620 which would: (1) Require disclosure in the annual report to shareholders of the aggregate amount of compensation paid during the last fiscal year to the top five most highly paid officers as a group, without naming them; (2) require each production credit association (PCA) to send the financial statement of the Federal intermediate credit bank (FICB) in its district to PCA shareholders along with the PCA's annual report to shareholders; and (3) require banks and associations beginning with the quarter ending June 30, 1986, to report quarterly to shareholders on the financial condition of the institution within a framework for such interim reporting established in the proposed regulation.

DATES: Written comments must be received on or before May 5, 1986.

ADDRESSES: Written comments should be submitted to Acting Chairman, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090. Copies of all comments received will be available for examination by interested parties in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Holland, Office of Examination and Supervision, Farm Credit Administration, (703) 883–4452;

or

Dorothy J. Acosta, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020.

SUPPLEMENTARY INFORMATION: The FCA recently adopted regulations requiring Farm Credit System (System) banks and associations to disseminate annual reports to shareholders at the end of each fiscal year and information statements to association shareholders just prior to any shareholder meeting at which directors are elected (51 FR 8644, March 13, 1986). In the course of considering public comments on those disclosure regulations, the FCA concluded that the following areas of disclosure not covered by those regulations may be appropriate for inclusion to assure adequate disclosure to stockholders, and should be proposed and published for comment.

A. Distribution of FICB Statements With PCA Annual Reports To Shareholders

The recently adopted § 620.3 requires that financial statements of each Federal land bank (FLB) accompany the annual report to shareholders of each Federal land bank association (FLBA) in its district. Several commentators questioned the necessity of such a requirement. The FCA had included this requirement in the proposed regulation because all of the loans generated by the FLBA are carried as assets on the FLB books rather than the FLBA's, since the FLB is the creditor who enters into the lending agreement with the borrower. When the borrower purchases stock or participation certificates in the FLBA, the FLBA is required to purchase a like amount of equity in the FLB, which equity is specifically identified to the particular shareholder's loan. For these reasons, and because of the manner in which capital preservation agreements between the FLB and the FLBAs are designed to operate, it is the health of the FLB that determines the safety of the equity holders' investments. Also, it is the FLB that sets the interest rate on the borrowers' loans. For these reasons the requirement was retained in the final disclosure regulations.

As a result of staff discussion of this issue, the FCA concluded that even though the FICB-PCA relationship is not the same as the FLB-FLBA relationship, it may also be appropriate that FICB statements be sent to PCA shareholders. The FICB controls the PCA's access to funds and hence largely determines interest rates that are charged to association borrowers. FICB statements may assist PCA shareholders in evaluating the PCA's investment in the FICB. Furthermore, because of the intradistrict loss-sharing agreements between PCAs and FICBs, and the authority of FICBs to provide financial assistance to PCAs, the health of the FICB and its capacity to assist PCAs would appear to be material and relevant to the safety of the PCA shareholders' investments. Therefore, the FCA proposes for comment an amendment to § 620.2(b) of the new regulation that would require the FICB's financial statements to accompany the reports to shareholders of the PCAs that are shareholders in the FICB.

B. Compensation of Senior Officers

As the FCA considered comments on the requirement in the recently adopted § 620.3 to disclose director compensation, it concluded that the failure to require disclosure of senior officer compensation could be viewed as a significant omission that was inconsistent with basic disclosure standards. The materiality of this information to shareholders in evaluating the stewardship of directors was deemed to outweigh the potential for additional downward pressure on salaries that in some instances are already so low as to make recruiting of qualified personnel difficult. However, to minimize the potential for such harm, the proposed regulation would require disclosure of aggregate rather than individual compensation paid to the top five most highly paid officers as a group, with a statement that a shareholder would have the right to disclosure on any of those individuals upon request. The types of compensation that must be included in the disclosure are annual salary, cash bonuses, deferred compensation, vested pension benefits (unless the plan is made available to all employees on the same basis), and any noncash compensation that exceeds 10 percent of the total cash compensation or $25,000, whichever is less.

"Senior officer" is defined in 12 CFR 620.1(b) as any person designated by the board of directors as responsible for a major management function. However, the regulation requires at a minimum the inclusion of the top five most highly paid

officers, whether or not they have been designated by the board.

C. Quarterly Reports To Shareholders

The recently adopted Part 620 contains a requirement that associations (FLBAs and PCAs) include financial statements for the most recently ended quarterly period with the annual meeting information statements when the meeting to which the statement relates is held more than 134 days after the end of the preceding fiscal year. A commentator questioned the wisdom of requiring such interim reporting without establishing rules for the preparation of such statements to ensure comparability and a fair presentation of the institution's financial condition and operating results. The commentator, however, favored routine quarterly reporting to shareholders for each quarter of the year.

The FCA agrees that quarterly reporting to shareholders is desirable and that rules for the presentation of quarterly data are needed to assure a fair presentation and to permit the quarterly data to be presented in an abbreviated form. While FCA retained the requirement in Part 620, Subpart C, that statements for the most recently ended quarter accompany the annual information statement when the meeting to which it relates is held more than 134 days after the end of the fiscal year, that requirement will be deleted if the proposed Subpart B is adopted since the quarterly reports would be routinely sent to shareholders within 45 days of the end of each quarter.

List of Subjects in 12 CFR Part 620

Banks, Banking, Disclosure to shareholders, Annual reports.

PART 620—DISCLOSURE TO SHAREHOLDERS

As stated in the preamble, it is proposed that Part 620 of Chapter IV, Title 12, of the Code of Federal Regulations be revised as follows:

1. The authority citation for Part 620 is revised to read as follows:

Authority: Sec. 5.17(9) and (10), Pub. L. 99-205, 99 Stat. 1678.)

Subpart A—Annual Reports to Shareholders

2. Section 620.2 is amended by revising paragraph (b) to read as follows:

§ 620.2 Preparing, distributing, and filing the report.

* * * * *

(b) For the purposes of § 620.3(m), a Federal land bank association shall include the financial statements of the Federal land bank in the district in addition to its own and a production credit association shall include the financial statements of the Federal intermediate credit bank in the district in addition to its own. Production credit associations and Federal land bank associations shall comply with all other sections of this part except as expressly stated otherwise herein.

* * * * *

3. Section 620.3 is amended by revising paragraph (i) to read as follows:

§ 620.3 Contents of the annual report to shareholders.

* * * * *

(i) Compensation of directors and senior officers.

(1) *Director compensation.* Describe the arrangements under which directors of the institution are compensated for all services as a director (including total cash compensation and any noncash compensation that exceeds 10 percent of total compensation or $25,000, whichever is less) and state the total cash compensation paid to directors as a group during the last fiscal year. For each director, state:

(i) The number of days served at board meetings;

(ii) The total number of days served in other official activities; and

(iii) The total compensation paid to each director during the last fiscal year.

(2) *Senior officer compensation.* Disclose the aggregate amount of compensation paid during the last fiscal year to all senior officers as a group, stating the number of persons in the group without naming them. At a minimum, disclose the aggregate amount of compensation paid to the five most highly paid officers whether or not designated as a senior officer by the board. For the purposes of this paragraph, compensation shall include annual salary, cash bonuses, deferred compensation, vested pension benefits (unless the plan is made available to all employees on the same basis), and any other noncash compensation that exceeds 10 percent of the total cash compensation or $25,000, whichever is less. The report shall include a statement that disclosure of the total compensation paid to individual senior officers or total compensation paid to any officer whose compensation is included in the aggregate is available to shareholders upon request.

* * * * *

4. Subpart B is added to read as follows:

Subpart B—Quarterly Reports to Shareholders

Sec.

620.10 Preparing, distributing, and filling the report.

620.11 Content of quarterly report to shareholders.

Subpart B—Quarterly Reports to Shareholders

§ 620.10 Preparing, distributing, and filling the report.

(a) Each institution of the Farm Credit System except Federal land bank associations shall prepare a quarterly report for each fiscal quarter beginning with the quarter ending June 30, 1986, except that no report need be prepared for the fiscal quarter that coincides with the end of the fiscal year of the institution. The reporting requirements shall conform to the requirements set forth in § 620.11.

(b) The quarterly report shall be filed with the Farm Credit Administration and distributed to shareholders no later than 45 days after the end of the quarterly period to which it relates.

(c) Copies of the Federal land bank quarterly reports shall be distributed to the shareholders of the Federal land bank associations in the district, and copies of the Federal intermediate credit bank quarterly reports shall be distributed to the shareholders of the production credit associations in the district.

§ 620.11 Content of quarterly report to shareholders.

(a) The information required to be included in the quarterly report may be presented in any format deemed suitable by the institution, but shall include the items required by § 620.21. The report must be easily readable and not presented in a manner that is misleading but may be condensed into major captions in accordance with the rules prescribed in paragraph (b) of this section.

(b) *Rules for condensation.*—(1) *Interim balance sheets.* When any major balance sheet caption is less than 10 percent of total assets and the amount in the caption has not increased or decreased by more than 25 percent since the end of the preceding fiscal year, the caption may be combined with others.

(2) *Interim statements of income.* When any major income statement caption is less that 15 percent of average net income for the 3 most recent fiscal years and the amount in the caption has not increased or decreased by more than 20 percent since the corresponding interim period of the preceding fiscal year, the caption may be combined with

others. In calculating average net income, loss years should be excluded. If losses were incurred in each of the 3 most recent fiscal years, the average loss shall be used for purposes of this test.

(3) The interim statement of changes in financial position may be abbreviated, starting with a single figure for funds provided by operations and showing other changes individually only when they exceed 10 percent of the average of funds provided by operations for the 3 most recent fiscal years.

(4) The interim financial information shall include disclosure either on the face of the financial statements or in accompanying footnotes sufficient to make the interim information presented not misleading. Institutions may presume that users of the interim financial information have read or have access to the audited financial statements for the preceding fiscal year and that the adequacy of additional disclosure needed for a fair presentation, except in regard to material contingencies, may be determined in that context. Accordingly, footnote disclosure that would substantially duplicate the disclosure contained in the most recent audited financial statements (such as a statement of significant accounting policies and practices), and details of accounts that have not changed significantly in amount or composition since the end of the most recently completed fiscal year may be omitted. However, disclosure shall be provided of events occurring subsequent to the end of the most recent fiscal year that have a material impact on the institution. Disclosures should encompass, for example, significant changes since the end of the most recently completed fiscal year in such items as accounting principles and practices; estimates inherent in the preparation of financial statements; status of long-term contracts; capitalization, including significant new indebtedness or modification of existing financing arrangements; and the reporting entity resulting from business combinations or dispositions. Notwithstanding the above, when material contingencies exist, disclosure of such matters shall be provided, even if a significant change since yearend has not occurred.

(5) If, during the most recent interim period presented, the institution entered into a business combination treated for accounting purposes as a pooling of interests, the interim financial statements for both the current year and the preceding year shall reflect the combined results of the pooled businesses. Supplemental disclosure of the separate results of the combined entities for periods prior to the combination shall be given, with appropriate comments or comparisons between the separate and consolidated results.

(6) If a material business combination accounted for as a purchase has occurred during the current fiscal year, pro forma disclosure shall be made of the results of operations for the current year up to the date of the most recent interim balance sheet provided (and for the corresponding period in the preceding year) as though the companies had combined at the beginning of that period. This pro forma information shall, at a minimum, show:

(i) Total operating income.

(ii) Income before securities gains (losses), extraordinary items, and the cumulative effect of accounting changes.

(iii) Net income.

(7) In addition to meeting the reporting requirements specified by existing accounting pronouncements for accounting changes, the institution shall state the date of any material accounting change and the reasons for making it. In addition, a letter from the persons who verify the institution's financial statements shall be filed as an exhibit, indicating whether or not the change is to an alternative principle which in their judgment is preferable under the circumstances, except that no such letter need be filed when the change is made in response to a standard adopted by the Financial Accounting Standards Board which requires such change.

(8) Any material retroactive prior period adjustment made during any period covered by the interim financial statements shall be disclosed, together with its effect upon net income and upon the balance of undivided profits for any prior period included. If results of operations for any period presented have been adjusted retroactively by such an item subsequent to the initial reporting of such period, similar disclosure of the effect of the change shall be made.

(9) The interim financial statements furnished shall reflect all adjustments that are, in the opinion of management, necessary to a fair statement of the results for the interim periods presented. A statement to that effect shall be included. Furnish any material information necessary to make the information called for not misleading, such as a statement that the results for interims periods are not necessarily indicative of results to be expected for the year.

(c) Management's discussion and analysis of financial condition and results of operations. In addition to furnishing the information required by § 620.3(g) with respect to the interim period, such additional information as is needed to enable the reader to assess material changes in financial condition and results of operations between the periods specified in paragraphs (d) (1) and (2) of this section shall be provided.

(1) *Material changes in financial condition.* Discuss any material changes in financial condition from the end of the preceding fiscal year to the date of the most recent interim balance sheet provided. If the interim financial statements include an interim balance sheet as of the corresponding interim date of the preceding fiscal year, any material changes in financial conditions from that date to the date of the most recent interim balance sheet provided also shall be discussed. If discussions of changes from both the end and the corresponding interim date of the preceding fiscal year are required, the discussions may be combined at the discretion of the institution.

(2) *Material changes in results of operations.* Discuss any material changes in the institution's results of operations with respect to the most recent fiscal year-to-date period for which an income statement is provided and the corresponding year-to-date period of the preceding fiscal year. If the institution is required to, or has elected to, provide an income statement for the most recent fiscal quarter, such discussion also shall cover material changes with respect to that fiscal quarter and the corresponding fiscal quarter in the preceding fiscal year. In addition, if the institution has elected to provide an income statement for the 12-month period ended as of the date of the most recent interim balance sheet provided, the discussion also shall cover material changes with respect to that 12-month period and the 12-month period ended as of the corresponding interim balance sheet date of the preceding fiscal year.

(d) *Financial statements.* The following financial statements shall be provided:

(1) An interim balance sheet as of the end of the most recent fiscal quarter and as of the end of the preceding fiscal year. A balance sheet for the comparable quarter of the preceding fiscal year is optional.

(2) Interim statements of income for the most recent fiscal quarter, for the period between the end of the preceding

fiscal year and the end of the most recent fiscal quarter, and for the comparable periods for the previous fiscal year.

(3) Interim statements of changes in financial condition and statements of changes in capital for the period between the end of the preceding fiscal year and the end of the most recent fiscal quarter, and for the comparable period for the preceding fiscal year.

(e) *Review by independent public accountant.* The interim financial information need not be audited or reviewed by an independent public accountant prior to filing. If, however, a review of the data is made in accordance with the established professional standards and procedures for such a review, the institution may state that the independent accountant has performed such a review. If such a statement is made, the report of the independent account on such review shall accompany the interim financial information.

Subpart C—Association Annual Meeting Information Statement

5. Section 620.20 is amended by revising paragraph (c) to read as follows:

§ 620.20 Preparing, distributing, and filing the information statement.

* * * * *

(c) The statement shall incorporate by reference the annual report to shareholders required by Subpart A of this part. In addition, if any institution holds its annual meeting of shareholders more than 134 days after the end of its fiscal year, the statement shall be accompanied by the most recent quarterly statements required by Subpart B of this part.

* * * * *

Kenneth J. Auberger,

Acting Chairman.

[FR Doc. 86-7751 Filed 4-4-86; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-23-AD]

Airworthiness Directives; Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) applicable to all Boeing Model 727 airplanes, which requires repetitive visual inspection for cracks and repair, if necessary, of the aft pressure bulkhead (Body Station 1183) web and strap. This action is prompted by the development of a preventative modification that, if incorporated, will eliminate the potential for cracks occurring in the undamaged web and strap. The proposed amendment would remove the repetitive inspection requirement for airplanes that have incorporated the preventative modification. The proposal would also require that, within 15,000 landings after repair with the –1 repair kit, certain airplanes must be modified by incorporation of a reinforcing strap.

DATE: Comments must be received on or before May 2, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-23-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at 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. Stanton R. Wood, Airframe Branch, ANM-120S; telephone (206) 431-2924. Mailing Address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-23-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

AD 86-02-06, Amendment 39-5222 (51 FR 3027), was issued January 15, 1986, to require inspection of the aft pressure bulkhead web (Body Station 1183) at WL 188 between RBL 20 and RBL 45 for fatigue cracks. Since issuing the AD, a preventative modification has been developed by the manufacturer that reduces the potential for cracking of the undamaged web and strap. This modification has been incorporated into Boeing Alert Service Bulletin 727-53A0171, Revision 1, dated January 17, 1986. This proposed amendment would delete the repetitive inspection requirements of this AD on airplanes that have incorporated the preventative modification.

The proposed amendment also requires that airplanes modified in accordance with the –1 repair kit (in Boeing Drawing Number 65C31446) must install the vertical reinforcing strap from the –3 repair kit (in Boeing Drawing Number 65C31446) within 15,000 flight cycles after incorporation of the –1 repair kit, instead of inspecting the repair. This is necessary because, since the issuance of the AD, the FAA has determined that the repair cannot be effectively inspected on airplanes incorporating the –1 repair kit. Installation of the vertical reinforcing strap terminates the repetitive inspection requirements of this AD.

Also, this proposed amendment includes reference to Boeing Alert Service Bulletin 727-53A0171, Revision 1, dated January 17, 1986, instead of Boeing Drawing Number 65C31446 kits –1 and –3 and Boeing Service Bulletin 727-53-0171, dated September 6, 1985. This change merely clarifies the AD and has no effect on the compliance requirements of the AD.

The preamble to Amendment 39-5222 contained a request for comments concerning the AD. There was one response received which stated that repairs had been made to certain

airplanes in accordance with the Boeing 727 Structural Repair Manual (SRM), and the commentor felt that credit should be given for this repair with an appropriate reinspection interval. The repair detailed in the SRM is for a variable length of crack with a variable repair length. Therefore, incorporation of the repair in accordance with the SRM is beyond the scope of the AD and should be handled on a case-by-case basis with the operator requesting approval as an alternate means of compliance as specified in paragraph H. of the original AD.

Since those conditions are likely to exist or develop on airplanes of this same type design, this amendment is proposed to require further modification for any airplane that may have had the temporary repair installed and to provide a preventative modification that will terminate the repetitive inspection requirements of this AD.

It is estimated that 6 airplanes would require further modification as a result of this amendment, that it would take approximately 24 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. Operators is estimated to be $5,760. For the remaining 727 operators this amendment provides an optional modification which, if incorporated, relieves a repetitive inspection requirement.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 727 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

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

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

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

PART 39 [AMENDED]

2. By amending Airworthiness Directive (AD) 86-02-06, Amendment 39-5222 (51 FR 3027; January 23, 1986), by revising paragraphs D., E., and F. to read as follows:

"D. Accomplish a close visual inspection of the web in accordance with Figure 1 of Boeing Alert Service Bulletin 727-53A0171, Revision 1, dated January 17, 1986, or later FAA-approved revision. If any cracks are detected, repair prior to further flight in accordance with paragraph E. or F. of the Accomplishment Instructions of that service bulletin.

"E. For airplanes repaired by the installation of the doubler, in accordance with Boeing Service Bulletin 727-53A0171, Original Issue, within the next 15,000 flight cycles after that repair, incorporate the vertical reinforcing strap and spacers described in paragraph F. of the Accomplishment Instructions of Boeing Alert Service Bulletin 727-53A0171, Revision 1, dated January 17, 1986, or later FAA-approved revisions.

"F. The following constitute terminating action for the repetitive inspections required by paragraphs A., B., and C. of this AD:

"1. The preventive modification described in paragraph D. of the Accomplishment Instructions in Boeing Alert Service Bulletin 727-53A0171, Revision 1, dated January 17, 1986, or later FAA-approved revision; or

"2. The repairs described in paragraphs E. and F. of the Accomplishment Instructions in Boeing Alert Service Bulletin 727-53A0171, Revision 1, dated January 17, 1986, or later FAA-approved revision."

Issued in Seattle, Washington, on March 28, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-7551 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-CE-32-AD]

Airworthiness Directives; Beech Models 65-90, 65-A90, B90, C90, C90A, E90, F90, 200, B200, 200C, B200C, 200CT, B200CT, 200T, B200T, 300, 1900, and 1900C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Beech Models 65-90, 65-A90, B90, C90, C90A, E90, F90, 200, 300, 1900, and 1900C series airplanes. The manufacturer has received reports of the elevator trim cable becoming partially disengaged from the manual or electric trim cable drum which inhibits movement of trim tab and increases the elevator control forces. The proposed AD would require modification of the elevator trim cable system and thus preclude disengagement of the trim cable and subsequent loss of control of the airplane.

DATES: Comments must be received on or before May 11, 1986.

ADDRESSES: Beech Mandatory Service Bulletin No. 2028, Rev. 1, dated October 1985, applicable to this AD may be obtained through Beechcraft Aero and Aviation Centers; Beech Aircraft Corporation, 9709 East Central, Post Office Box Box 85, Wichita, Kansas 67201; or the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 85-CE-32-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Dale A. Vassalli, Federal Aviation Administration, Wichita Aircraft Certification Office, Room 100, 1801 Airport Road, Wichita, Kansas 67209; Telephone (316) 946-4419.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMS

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel,

Attention: Airworthiness Rules Docket No. 85–CE–32–AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

The manufacturer has reviewed 13 reports of the elevator cable becoming disengaged from the trim cable drum on Beech Models 65–90, 65–A90, B90, C90, C90A, E90, F90, 200, B200, 200C, B200C, 200CT, B200CT, 200T, B200T, 300, 1900, and 1900C series airplanes. In evaluating the elevator trim system as a result of these reports, it has been determined through ground testing that the trim cable may partially come off it's cable drum when the system is operated beyond it's stop limits. It has also been determined that this condition could occur when the system is operated by the pilot trimming manually, utilizing the optional manually controlled electric elevator trim, or when the trim is activated by the autopilot. The cable guards (2 each) are not consistently preventing the cable from being displaced on the cable drum. If the trim has disengaged from the cable drum, the resulting elevator control forces can become excessive thereby resulting in an unsafe condition.

This evaluation substantiated that the system functions properly until the cable stop limits (nose down or up) are exceeded. When stop limits are exceeded, the cable stretching and resulting backlash when force is removed from the cable, could cause the trim cable to get past the cable guard and partially wind off the drum and/or bind between the cable guard and a loop of the cable still on the drum, thereby preventing further movement of the trim tab. With subsequent movement of the elevator trim, the trim indicator may return to a normal range, and there may be no indication to the pilot that the elevator trim tab is in a mistrimmed position.

Since the condition described is likely to exist or develop in other Beech Aircraft Corporation Models 65–90, 65–A90, B90, C90, C90A, E90, F90, 200, B200, 200C, B200C, 200CT, B200CT, 200T, B200T, 300, 1900, and 1900C series airplanes of the same design, the AD would require modification of the elevator trim system. The FAA has determined there are approximately 3040 airplanes affected by the proposed AD. The cost of modifying these airplanes are required by the proposed AD is estimated to be $700 per airplane. The total cost is estimated to be $2,110,000 to the private sector. The cost of compliance with the proposed AD is so small that it would be necessary that a small entity own five or more of the affected airplanes for there to be significant financial impact on the entities. Few if any small entities will own this many of the affected airplanes.

Therefore, I certify that this action (1) is not a major rule under the provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "**ADDRESS**".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

The Proposed Amendment

PART 39—[AMENDED]

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

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

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

2. By adding the following new AD:

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

Model	Serial No.
65–90, 65–A90, B90, C90, C90A.	S/N LJ–1 thru LJ–1110.
E90	S/N LW–1 thru LW–347.
F90	S/N LA–2 thru LA–236.
200, B200	S/N BB–2 thru BB–1217.
200C, B200C	S/N BL–1 thru BL–112, and BL–124.
200CT, B200CT	S/N BN–1 thru BN–4.
200T, B200T	S/N BT–1 thru BT–30.
300	S/N FA–1 thru FA–38, FA–40 thru FA–50.
1900	S/N UA–1 thru UA–3.
1900C	S/N UB–1 thru UB–44.
H90 (T–44A)	S/N LL–1 thru LL–18, LL–20 thru LL–31, LL–33 thru LL–40, LL–42 thru LL–48, LL–50 thru LL–61.
A200 (C–12C)	S/N BD–1 thru BD–30, BC–1 thru BC–75.
A200C (UC–12B)	S/N BJ–1 thru BJ–86.
A200CT (C–12D)	S/N BP–1, BP–22, BP–24 thru BP–41.
A200CT (RC–12D)	S/N BP–23(GR–1), BP–12(GR–2), BP–18(GR–3), BP–16(GR–5) BP–2(GR–6), B–3(GR–7).
A200CT (FWC–12D)	S/N BP–7 thru BP–11.
65–A90–1 (U–21A)	S/N LM–1 thru LM–63, LM–65, LM–67 thru LM–69, LM–71 thru LM–107, LM–112 thru LM–124.
65–A90–1(JU–21A)	S/N LM–64, LM66, LM–70.
65–A90–1 (U–21G)	S/N LM–125 thru LM–141.
65–A90–1 (RU–21A)	S/N LM–108 thru LM–111.
65–A90–2A (RU–21B)	S/N LS–1 thru LS–3.
65–A90–3 (RU–21C)	S/N LT–1 and LT–2.
65–A90–4 (RU–21H)	S/N LU–1 thru LU–16.

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

To preclude the elevator trim cable from fouling or disengaging from the cable drums accomplish the following:

(a) Modify the airplane elevator trim system in accordance with Part 3 of Beechcraft Mandatory Service Bulletin No. 2028, Revision 1, dated October, 1985.

Note.—Compliance with Parts 1 and 2 (operating inspections and airplane markings) is not an acceptable alternative to complinace with Part 3 of Mandatory Service Bulletin No. 2028, Revision 1, dated October, 1985.

(b) An alternate means of compliance with this AD may be used if approved by the Manager, Wichita Aircraft Certification Office, ACE–115W, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

all persons affected by this directive may obtain copies of the documents referred to herein through Beechcraft Aero and Aviation Centers, Beech Aircraft Corporation, 9709 East Central, Post Office Box 85, Wichita, Kansas 67201, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on March 27, 1986.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86–7544 Filed 4–4–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–35–AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD), applicable to certain Boeing Model 747 airplanes, that would require an inspection for loose or failed bolts used for the forward attachment of the Numbers 1, 2, 3, 6, 7, and 8 trailing edge flap tracks to the wing lower surfaces. This proposed AD is prompted by a recent inflight separation of a portion of the Number 2 flap assembly. This condition, if not corrected, could lead to reduced controllability of the airplane.

DATES: Comments must be received on or before June 2, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention: Airworthiness Rules Docket No. 86-NM-35-Ad, 17900 Pacific Highway Sough, C-68966, Seattle, Washington 98168. The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It 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. Owen Schrader, Airframe Branch, ANM-120S; telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-35-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There has been a recent incident which involved the separation in flight of a portion of the Number 2 trailing edge flap assembly on a Boeing Model 747 airplane. The separation occured after the failure of all eight bolts of the forward attachment of the Number 3 trailing edge flap track to the lower wing surface. Five bolts had inadequate torque, which resulted in their failure due to fatigue. The three remaining bolts failed due to static overload. Subsequent inspections revealed loose or broken bolts on eleven airplanes. This failure could lead to loss of controllability of the airplane.

Boeing has issued Alert Service Bulletin 747-57A2234, dated February 21, 1986, that provides a procedure to check for loose or broken bolts used in the forward attachment of the Numbers 1; 2, 3, 6, 7, and 8 trailing edge flap tracks to the wing lower surface, and replacement, as necessary.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD would require the inspection for loose or broken bolts used for the forward attachment of the Numbers 1, 2, 3, 6, 7, and 8 trailing edge flap tracks to the wing lower surface. If loose or broken bolts are detected, they must be replaced within the time specified in the AD.

It is estimated that 83 airplanes of U.S. registry would be affected by this AD, that it would take approximately 42 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $139,440.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation 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 have a significant economic effect on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation, safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 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. 97-499, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing:

Applies to all Model 747 series airplanes listed in Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, certificated in any category. To detect loose or broken bolts for the forward attachment of the Numbers 1, 2, 3, 6, 7, and 8 trailing edge flap tracks to the wing lower surface, accomplish the following, unless already accomplished:

A. Prior to the accumulation of 5,000 flight cycles or within the next 300 flight cycles, whichever occurs later, conduct a one-time inspection for loose or broken bolts in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revisions.

B. If one bolt is found loose or broken replace all eight bolts used for the forward attachment of the trailing edge flap track to the wing lower surface within the next 600 flight cycles in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986.

C. If two bolts are found loose or broken, replace all eight bolts used for the forward attachment of the trailing edge flap track to the wing lower surface within the next 300 flight cycles in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revision.

D. If three or more bolts are found loose or broken, replace all eight bolts used for the forward attachment of the trailing edge flap track to the wing lower surface prior to further flight in accordance with Boeing Alert Service Bulletin 747-57A2234, dated February 21, 1986, or later FAA-approved revision.

E. 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 Manger, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. 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 inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service bulletin from the manufacturer may obtain copies upon request to the Boeing Commerical Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document 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.

Issued in Seattle, Washington, April 1, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-7692 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASO-9]

Proposed Designation of Transition Area, Foley, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposed to designate the Foley, Alabama, transition area to accommodate Instrument Flight Rule (IFR) operations at Foley Municipal Airport. This action will lower the base of controlled airspace from 1,200 to 700 feet above the surface in the vicinity of the airport. An instrument approach procedure, based on the proposed Summerdale Non-directional Radio Beacon (RBN), is being developed to serve the airport and the controlled airspace is required for protection of IFR aeronautical activities.

DATES: Comments must be received on or before: May 25, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Manager, Airspace and Procedures branch, ASO-530, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

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

SUPPLEMENTARY INFORMATION:

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 specificaly invited on the overall regulatory, 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. 86-ASO-9." The postcard will be date/time stamped and returned to the commenter. All communications recieved 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 Regional Counsel, 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. 11-2 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) that will designate the Foley, Alabama, transition area. This action will provide controlled airspace for aircraft executing a new instrument approach procedure to Foley Municipal Airport. If the proposed designation is found acceptable, the operating status of the airport will be changed to FR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Order 7400.6B dated January 2, 1986.

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 a 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, Airspace, Transition area.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); [14 CFR 11.65]; 49 CFR 1.47.

2. By amending § 71.181 as follows:

Foley, AL—[New]

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Foley Municipal Airport (Lat. 30°25'45" N., Long. 87°42'03" W.); excluding that portion which coincides with the Fairhope and Gulf Shores, AL transition areas.

Issued in East Point, Georgia, on March 26, 1986.

James L. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 86-7549 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-9]

Proposed Alteration of Transition Area, Bellaire, MI

Correction

In FR Doc. 86-6413, beginning on page 10228 in the issue of Tuesday, March 25, 1986, make the following correction:

On page 10229, in the second column, in the fifth line below the heading "**Bellaire, MI**", "ide" should read "side".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-19-80]

Unisex Annuity Tables

Corrections

In FR Doc. 86-6294, beginning on page 9978 in the issue of Monday, March 24, 1986, make the following corrections:

1. On page 9983, in the second column, in the fourteenth line of § 1.72-5(a)(2)(i), insert "be" after "to";

2. On page 9984, in the third column, the twenty-fifth line of § 1.72-5(b)(1) should read "post-June 1986 investment in the contract, the expected return is";

3. On the same page, same column and section, ten lines from the bottom, the first word should read "Expected";

4. On page 9985, in the first column, in the thirteenth line of § 1.72-5(b)(2), "through" should read "though";

5. On the same page and column, add "contract." to the eighth line of § 1.72-5(b)(2), Example (1);

6. On the same page, in the eleventh line of § 1.72-5(b)(2), Example (2), appearing in the second column, "600" should read "$600", and ten lines below that, insert "of" before "each";

7. On the same page, in the third column, in the seventh line of § 1.72-5(b)(3), "1938" should read "1939";

8. On page 9986, in the eleventh line of § 1.72-5(b)(5), Example (1), appearing in the second column, "$960" should read "$9.60";

9. On the same page, in the third column, in § 1.72-5(b)(7), Example (1), in the eleventh line "$715.40" should read "$716.40", and in the second line from the bottom of the column, "white" should read "while";

10. On page 9989, in § 1.72-6(b), Example (1), second column, the dotted fifth line should be deleted and the first word in the next line should read "Plus"; and

11. On page 9990, in the first column, in the fourth line of § 1.72-6(d)(3)(ii), the second word should read "starting".

BILLING CODE 1505-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[Notice No. 588]

Establishment of Arkansas Mountain Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering the establishment of a viticultural area in the State of Arkansas to be known as "Arkansas Mountain." This proposal is the result of a petition submitted by Mr. Al Wiederkehr, a winery owner and grape grower in the proposed area. The establishment of viticultural areas and the subsequent use of viticultural area names in wine labeling and advertising will enable winemakers to label wines more precisely and will help consumers to better identify the wines they purchase.

DATES: Written comments must be received by May 22, 1986.

ADDRESSES: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Notice No. 588).

Copies of the petition, the proposed regulations, the appropriate maps, and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4406, Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 provide for the establishment of definite viticultural areas. The regulations also allow the name of an approved viticultural area to be used as an appellation of origin on wine lables and in wine advertisements.

Part 9 of 27 CFR provides for the listing of approved American viticultural areas, the names of which may be used as appellations of origin.

Section 4.25a(e)(1), Title 27 CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedures for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include—

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historical or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographical features (climate, soil, elevation, physical features, etc.) which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which can be found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. map(s) with the boundaries prominently marked.

Petition

ATF has received a petition from Mr. Al Wiederkehr, Chairman of the Board and Chief Executive Officer of Wiederkehr Wine Cellars, Inc., proposing an area in northwestern Arkansas as a viticultural area to be known as "Arkansas Mountain." The proposed area contains about 4,500 square miles. Within the area, approximately 1,200 acres are currently planted to grapes. The area is located in the mountainous regions of Arkansas, both north and south of the Arkansas River. The petitioner states that approximately eight wineries are operating within the area.

Name of the Area

The petitioner claims that the proposed viticultural area is known by the name of "Arkansas Mountain." To support this, he submitted the following evidence:

(a) The name "Arkansas Mountain" has been used on wine labels by the petitioner to designate wines from this area since 1974.

(b) Published descriptions of the area have referred to it as the "Arkansas Mountains." For example, the "Holiday Inn Magazine for Travelers," in an October 1969 article entitled "Vineyard Village," stated: "Finding the grape-laden vineyards, a colorful chalet with gay window boxes, and huge wine cellars in the Arkansas mountains is an unexpected adventure to most tourists. Yet the colony has been there for more than 80 years." Further, the Rev. Placidus Oechsle, in his *Historical Sketch of the Congregation of Our Lady of Perpetual Help* (1930), wrote as follows: "The Baron . . . praised the thrifty and industrious settlers of Teutonic blood, who had made in a few years a garden spot of a wilderness. They had selected the Arkansas Mountains . . . to become their home."

(c) The origin of the term "Arkansas Mountain," is described by the petitioner in his petition as follows: "Dr. John L. Ferguson states the following information in reference to the Arkansas

Mountains. The name Arkansas came before Ozark or 'Aux Arcs' which means of the Arkansas or from among the Arkansas. The name Arkansas comes from the Arkansas Indians who lived in the area. The Arkansas River was given its name to indicate that it was the river of the Arkansas (Indians); therefore the Arkansas River. The mountains in the vicinity of the Arkansas River were also given that name to mean also the mountains of the Arkansas (Indians); therefore the Arkansas Mountains."

Geography of the Area

The petitioner declares that the proposed viticultural area is distinguished geographically from the surrounding areas as follows:

(a) To the north and west, the area is distinguished from neighboring areas on the basis of mean winter minimum temperature. The petitioner submitted data collected over 50 years from 42 locations (7 inside the area and 35 outside of it). These data showed that locations to the north and west of the proposed area regularly experience significantly colder mean winter minimum temperatures. According to Professor Justin R. Morris of the University of Arkansas Division of Agriculture, this distinction "is due to the effects of the mountains." The protective effects of the Arkansas mountains were described by the petitioner, quoting at length from *Natural Resources of the State of Arkansas* (1869) by James M. Lewis. In that book, Mr. Lewis claimed that protection from cold northern weather is due to the fact that the Ozark and Ouachita Mountains range east and west, rather than north and south (as with the Appalachians, for example). Consequently, Mr. Lewis said, the mountains provide shelter from violent winds and sudden changes in temperature coming from the north.

(b) To the east, the data is ambiguous as to the existence of a temperature difference as described above; but the eastern boundary does correspond approximately to a topographical change, where the Boston and Ouachita Mountains begin their descent to the alluvial plain of the Mississippi River. This topographical change is reflected in a change in the character of the soil; for instance, the Leadville-Taft soils begin to occur much more frequently; and, within the Linker and Mountainburg soils, there is an increasing predominance of the Linker variety and a corresponding drop-off in the Mountainburg.

(c) To the south, the boundary of the proposed area delineates the extent of "soil types suitable for grape production" (according to Professor Morris). Additionally, Professor Morris states, "All areas south of the Arkansas Mountain area would be considered in the Pierce's disease region and in these areas, the *Vitis rotundifolia* are best adapted since they are resistant or tolerant to Pierce's disease." Pierce's disease is a vine-destroying disease, associated with warm climates, which attacks vines of the *Vitis vinifera* species (the species from which most of the world's wines are produced). *Vitis vinifera* is grown in the proposed Arkansas Mountain area, but has not been grown successfully in the region to the south of it.

Boundaries of the Area

The boundaries of the proposed viticultural area may be found on two U.S.G.S maps in the scale of 1:250,000, titled Russellville, Arkansas, and Fort Smith, Arkansas-Oklahoma. The boundaries would be as described in the proposed § 9.112.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities. Further, the proposal will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291 of February 17, 1981, the Bureau has determined that this proposal is not a major rule since it will not result in:

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

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

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

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Public Participation—Written Comments

ATF requests comments concerning this proposed viticultural area from all interested persons. Furthermore, while this document proposes possible boundaries for the Arkansas Mountain viticultural area, comments concerning other possible boundaries for this viticultural area will be given consideration.

Comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as suggestions for possible future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the commenter considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his or her request, in writing, to the Director within the 45-day comment period. The request should include reasons why the commenter feels that a public hearing is necessary. The Director, however, reserves the right to determine, in light of all circumstances, whether a public hearing will be held.

List of Subjects in 27 CFR Part 9

Administrative practice and procedures, Consumer protection, Viticultural areas, Wine.

Drafting Information

The principal author of this document is Steve Simon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Issuance

Accordingly, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

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

Authority: 27 U.S.C. 205.

Par. B. The table of sections in 27 CFR Part 9, Subpart C, is amended to add the title of § 9.112, to read as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.112 Arkansas Mountain.

* * * * *

Par. C. Subpart C of 27 CFR Part 9 is amended by adding § 9.112, which reads as follows:

§ 9.112 Arkansas Mountain.

(a) *Name.* The name of the viticultural area described in this section is "Arkansas Mountain."

(b) *Approved maps.* The appropriate maps for determining the boundaries of Arkansas Mountain viticultural area are two U.S.G.S. maps. They are titled:

(1) Russellville, Arkansas, 1:250,000 series, compiled in 1954.

(2) Fort Smith, Arkansas-Oklahoma, 1:250,000 series, 1978.

(c) *Boundary*—(1) *General.* The Arkansas Mountain viticultural area is located in Arkansas. The starting point of the following boundary description is the point where Frog Bayou converges with the Arkansas River, near Yoestown, Arkansas, on the Fort Smith map.

(2) *Boundary Description*—(i) From the starting point southwestward along the Arkansas River to Vache Grasse Creek.

(ii) Then southeastward and southwestward following Vache Grasse Creek to the place where it is crossed by Arkansas Highway 10, near Greenwood, Arkansas.

(iii) From there westward along Highway 10 to U.S. Highway 71. (Note: Highway 10 is the primary highway leading from Greenwood to Hackett, Arkansas.)

(iv) Then southward and eastward along Highway 71 until it crosses Rock Creek.

(v) Then northeastward along Rock Creek to Petit Jean Creek.

(vi) Then generally northeastward and eastward along Petit Jean Creek until it becomes the Petit Jean River (on the Russellville map).

(vii) Then generally eastward along the Petit Jean River, flowing through Blue Mountain Lake, until the Petit Jean River joins the Arkansas River.

(viii) Then generally eastward along the Arkansas River to Cadron Creek.

(ix) Then generally northward and northeastward along Cadron Creek to the place where it is crossed by U.S. Highway 65.

(x) From there northward along Highway 65 to its intersection with Arkansas Highway 16 near Clinton, Arkansas.

(xi) From there following Highway 16 generally westward to its intersection with Arkansas Highway 23 in Brashears, Arkansas.

(xii) From there southward along Highway 23 to the Madison County-Franklin County line.

(xiii) Then westward and southward along that county line to the Madison County-Crawford County line.

(xiv) Then westward along that county line to the Washington County-Crawford County line.

(xv) Then westward along that county line to Jones Fork (on the Fort Smith map).

(xvi) Then southward along Jones Fork until it joins Frog Bayou near Winfrey, Arkansas.

(xvii) Then generally southward along Frog Bayou, flowing through Lake Shepherd Springs and Lake Fort Smith, to the beginning point.

Approved: March 27, 1986.

Stephen E. Higgins,

Director.

[FR Doc. 86-7567 Filed 4-4-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 166

[CGD 84-010]

Port Access Study, Gulf of Mexico

AGENCY: Coast Guard, DOT.

ACTION: Supplemental notice of study results.

SUMMARY: On March 11, 1985 (50 FR 9682), the Coast Guard published a notice of study results for the Gulf of Mexico. In the study results, doubt was raised as to whether the anchor clearance regulations contained in 33 CFR 166.200(b)(2) provide sufficient depth of water over temporary anchor chain and attendant cables in the Louisiana Offshore Oil Port (LOOP) approach. The notice of study results stated that the issue would be addressed in a future rulemaking document. The purpose of this notice is to remove from formal consideration changes to the anchor clearance regulations.

FOR FURTHER INFORMATION CONTACT: LTJG D. Reese, Project Manager, Office of Navigation (G-NSR-3), room 1418, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington DC 20593, telephone (202) 245-0108.

SUPPLEMENTARY INFORMATION: The Coast Guard's anchor clearance regulations now contained in 33 CFR 166.200(b)(2) allow temporary anchors and attendant cables or chains attached to floating or semisubmersible drilling rigs, (outside of a fairway boundary), to be placed within a fairway providing that the minimum depth of water over an anchor line within a fairway is 125 feet. The Army Corps of Engineers (COE) regulations contained in 33 CFR 209.135 set out the procedures for the temporary placement of anchors for semisubmersible drilling rigs. The COE regulations require notice to and Coast Guard review of permits for drilling rigs. The COE regulations also require that semisubmersible drilling rigs be at least 500 feet away from any fairway boundary or whatever distance is necessary to ensure that minimum clearance over an anchor line within a fairway will be 125 feet (33 CFR 209.135(b)(2)).

During the study, it was suggested that the minimum depth of water over a semisubmersible drilling rig's temporary anchor line be increased to 150 feet since LOOP has handled vessels of 78 feet in draft and can handle vessels with drafts of up to 96 feet. Information on anchor clearance regulations was provided by the Eighth Coast Guard District regarding existing vessel traffic, weather conditions, and the effect that an increase in anchor clearance regulations would have on offshore developers. The information was not sufficient enough to indicate a clear and present need for rulemaking at this time. The Coast Guard has the ability to comment on permits and take action in critical situations when the sufficiency of anchor clearance regulations might create a problem. Therefore, changes to the anchor clearance regulations are removed from formal consideration.

Dated: April 1, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard Chief, Office of Navigation.

[FR Doc. 86-7626 Filed 4-4-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-2995-6]

Approval and Promulgation of Implementation Plans; Federal Assistance Limitations and Construction Moratorium; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Notice of Cancellation of Public Hearings.

SUMMARY: On January 21, 1986 (51 FR 2732), USEPA proposed to impose funding limitations on the State of Indiana for failure to submit an approvable vehicle inspection and maintenance (I/M) program in Clark, Floyd, Lake, and Porter Counties. Today, USEPA is cancelling the hearings on this issue. This cancellation is based on the State Legislature's passage of critical elements of the I/M program which could result in an approvable program in the four counties.

DATES: The hearings on March 18 and 21, 1986, are cancelled.

ADDRESSES: The hearings at the following addresses are cancelled:

March 18, 1986, Northwest Indiana Public Hearing: County Commissioners Courtroom, Board of Commissioners of Lake County, 2293 North Main Street, Crown Point, Indiana 46307

March 21, 1986, Clark/Floyd Counties Public Hearing: Hoosier Room, University Center, Indiana University, Southeast, 4201 Grant Line Road, New Albany, Indiana 47150.

FOR FURTHER INFORMATION CONTACT: Steven D. Griffin, (312) 353-3849.

SUPPLEMENTARY INFORMATION: On January 21, 1986 (51 FR 2732), USEPA proposed to limit funding under the Clean Air Act (Act) and Title 23 of the United States Code, pursuant to section 176(a) of the Act, because the State of Indiana had failed to make reasonable efforts to submit a State Implementation Plan (SIP) for Clark, Floyd, Lake, and Porter Counties that considered each of the elements in section 172 of the Act; i.e., a detailed description of an adequate enforcement mechanism. Public hearings on this proposed action were announced to be held on the dates and at the locations listed above. USEPA intended to expand these hearings to also accept any comments on imposing the Federal funding assistance restrictions and construction moratorium pursuant to sections 176(b) and 173(4), respectively. See the August 3, 1983, Federal Register (48 FR 35316).

Because of the recent passage of legislation including an I/M enforcement mechanism by the Indiana Legislature, USEPA is indefinitely postponing further action to limit Federal funding assistance and to impose a construction moratorium in Clark, Floyd, Lake, and Porter Counties. Further action on the State's I/M program, including the possible imposition of sanctions, will be taken following USEPA's full review of the enforcement mechanism and vehicle emissions reduction demonstration which must be submitted by the State. After review and consultation with the State, another notice will be published announcing new rulemaking on these issues and time for public comment will be provided.

Authority: 42 U.S.C. 7410—7642.

Dated: March 14, 1986.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 86-7412 Filed 4-4-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42050B; FRL-2975-2(b)]

Toxic Substances; Proposed Testing Standards for Certain Chlorinated Benzenes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that certain Toxic Substances Control ACT (TSCA) test guidelines be utilized as the test standards for the required studies for 1,2- and 1,4-dichlorobenzene (CAS No. 95-50-1., 106-46-7, respectively); 1,2,3-trichlorobenzene (CAS 87-61-6); and 1,2,4-trichlorobenzene (CAS No. 120-82-1) and that test data be submitted within specified time frames. In a related document appearing elsewhere in this issue of the Federal Register, EPA is issuing a final test rule establishing testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of the aforementioned chlorinated benzenes.

DATES: Submit written comments on or before May 22, 1986. If persons request time for oral comment by May 7, 1986, EPA will hold a public meeting on this proposed rule in Washington, D.C. For further information on arranging to speak at the meeting, see Unit VI of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42050B), in triplicate to:

TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, D.C. 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll Free (800-424-9065).
In Washington, D.C.: (554-1404),
Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the Federal Register, EPA is issuing a final test rule under section 4(a) of TSCA to require testing of certain chlorinated benzenes for chemical fate and environmental effects. The Agency is now proposing test standards to be used and deadlines for submission of required test data.

I. Background

Elsewhere in this issue of the Federal Register, EPA is promulgating a Phase I final rule pursuant to TSCA section 4 that establishes testing requirements for manufacturers and processors of certain chlorinated benzenes. That Phase I rule specifies the following testing requirements for the chlorinated benzenes: (1) 1,2- and 1,4-dichlorobenzene chemical fate testing to include soil adsorption coefficient; (2) 1,2,4-trichlorobenzene chemical fate testing to include soil adsorption coefficient and environmental effects testing to include acute and chronic toxicity to mysid shrimp; (3) 1,2,3-trichlorobenzene environmental effects testing to include: 96-hour LC50 for the fathead minnow, 96-hour EC50 for Gammarus, acute toxicity to mysid shrimp and silversides, chronic toxicity to mysid shrimp, if the LC50 is <1 ppm.

Once the Phase I test rule becomes effective, manufacturers and processors of certain chlorinated benzenes would normally be required, under the existing two-phase process, to submit proposed study plans and schedules for both the initiation of testing and the submission of study data in accordance with 40 CFR 790.30. EPA would review the submitted study plans and schedules and would

thereafter issue them (with any necessary modifications) in a Phase II test rule proposal. That proposal would request comment on the ability of the proposed study plans to ensure that the resulting data would be reliable and adequate. After evaluating and responding to public comment, EPA would adopt, with any necessary modifications, the study plans and reporting schedules, in a Phase II final rule as the required test standards and data submission deadlines in 40 CFR 790.32.

However, in the case of the chlorinated benzenes test rule, which was initiated under the two-phase process, EPA has now decided to propose the relevant TSCA test guidelines in this document as the test standards, Unit III, and at the same time issue the chlorinated benzenes final rule. In addition, EPA is proposing that the data from the required studies be submitted within certain time periods. These time periods will serve as the data submission deadlines required by TSCA section 4(b)(1) (Unit IV). The reasons for this change in the test rule process for the chlorinated benzenes are discussed below (Unit II).

III. Change in the Test Rule Development Process

A. Test Standards and Data Submission Deadlines

TSCA section 4(b)(1) specifies that test rules shall include standards for the development of test data ("test standards") and deadlines for submission of test data. Under a two-phase process utilized by EPA since 1982 (March 26, 1982; 47 FR 13012) and formally adopted in the fall of 1984 (Oct. 10, 1984; 49 FR 39774), test standards and data submission deadlines were to be adopted during the second phase of the rulemaking process. Upon issuance of the Phase I final rule, which established the effects and characteristics for which a given chemical substance must be tested, persons subject to the rule would be required by a specified date to submit study plans detailing the methodologies and protocols they intended to use to perform the required tests. Such study plans were to include proposed schedules for the initiation and completion of testing and submission of test data in accordance with 40 CFR 790.30 (a) and (c). The Agency would then publish these study plans and solicit public comment. In the second phase, after consideration of public comment, the Agency would promulgate the Phase II final rule adopting the study plans (with any necessary modifications) as the test standards for the development of test data and deadlines for submission of test data.

In December 1983, the Natural Resources Defense Council (NRDC) and the Industrial Union Department of the American Federation of Labor-Congress of Industrial Organizations (AFL–CIO) filed an action under TSCA section 20 challenging, among other things, the use of the two-phase process. In an August 23, 1984 Opinion and Order, the U.S. District Court for the Southern District of New York found that utilization of the two-phase rulemaking process was permissible. However, the Court also held that the Agency was subject to a standard of promulgating test rules within a reasonable time frame (*NRDC v. EPA*, 595 F Supp. 1255 (S.D.N.Y. 1984)).

Subsequent to the issuance of that Opinion, the Agency decided that in order to expedite the development of section 4 test rules, EPA would utilize a single-phase rulemaking process for most test rules. In the Notice announcing this decision, published in the **Federal Register** of May 17, 1985, (50 FR 20652); EPA stated that the single-phase approach offers a number of advantages over the two-phase process. In this single-phase approach, the Agency proposes (in one notice) not only the effects for which testing will be required but also proposes pertinent TSCA or other apprporiate guidelines as the test standards and time frames for the submission of test data. After receiving and evaluating public comment on the proposed testing requirements, test guidelines, and data submission deadlines, EPA promulgates a final rule.

This single-phase approach shortens the rulemaking period and expedites the initiation of required testing relative to the two-phase rulemaking process. The single-phase process also eliminates the requirement under the two-phase approach for industry to submit test protocols for approval. Moreover, by allowing comments or submission of alternative testing methodologies during the comment period, the single-phase approach preserves the flexibility of the two-phase process.

These same advantages, i.e., expedited initiation of testing and the elimination of study plan submission requirements for persons subject to a Phase I rule, are factors EPA considered in deciding to modify the rulemaking process for the chlorinated benzenes. By proposing both pertinent TSCA test guidelines as the test standards and data submission deadlines at the time of issuance of the Phase I rule, EPA expects that the Phase II final rule will be issued 6 months sooner than would occur if the usual two-phase process was followed. Thus, required testing will be initiated on a expedited basis. In addition, for each of the required tests for the chlorinated benzenes, appropriate TSCA test guidelines are available (Unit III). Thus, EPA believes that there is no need for manufacturers and processors of the chlorinated benzenes to develop proposed study plans for EPA and public review during the rulemaking process.

B. Modifications to Requirements Under a Phase I Final Rule for Certain Chlorinated Benzenes

As indicated above, (Unit II.A) persons subject to the chlorinated benzenes Phase I final rule and who have notified EPA of their intent to test would normally be required to submit proposed study plans and proposed data submission deadlines within a specified time of the final rule's effective date in accordance with 40 CFR 790.30 (a) and (c). However, because EPA is proposing certain TSCA guidelines and Agency-reviewed industry protocols as the test standards, and data submission deadlines, persons subject to the Phase I final rule are not required at this time to submit study plans for the required testing or proposed dates for the initiation and completion of that testing. Manufacturers and processors of chlorinated benzenes are invited to comment on both the proposed test standards and the data submission deadlines. The Agency will consider these comments in issuing the Phase II final rule.

However, persons subject to the Phase I final rule for the chlorinated benzenes are still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25. Moreover, once the test standards and reporting deadlines are promulgated in the Phase II final rule, those persons who have notified EPA of their intent to test must submit specific study plans (which adhere to the promulgated test standards) no later than 30 days before the initiation of each required test, 40 CFR 790.30(a)(1).

III. Proposed Test Standards

The Agency is proposing that the chemical fate and environmental effects testing on the chlorinated benzenes be conducted in accordance with specific guidelines set forth in Title 40 of the Code of Federal Regulations published in the **Federal Register** of September 27, 1985 (50 FR 39252) and modified as specified in the **Federal Register** of

January 14, 1986 (51 FR 1522), as enumerated below.

In the final test rule for the chlorinated benzenes, the required testing includes acute and chronic tests for mysid shrimp, acute studies for *Gammarus*, silversides, and the fathead minnow, and soil adsorption coefficient tests.

For the purpose of developing data on the acute toxicity of the chlorinated benzenes to aquatic invertebrates, EPA is proposing that testing using flow-through systems and measured concentrations be conducted with mysid shrimp according to 40 CFR 797.1930. To develop data on the chronic toxicity to aquatic invertebrates, EPA is proposing that testing be conducted with the mysid shrimp according to 40 CFR 797.1950.

For the purpose of gathering data on acute effects to aquatic vertebrates, the Agency is proposing that testing be conducted with one species of *Gammarus*, the fathead minnow (*Pimpephales promelas*), and silversides (*Menidia menidia*) according to 40 CFR 797.1310, 797.1400 and 797.1400, respectively.

The soil adsorption coefficient tests are designed to develop data on the binding of the chemical to the soil or sediment, thus allowing the Agency to predict the mobility of the compound. EPA is proposing that testing be conducted according to 40 CFR 796.2750.

IV. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with the TSCA Good Laboratory Practice (GLP) standards in 40 CFR Part 792.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. Specific reporting requirements for each of the proposed test standards follow:

All studies required in this rule will be completed and the final results submitted to the Agency within 1 year of the effective date of the final Phase II rule. The only exception to this requirement will be the chronic toxicity study on mysid shrimp on 1,2,3-trichlorobenzene which will be completed and results submitted within 15 months of the effective date of the final Phase II rule. This extension is to allow data on the acute study to be fully evaluated by the Agency.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will announce the receipt within 15 days in the **Federal Register** as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

V. Issues for Comment

EPA invites comment on the use of the proposed TSCA test guidelines as the test standards for the required testing of the chlorobenzenes. EPA also invites comment on the proposed schedule for the required testing.

VI. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting subsequent to the close of the public comment period in Washington, D.C. Persons who wish to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800–424–9065); In Washington, D.C.: (554–1404); Outside the U.S.A. (Operator—202–554–1404), by May 7, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency would transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of EPA's record for this rulemaking.

VII. Public Record

EPA has established a record for this rulemaking, [docket number (OPTS–42050B]. This record includes basic information considered by the Agency in developing this proposal, and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

This record includes the supporting documents for this rulemaking consisting of the proposed and final Phase I test rules on certain chlorinated benzenes.

The record is open for inspection from 8 a.m. to 4 p.m. Monday through Friday except legal holidays, in Rm. E–107, 401 M St. SW., Washington, DC. 20460.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of the chlorinated benzenes is discussed in the Phase I test rule appearing elsewhere in this issue of the **Federal Register**.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, (15 U.S.C. 601 *et seq.*, Pub. L. 96–354, September 19, 1980), EPA is certifying that this rule, if promulgated, will not have a significant impact on a substantial number of small businesses for the following reasons:

(1) There are not a significant number of small businesses manufacturing the chlorinated benzenes.

(2) Small processors are not expected to perform testing themselves, or to participate in the organization of the testing efforts.

(3) Small processors will experience only very minor costs if any in securing exemption from testing requirements.

(4) Small processors are unlikely to be affected by reimbursement requirements, and any testing costs passed on to small processors through price increases will be small.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in this proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs: OMB; 726 Jackson Place N.W., Washington, D.C. 20503, marked "Attention: Desk Officer for EPA". The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, reporting and record keeping requirements.

Dated: March 27, 1986.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR Part 799 be amended as follows:

PART 799—[AMENDED]

1. The authority citation for Part 799 continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. Part 799 is amended as follows:

a. By adding paragraph (c)(1) (ii) and (iii) to § 799.1052 to read as follows:

§ 799.1052 Dichlorobenzenes.

* * * * *

(c) * * *

(1) * * *

(ii) *Test standards.* The soil adsorption coefficient test for 1,2-dichlorobenzene and 1,4-dichlorobenzene shall be conducted and the final results submitted to the Agency in accordance with § 799.2750 of this Chapter.

(iii) *Reporting requirements.* (A) The soil adsorption coefficient test shall be completed and the final results submitted to the Agency within 12 months of the effective date of the Phase II final test rule.

(B) Interim progress reports shall be required quarterly beginning with the start of the test and ending with the submission of the final test report.

b. By adding paragraphs (c)(1) (ii) and (iii) and (d)(1) (ii) and (iii), (2) (ii) and (iii), (3) (ii) and (iii), (4) (ii) and (iii)), and (5) (ii) and (iii) to § 799.1053 to read as follows:

§ 799.1053 Trichlorobenzenes.

* * * * *

(c) * * *

(1) * * *

(ii) *Test standard.* The soil adsorption coefficient test for 1,2,4-trichlorobenzene shall be conducted and the final results submitted to the Agency in accordance with § 799.2750 of this Chapter.

(iii) *Reporting requirements.* (A) The soil adsorption coefficient test shall be completed and the final results submitted to the Agency within 12 months of the effective date of the Phase II final test rule.

(B) Interim progress reports shall be required quarterly beginning with the start of the test and ending with the submission of the final test report.

(d) * * *

(1) * * *

(ii) *Test standards.* The marine invertebrate acute toxicity testing for 1,2,3- and 1,2,4-trichlorobenzenes shall be conducted in accordance with § 797.1930 of this Chapter.

(iii) *Reporting requirements.* (A) The acute toxicity test on marine invertebrates shall be completed and the final results submitted within 1 year of the effective date of the Phase II final test rule.

(B) Interim progress reports shall be provided quarterly beginning with the start of the test and ending with the submission of the final test report.

(2) * * *

(ii) *Test standard.* The marine fish acute toxicity tests shall be conducted for 1,2,3-trichlorobenzene in accordance with § 797.1400 of this Chapter.

(iii) *Reporting requirements.* (A) The marine fish acute toxicity test shall be completed and the final results submitted within 1 year of the effective date of the Phase II final test rule.

(B) Interim progress reports shall be required quarterly beginning with the start of the test and ending with the submission of the final test report.

(3) * * *

(ii) *Test standard.* The freshwater fish acute toxicity testing shall be conducted or 1,2,3-trichlorobenzene in accordance with § 797.1400 of this Chapter.

(iii) *Reporting requirements.* (A) The freshwater fish acute toxicity study shall be completed and the final report submitted within 1 year of the effective date of the Phase II final test rule.

(B) Interim progress reports shall be required quarterly, beginning with the start of the test and ending with the submission of the final test report.

(4) * * *

(ii) *Test standard.* The freshwater invertebrate acute toxicity testing shall be conducted for 1,2,3-trichlorobenzene in accordance with § 797.1310 of this Chapter.

(iii) *Reporting requirements.* (A) The test shall be completed and the final results submitted to the Agency within 1 year of the effective date of the Phase II final test rule.

(B) Interim progress reports shall be required quarterly beginning with the start of the test and ending with the submission of the final test report.

(5) * * *

(ii) *Test standards.* The mysid shrimp chronic toxicity testing shall be conducted for 1,2,4-trichlorobenzene in accordance with § 797.1950 of this chapter. Testing shall also be conducted according to § 797.1950 for 1,2,3-trichlorobenzene should be the acute LC50 of this chemical for mysid shrimp be determined to be less than 1 ppm.

(iii) *Reporting requirements.* (A) The mysid shrimp chronic toxicity test for 1,2,4-trichlorobenzene shall be completed and the final results submitted to the Agency within 12 months of the effective date of the Phase II final test rule. The mysid shrimp chronic toxicity test for 1,2,3-trichlorobenzene, if required, shall be completed and final results submitted to the Agency within 15 months of the effective date of the Phase II final test rule.

(B) Interim progress reports shall be required quarterly beginning with the start of the test and ending with the submission of the final test report.

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070-0033)

[FR Doc. 86-7476 Filed 4-4-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PR Docket No. 85-215; RM-4885; FCC 86-125]

Amateur Radio Service Rules

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of Proposed Rulemakings.

SUMMARY: This document withdraws an earlier proposal to allow auxiliary operation on all amateur frequencies, except 431–433 MHz and 435–438 MHz. Commenters noted that potentially disruptive interference could occur if the rule were amended as proposed. Further, expansion of auxiliary operation to all amateur frequencies could result in spectrum inefficiency and appears to be inadvisable.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Radio Repeaters.

Order (Proceeding Terminated)

In the Matter of Amendment of the Amateur Radio Service Rules to allow auxiliary operation on all amateur frequencies, except 431–433 MHz and 435–438 MHz (PR Docket No. 85-215, RM-4885).

Adopted: March 20, 1986.

Released: March 26, 1986.

By the Commission.

1. On July 5, 1985, in response to a petition filed by the Quarter Century Wireles Association (QCWA), the Commission adopted a Notice of Proposed Rule Making (50 FR 29454; July 19, 1985) proposing to permit auxiliary operation [1] on all amateur frequencies (except on frequencies between 431–433 MHz and 435–438 MHz, where weak-signal communications, moonbounce experimentation and satellite transmissions would continue to be protected). The proposal would have expanded the frequencies available for auxiliary operation. Such operation is currently limited to frequencies above 220.5 MHz (except 431–433 MHz and 435–438 MHz). Twelve comments and four reply comments were received in this proceedings.[2]

2. The Texas VHF-FM Society supports the proposal and indicates that amateur operators who require auxiliary links as part of their radio communications are aware of band plans that locate auxiliary links away from other types of service. They cooperate with local coordinating committees in avoiding interference to other amateur operators. Gary Hendrickson believes that auxiliary operation would not be feasible below 50 MHz where random station operation occurs throughout the entire band limits, but that interference to auxiliary links is unlikely above 50.1 MHz where random station amateur operation is normally confined to limited band segments. QCWA and Advanced Computer Controls, Inc., both stress the need for the removal of restrictions surrounding auxiliary operation so that there can be experimentation with new technologies.

3. Commenters opposing the proposal raise serveral objections. For example, The American Radio Relay Legue, Inc. (ARRL) notes that auxiliary operation should not be authorized for the MF and HF bands because those frequency bands are already heavily loaded. The petitioner, QCWA, had contended that allowing auxiliary operation on all amateur frequencies would provide the amateur service with options such as in-band control, cross-polarization of antennas, new cross-band modes of operation, and independent sideband for simultaneous control and repeater operation (referenced to the same suppressed carrier frequency). The ARRL argues that those contentions fail to take into account questions of spectrum efficiency stemming from the use of HF and low-VHF amateur frequencies for auxiliary operation. The ARRL points out that path lengths for fixed-link, remote control or relay auxiliary operation are generally short, thus failing to justify use of frequencies below 220.5 MHz. The ARRL further states that band crowding at MF and HF frequencies makes those bands unsuited for auxiliary operation, as does the inability to conduct local frequency coordination of auxiliary operation. It cites the 2-meter band (144–148 MHz) as an example. In that band, according to the ARRL, interference would result simply because it is fully loaded in many areas of the country. The ARRL believes that auxiliary operation is fundamentally incompatible with amateur MF and HF operation because it generally requires fixed, dedicated frequencies and transmission paths. Other commenters who oppose the proposal raise objections similar to those of the ARRL.

4. After considering the comments on both sides of the issue of expanding auxiliary operation in the Amateur service, we are persuaded that we should terminate this proceeding without adopting the proposed rule change. It is apparent from the comments that the rules presently reflect a good match between the frequencies authorized for auxiliary operation and auxiliary link functions. The potentially disruptive interference which could occur to other amateur operations on MF and HF frequencies if auxiliary operation were expanded and the lack of justification for using spectrum below 220 MHz outweigh the additional flexibility which could be achieved by the proposal.

5. In view of the foregoing, it is ordered, that this proceeding is terminated.

6. For information concerning this proceeding, contact Maurice J. DePont, Federal Communications Commission, Private Radio Bureau, Washington, DC 20554, (202) 632–4964.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–7155 Filed 4–4–86; 8:45 am]

BILLING CODE 6712-01-M

[1] Section 97.3(1) of the Amateur rules defines "auxiliary operation" as radio communication for remotely controlling other amateur radio stations, for automatically relaying the radio signals of other amateur radio stations in a system of stations, or for intercommunication with other amateur radio stations in a system of amature radio stations.

[2] In order to have the benefit of all the viewpoints expressed in this proceeding, we accept the late comment of Paul L. Schmidt, and the late reply comments of Advanced Computer Controls, Inc. and The Quarter Century Wireless Association.

DEPARTMENT OF DEFENSE

48 CFR Parts 203 and 252

Federal Acquisition Regulation Supplement; Implementation of Pub. L. 99–145

AGENCY: Department of Defense.

ACTION: Proposed rule and request for comments.

SUMMARY: The Defense Acquisition Regulatory Council is considering a revision to the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Title IX, section 932, of the DoD Authorization Act of 1986 (Pub. L. 99–145).

DATES: Comments on the proposed rule should be submitted in writing to the Executive Secretary, DAR Council, at the address shown below, no later than June 6, 1986, to be considered in the formulation of a final rule. Please cite DAR Case 85–222 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, Attn: Mr. Charles W. Lloyd, Executive Secretary, DASD(P)/DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301–3062.

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

SUPPLEMENTARY INFORMATION:

A. Background

Title IX, section 932, of the Department of Defense Authorization Act, 1986 (Pub. L. 99–145), prohibits any person convicted of fraud or any other felony arising out of a Department of Defense contract from working on any defense contract in a management or supervisory capacity for a period, as determined by the Secretary of Defense, of not less than one year. The changes included in this notice will, if adopted, implement the prohibitions cited above.

B. Regulatory Flexibility Act

The proposed coverage will affect only those contractors that have in their employ convicted felons. It is believed that there will be very few, if any, small entities that will be affected. Public comments are invited.

C. Paperwork Reduction Act Information

It is expected that there will not be 10 or more contractors in such as position that they would have to provide a notification. Therefore, the rule does not

require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Parts 203 and 252

Government procurement.

Owen Green,

Acting Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Parts 203 and 252 be amended as follows:

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

1. The authority citation for 48 CFR Part 203 continues to read as follows:

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

2. Sections 203.571, 203.571–1, 203.571–2, 203.571–3, 203.571–4, and 203.571–5, are added to read as follows:

§ 203.571 Prohibition on persons convicted of fraud or other Defense contract-related felonies.

§ 203.571–1 Scope.

This section prescribes policies and procedures to implement Title IX, Section 932, of the Department of Defense Authorization Act, 1986 (Pub. L. 99–145), which prohibits any person convicted of fraud or any other felony arising out of a Department of Defense contract from working on any defense contract in a management or supervisory capacity for a period, as determined by the Secretary of Defense, of not less than one year.

§ 203.571–2 Definitions.

"Arising out of a contract with the Department of Defense", as used in this subpart, means any act in connection with (i) attempting to obtain, (ii) obtaining, or (iii) performing a contract of any agency, department, or Component of the Department of Defense.

"Conviction of fraud or any other felony", as used in this subpart, means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plan of *nolo contendere*, for which sentence has been imposed.

§ 203.571–3 Policy.

Any person convicted of fraud or any other felony arising out of a contract with the Department of Defense, for crimes committed after November 8, 1985, shall be prohibited from working in a management or supervisory capacity on any defense contract for a period of at least one year from the date of conviction. If the person has been debarred based on such conviction, the above prohibition shall extend through the period of debarment, but such prohibition period shall not be less than one year from the date of conviction.

§ 203.571–4 Reporting.

When a person convicted of fraud or a felony arising out a contract with the Department of Defense is found to be working in a management or supervisory capacity on a Department of Defense contract, a report shall be prepared and forwarded in accordance with agency procedures (see DoD Directive 7050.5).

§ 203.571–5 Contract clause.

The contracting officer shall insert the clause at 252.203–7001, Special Prohibition of Employment, in all solicitations and contracts.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. The authority citation for 48 CFR Part 252 continues to read as follows:

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

4. Section 252.203–7001 is added to read as follows:

§ 252.203–70001 Special Prohibition on Employment.

As prescribed in 203.571–5, insert the following clause:

SPECIAL PROHIBITION ON EMPLOYMENT (APR 1986)

(a) *Definitions.* "Arising out of a contract with the Department of Defense", as used in this clause, means any act in connection with (i) attempting to obtain, (ii) obtaining, or (iii) performing a contract of any agency, department, or Component of the Department of Defense.

"Conviction of fraud or any other felony", as used in this clause, means any conviction for fraud or a felony in violation of state or Federal criminal statutes, whether entered on a verdict or plea, including a plea of *nolo contendere*, for which sentence has been imposed.

(b) Section 932 of Pub. L. 99–145 prohibits any person convicted of fraud or any other felony arising out of a Department of Defense contract, for crimes committed after November 8, 1985, from working on any defense contract in a management or supervisory capacity for a period, as determined by the Secretary of Defense, of not less than one (1) year.

(c) The Contractor, upon learning of a conviction, agrees to notify the Contracting Officer of any employee convicted of fraud or any other felony arising out of a Department of Defense contract. The Contractor further agrees not to knowingly employ any such convicted person in a managerial or supervisory capacity on Department of Defense contracts from the date the Contractor learns of the conviction until one (1) year has expired from the date of conviction. However, if the person has also been debarred pursuant to FAR Subpart 9.4, the above prohibition shall extend for the period of debarment, but in no event shall the prohibition be less than one (1) year from the date of the conviction.

(d) If the Contractor knowingly employs such a convicted person in a managerial or supervisory capacity on defense contracts within the prohibited period or, after learning of a conviction, fails to notify the Contracting Officer as required by this clause, the Government may consider, in addition to the penalties contained in section 932 of Pub. L. 99–145, other available remedies, such as suspension or debarment, and may terminate this contract for default.

(e) The Contractor agrees to include the substance of this clause, including this paragraph (e), appropriately modified to reflect the identity and relationship of the parties, in all subcontracts.

(End of clause)

[FR Doc. 86–7634 Filed 4–4–86; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Five Mississippi and Alabama Clams

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine Marshall's mussel (*Pleurobema marshalli* Frierson), Curtus' mussel (*Pleurobema curtum* (Lea)), Judge Tait's mussel (*Pleurobema taitianum* (Lea)), the stirrup shell (*Quadrula stapes* (Lea)), and the penitent mussel (*Epioblasma* (=*Dysnomia*) *penita* (Conrad)) to be endangered species under the Endangered Species Act of 1973, as amended. These five freshwater clams are restricted to areas in the Tombigbee River system that represent remnants of their historic ranges. They have been found in moderate-to-large rivers with moderate-to-swift current. Their preferred habitats are riffle or shoal areas with stable substrates ranging from sandy gravel to gravel-cobble. Much of the historic habitat has been modified by reservoir and barge canal construction. The remaining populations

are in bendways or meanders of the Tombigbee River that were bypassed by the Tennessee-Tombigbee Waterway (TTW) and in a few tributaries of the Tombigbee River. They are away from and not affected by present operation of the completed TTW. The remaining habitat is threatened by siltation from a variety of sources and by gravel dredging. The construction of impoundments adversely impacted these five species by physical destruction during dredging, increasing siltation, reducing water flow, suffocating juveniles with sediment, and possibly disturbing host fish movements. This proposal, if made final, would implement the protection of the Endangered Species Act of 1973, as amended, for these five freshwater clams. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by June 6, 1986. Public hearing requests must be received by May 22, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Field Supervisor, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan, Endangered Species Field Supervisor, at the above address (phone: 601/960-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

Marshall's mussel was described as *Pleurobema marshalli* by Frierson in 1927 from specimens collected by A. A. Hinkley from the Tombigbee River in Greene County, Alabama (Stansbery 1983b). Marshall's mussel is a bivavle mollusk about 60 mm long, 50 mm high, and 30 mm wide. The shell has a shallow umbonal cavity, a rounded subovate or obliquely elliptical outline, nearly terminal beaks, and very low pustules or welts on the postventral surface. This mussel was historically known from the Tombigbee River main stem from just above Tibbee Creek near Columbus, Mississippi, down to Epes, Alabama (Stansbery 1983b). Studies of clams of the Gulf Coast rivers from the Escambia River to the Suwannee River by Clench and Turner (1956) and of Mississippi streams by Grantham (1969) did not reveal Marshall's mussel in those areas. Extensive surveys of the Cahaba River by van der Schalie (1938) and Baldwin (1973) and of the Coosa River by Hurd (1974) did not find Marshall's mussel (Stansbery 1983b). This complete lack of specimens from anywhere except the Tombigbee River from Tibbee Creek to Epes, Alabama, suggests that the historical range of this species was restricted to this river reach. An extensive survey of the Tombigbee River in 1971–1976 by Williams (Stansbery 1983b) recorded Marshall's mussel in the lowermost half of the river from Tibbee Creek downstream to just above the mouth of the Noxubee River. Yokley (1978) did not find Marshall's mussel in his survey of the Buttahatchie River. The only remaining viable habitat for this species in the Tombigbee River is a gravel bar in a bendway in Sumter County, Alabama. A few individuals may survive in two Tombigbee River bendways: one each in Lowndes County, Mississippi, and Pickens County, Alabama.

Curtus' mussel was originally described as *Unio curtus* by Lea in 1859. The Service recognizes the following name combinations (based on Stansbery 1983d) as equivalent to *Pleurobema curtum* (Lea 1859);

Unio curtus Lea, 1859:113.
Margaron (Unio) curtus (Lea).—Lea, 1870:40.
Pleurobema curta (Lea).—Simpson, 1900:754.
Pleurobema curtum (Lea).—Simpson, 1914:762.
Obovaria (Pseudoon) curta (Lea).—Frierson, 1927:91.

Curtus' mussel is a bivalve mollusk about 50 mm long, 35 mm high, and 30 mm wide. The shell varies from green in young shells to a dark greenish-brown in older shells. The shell is subtriangular, is inflated in front, and has a bluish-white, iridescent, thin nacre (Simpson 1914). Curtus' mussel was historically found in the main stem of the Tombigbee River. The Service considers the single record of this species from the Big Black River in Mississippi (Hinkley 1906, p. 54) to be erroneous. The species has been collected from only five locations, and only two living specimens are known to have been collected. The single remaining viable habitat is in the East Fork Tombigbee River, Mississippi. A few individuals may remain in a bendway of the Tombigbee River in Pickens County, Alabama. Grantham (1969) did not record Curtus' mussel from the Big Black River, nor have more recent surveys found it there (P. D. Hartfield, Mississippi Museum of Natural Science, pers. comm.).

Judge Tait's mussel was described as *Unio taitianus* by Lea in 1934, with the type locality being the Alabama River (Stansbery 1983a). The Service recognizes the following abbreviated synonymy (based on Stansbery 1983a) for *Pleurobema taitianum* (Lea 1834);

Unio taitianus Lea, 1834:39.
Margarita taitianus (Lea).—Lea, 1836:21.
Margaron taitianus (Lea).—1852a:25.
Pleurobema taitiana (Lea).—Simpson, 1900:754.
Pleurobema taitianum (Lea).—Simpson, 1914:764.
Pleurobema tombigbeanum Frierson, 1908:27.

Judge Tait's mussel is a bivalve mollusk about 50 mm long, 45 mm high, and 30 mm wide. The shell is brown to brownish-black, obliquely triangular, and inflated, with narrowly pointed beaks directed forward, a very shallow but distinct furrow, pink-tinted nacre, and shallow beak cavities (Stansbery 1983a, Simpson 1914). Judge Tait's mussel was historically found in the Tombigbee River from Tibbee Creek near Columbus, Mississippi, to Demopolis, Alabama; the Alabama River at Claiborne and Selma, Alabama; the lower Cahaba River, Alabama; and possibly the Coosa River, Alabama (Stansbery 1983a, Williams 1982). Several shells from recently dead specimens were found at one location on the Buttahatchie River, a tributary of the Tombigbee, in Mississippi (Schultz 1981). This species has also been reported from the East Fork Tombigbee River (Schultz 1981) and from the Sipsey River, Alabama. Only four sites with suitable habitat remain: these consist of localities in a bendway of the Tombigbee River, Sumter County, Alabama; the East Fork Tombigbee River, Mississippi; the Buttahatchie River, Mississippi; and the Sipsey River, Pickens and Greene Counties, Alabama. A few individuals may survive at a site in a bendway of the Tombigbee River, Pickens County, Alabama.

The stirrup shell was originally described from the Alabama River as *Unio stapes* by Lea in 1931. The Service recognizes the following name combinations (based on Stansbery 1981) as equivalent to *Quadrula stapes* (Lea 1931):

Unio stapes Lea, 1831:77.
Margarita (Unio) stapes (Lea).—Lea, 1836:15.
Margaron (Unio) stapes (Lea).—Lea, 1852b:22.
Quadrula stapes (Lea).—Simpson, 1900:775.
Orthonymus stapes (Lea).—Haas, 1969:310.

The stirrup shell is a bivalve mollusk about 55 mm long, 50 mm high, and 30 mm wide. The shell is yellowish-green, with the green, zigzag markings of young

individuals becoming brown with age. It is irregularly quadrate, with a sharp posterior ridge, truncated posterior, tubercles, and a silvery white nacre that is thinner and iridescent behind (Simpson 1914). The stirrup shell was found historically in the Tombigbee River from Tibbee Creek near Columbus, Mississippi, downstream to Epes, Alabama; the Black Warrior River in Alabama; and in the Alabama River (Stansbery 1981, Williams 1982). One specimen was found recently in the Sipsey River, Pickens and Greene Counties, Alabama, by Dr. Paul Yokley. Only two small areas of viable habitat remain: one in the Sipsey River and the other in a bendway of the Tombigbee River in Sumter County, Alabama. Two additional bendways in the Tombigbee River, one each of Lowndes County, Mississippi, and Pickens County, Alabama, may support a few individuals.

The penitent mussel was described as *Unio penitus* by Conrad in 1834. The type locality is the Alabama River near Claiborne, Alabama (Stansbery 1983c). The Service recognizes the following name combinations (based on Stansbery 1983c) as equivalent to *Epioblasma penita* (Conrad 1834):

Unio penitus Conrad, 1834:33.

Margarita (Unio) penitus (Conrad).—Lea, 1836:19.

Margaron (Unio) penitus (Conrad).—Lea, 1852a:24

Truncilla penita (Conrad).—Simpson, 1900.

Dysnomia penita (Conrad).—Frierson, 1927:93.

Epioblasma penita (Conrad).—Stansbery, 1976:48

Plagiola (Plagiola) penita (Conrad) [in part].—Johnson, 1978, 254.

The penitent mussel is a bivalve mollusk about 55 mm long, 40 mm high, and 34 mm wide. The shell is yellowish, greenish-yellow, or tawny, sometimes with darker dots; is rhomboid with irregular growth lines and a radially sculptured posterior; and has white or straw-colored nacre (Simpson 1914). The females have a large radially-grooved swelling projecting behind the shell. This species was historically known from the Tombigbee River from Bull Mountain Creek above Amory, Mississippi, downstream to Epes, Alabama; the Alabama River at Claiborne and Selma; the Cahaba River below Centreville, Alabama; and the Coosa River in Alabama and Georgia (Stansbery 1983c, Williams 1982). Live specimens were found recently in the Buttahatchie River in Alabama (Yokley 1978, Schultz 1981). The only remaining viable habitats are in the Buttahatchie River, Alabama, the East Fork Tombigbee River, and a single locality in a bendway of the Tombigbee River, Sumter County, Alabama. A few individuals may survive in a bendway of the Tombigbee River in Pickens County, Alabama.

These five species have historically been found in moderate-to-large rivers with moderate-to-swift current. Their preferred habitats are riffle-run or shoal areas with stable substrates ranging from sandy gravel to gravel-cobble (Stansbery 1976, 1980, 1981, 1983a, 1983b, 1983c, 1983d). These clams have been taken in water up to 0.7 meters deep (Williams 1982).

Land ownership in the portions of the Tombigbee and Alabama River systems where these species have been collected includes Federal, State, corporate, and individual. Governmental regulation of alterations of these habitats is primarily the responsibility of the U.S. Army Corps of Engineers (CE).

The status of each of these clams has declined owing to habitat alteration. The modification of the free-flowing Tombigbee River into a series of impoundments to form a barge canal has adversely impacted these species through physical destruction during dredging, increased siltation, reduction of water flow, and possibly disturbance of host fish movements. Remaining populations are in bendways and tributaries that are outside of the navigation channel of the Tennessee-Tombigbee Waterway (TTW). The CE has authorized channelization and snagging projects in portions of the Buttahatchie, Sipsey, Tombigbee, East Fork, and Cahaba Rivers where these species have been found.

On April 11, 1980, the Service published a notice in the **Federal Register** (45 FR 24904) that a status review was being conducted for these five clam species. Former Congressman David Bowen of Mississippi opposed the notice and possible listing based on a concern that Service employees opposed the construction of the TTW. The Service responds that it has based the notice and the present proposed rule to list these five clams solely on the most current biological data available, as required by the Endangered Species Act. Former Governors Fob James of Alabama and William F. Winter of Mississippi commented that the classification and life histories of these five species required clarification, and that the species were not threatened by the TTW. Both governors cited van der Schalie (1980) in support of their comments. The Service responds that it has examined the reports by Drs. van der Schalie and Stansbery and all relevant scientific literature and museum collections and believes that the taxonomic characterizations presented in the previous paragraphs represent the soundest and most current interpretation of available data. The Service also notes that the TTW populations survive only at sites that are outside of the navigation channel, which is now completed, and conservation efforts for these species are likely to be expended on habitats that have not been altered by the waterway.

The CE submitted documents describing studies of these species and suggesting possible conservation and management procedures for remaining populations. The Service has incorporated the distributional data from these studies with data from other sources in preparing this proposed rule. As stated above, the Service has considered taxonomic questions raised in these and other studies and believes that the taxonomy employed here is most consistent with all available information. The CE's management recommendations are appreciated and will be further considered during recovery planning, should this proposed rule become final.

Three conservation groups and two individuals, including a professional malacologist, presented or cited data in support of a proposal of protective status under the Endangered Species Act for these species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424; 49 38900, October 1, 1984) set forth the procedures for adding species to the Federal lists. Species may be determined to be endangered or threatened species owing to one or more of the five factors described in section 4(a)(1). These factors and their application to Marshall's mussel (*Pleurobema marshalli*), Curtus' mussel (*P. curtum*), Judge Tait's mussel (*Pleurobema taitianum*), the stirrup shell (*Quadrula stapes*), and the penitent mussel (*Epioblasma penita*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of their habitat or range.* All five of the subject species have greatly declined in range and/or numbers in the Tombigbee River owing to alteration of their habitat from a free-flowing riverine system to an impounded system by the construction of the Tennessee-Tombigbee Waterway (TTW). The modification of the free-flowing Tombigbee River to a series of

impoundments adversely impacted these clams by physical destruction during dredging, increasing siltation, reducing water flow, and suffocating juveniles with sediment (Stansbery 1980, 1983b; Stein 1971; Williams 1982). These species survive in the Tombigbee River proper only in meanders or bendways that were bypassed by the TTW. The situation of these populations away from the navigation channel allowed them to escape the full force of the threats that extirpated these species elsewhere in the Tombigbee River. Dredging and snagging for channel maintenance and flood control threaten populations in tributaries of the Tombigbee River.

Marshall's mussel has been collected from only the Tombigbee River in a reach from just above the confluence with Tibbee Creek downstream to Epes, Alabama. Construction of the TTW effectively eliminated, by impoundment, the historic habitat of Marshall's mussel except for three gravel bars in the river bendways bypassed by the TTW. Siltation is rapidly filling the bendway in Pickens County, Alabama, despite dredging by the CE to maintain water flow. The only possible habitat remaining in this bendway is a small bar at the lower confluence with the TTW where currents from river flows or wave action remove sedimentation. The gravel bars in Sumter County, Alabama, and Lowndes County, Mississippi, are receiving some sedimentation. In addition, the river flows are significantly reduced by backwater from impoundments. This flow reduction impacts clams by increasing siltation and changing the fishery habitat. This latter impact may result in the loss of the fish host for glochidial development. Since Marshall's mussel has only been found in large river systems, the fish host may be a large-river species that has been adversely impacted by impoundments.

The known historic range of Curtus' mussel is the mainstem Tombigbee River, but it is now limited to two reaches of the Tombigbee River that are separated by a distance of 60 river miles. The East Fork is the principal extension of the Tombigbee River proper, upstream from the confluence of the East Fork and Town Creek. The lower reach was impacted by construction of the TTW and resultant impoundment of a free-flowing river, and it is doubtful that Curtus' mussel exists as a viable population at that site. The East Fork site remains similar to historic hibitat but continues to face threats. The CE has approved a final supplement to the environmental impact statement to conduct dredging and snagging activities in a 53 mile reach of the East Fork in the area where the last known collection of a live Curtus' mussel was made. The East Fork water flows have been reduced by construction of the TTW canal, which has diverted the flow of Bull Mountain Creek, at least temporarily. Bull Mountain Creek provides nearly half the flow of the East Fork (U.S. Army Corps of Engineers 1984). Even if the flow is restored to the East Fork, the water quality will be altered. Bull Mountain Creek is a cool water stream that will be warmed to some degree when it is routed through the TTW canal.

Judge Tait's mussel is known historically from the Tombigbee River in a reach from Bull Mountain Creek above Amory, Mississippi, downstream to Demopolis, Alabama; the Alabama River at Claiborne and Selma, Alabama; the lower Cahaba River, Alabama; and the Coosa River, Alabama (Stansbery 1983a, Williams 1982). Shells of recently dead Judge Tait's mussel were found recently on the Buttahatchie River (Schultz 1981) and the Sipsey River. Judge Tait's mussel has not been collected from the Alabama and Cahaba Rivers since the 1800's (Stansbery 1983a) or the Coosa River since 1974, which was prior to impoundment of its habitat there (Williams 1982). Judge Tait's mussel was last collected from the mainstem Tombigbee River in 1972 (Stansbery 1983a). Habitat remaining there is marginal and remaining clams must cope with the continuing impacts of siltation, reduced water flows, water quality degradation, and possible loss of their fish host. Judge Tait's mussel is surviving in the Buttahatchie River (Schultz 1981), East Fork Tombigbee River, and the Sipsey River. The species is threatened in these three Tombigbee River tributaries by a 59-mile channel improvement project in the Buttahatchie, a 53-mile clearing and snagging project in the East Fork (U.S. Army Corps of Engineers 1983), and an 84.5-mile channel improvement project in the Sipsey River (U.S., Army Corps of Engineers 1981). The CE has authority to spend up to $100,000 per year per stream for the removal of snags, clearing, and straightening for flood control purposes. Such a project has been carried out on the East Fork upstream of Mill Creek (U.S. Army Corps of Engineers 1984). The East Fork population is also impacted by water diversion. Bull Mountain Creek is a cool water stream that contributes nearly half the flow of the East Fork. During construction on the canal, the entire flow of Bull Mountain Creek was diverted. When flow is restored, water quality changes will occur. The cool inflow from Bull Mountain Creek will undoubtedly be warmed as it mixes with the canal water, resulting in warming of the East Fork. Changes in water temperatures can be physiologically stressful to clams, alter their food supply, and impact their fish host.

The stirrup shell is known historically from the Alabama River and the Tombigbee River. Museum records indicate the stirrup shell was restricted historically to the lowermost part of the Alabama River (Stanbery 1981). The lack of fresh shells or living specimens from the Alabama River for several decades indicates the likely extirpation of the stirrup shell from this portion of the historic range. This species has been collected from a reach of the Tombigbee River from near Epes, Alabama, upstream to just above the confluence of Tibbee Creek. One specimen was recently collected by Yokley in the lower Sipsey River, and a recent survey by Fish and Wildlife Service biologists found a fresh stirrup shell at the same site. The present known distribution of this clam is limited to a single Tombigbee River bendway and the Sipsey River. This limited distribution continues to be threatened by habitat modification. Impoundment of the Tombigbee River has altered water flows and increased siltation on the gravel bars. This alteration suffocated mussels with silt and may have modified habitat so as to eliminate the fish host if the host is a riverine species that is intolerant of impoundments. The CE has a channel improvement project for 84.5 miles of the Sipsey River that includes 32 miles of clearing and snagging (U.S. Army Corps of Engineers 1981). Channel modifications adversely impact clams by alteration of the substrate, increased siltation, altered water flows, and direct mortality of mussels from dredging and snagging activities.

The penitent mussel is known historically from the Tombigbee River from the confluence of the East Fork and Bull Mountain Creek above Amory, Mississippi, downstream to Epes, Alabama; the Alabama River at Claiborne and Selma; the Cahaba River below Centreville, Alabama; and the Coosa River in Alabama and Georgia (Stansbery 1983c, Williams 1982). Live specimens were found recently on the Buttahatchie River (Yokley 1978, Schultz 1981). The penitent mussel has not been collected from the Alabama and Cahaba Rivers since the 1800's (Stansbery 1983c) or the Coosa River since 1974, prior to impoundment of its habitat there

(Williams 1982). The penitent mussel was last collected from the mainstem Tombigbee River in 1972 (Stansbery 1983c). Remaining habitat in the Tombigbee River is in two bendways. This habitat is marginal and is subject to siltation, reduced water flows, water quality degradation, and possible loss of habitat of the fish host. The penitent mussel is surviving in the Buttahatchie River (Yokley 1978, Schultz 1981) and the East Fork Tombigbee River. The species is threatened in these two Tombigbee River tributaries by a 59-mile channel improvement project in the Buttahatchie (U.S. Army Corps of Engineers 1981) and a 53-mile clearing ang snagging project in the East Fork (U.S. Army Corps of Engineers 1983). The CE has the authority to spend up to $100,000 per year per stream for the removal of snags, clearing, and straightening for flood control purposes. Such a project has been conducted on the East Fork upstream of Mill Creek (U.S. Army Corps of Engineers 1984). The East Fork population is also impacted by water diversion. Bull Mountain Creek is a cool water stream that contributes nearly half the flow of the East Fork. During construction of the canal, the entire flow of Bull Mountain Creek was diverted. When flow is restored, water quality changes will occur. The cool inflow from Bull Mountain Creek will be warmed as it mixes with the canal water, resulting in warmer water temperatures in the East Fork. Changes in water temperatures can physiologically stress clams, alter their food supply, and impact their fish host.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* These rare species occur in such low numbers that collection for private collections and scientific purposes poses an additional threat. Considering the historic rarity of these species and their loss of historic habitat by construction of the TTW, collection of live specimens could result in the loss of a significant proportion of surviving individuals.

C. *Disease or predation.* There is no evidence of threats from disease or predation.

D. *The inadequacy of existing regulatory mechanisms.* These species occur in Mississippi and Alabama. Both States have regulations that require a permit to take clams. Enforcement of this regulation is very difficult and limited. Limited enforcement results from several factors, including limited enforcement resources, enforcement priorities, and the difficulty of apprehending violators. In addition, these regulations do not affect habitat degradation, a major threat to these species

E. *Other natural or manmade factors affecting their continued existence.* Marshall's mussel is restricted to the lower half of the Tombigbee River and is found in free-flowing riffle areas (Stansbery 1983b). Construction of the TTW effectively eliminated this entire reach of free-flowing river except for the three sites discussed earlier. One of these is heavily silted and may no longer support this species or any other clams. The isolation of the remaining populations, along with very low population sizes, increases vulnerability to any single adverse event. Reproduction becomes increasingly difficult owing to isolation and resulting reduction in fertility.

Curtus' mussel is also limited to the Tombigbee River system. The population in Pickens County, Alabama, has likely been extirpated by the TTW, which leaves the East Fork Tombigbee River as the only remaining occupied habitat. The historic low numbers and difficulties in successful reproduction for such a rare species increase the likelihood of a further decline.

Judge Tait's mussel is threatened by limited range and low numbers. The five remaining populations are isolated from each other by the TTW. This effectively isolates these small gene pools and leaves them susceptible to the loss of genetic variation, and thereby limits their adaptability to changing conditions. Isolation of populations and individuals also decreases the likelihood of successful reproduction because this species depends upon water currents to transport gametes from one individual to another.

The stirrup shell is restricted to the Sipsey River and three sites in the Tombigbee River. The remaining habitat in bendways of the mainstem Tombigbee River may no longer support viable populations for reasons discussed earlier. If so, the Sipsey River supports the only viable population, and this population is threatened by low numbers and the associated difficulties of successful reproduction.

The penitent mussel is threatened by limited range and low numbers. The remaining populations are isolated from each other by the TTW. This effectively creates isolated gene pools of small size that are therefore subject to loss of genetic variability. Isolation of populations and low density of individuals also decreases the likelihood of successful reproduction, since this and the other four clam species depend upon water currents to transport gametes from one individual to another.

All five species are affected by runoff of fertilizers and pesticides. Runoff of fertilizers into small streams can exceed the assimilation ability of the stream and result in algal blooms and excesses of other aquatic vegetation. This condition can produce stream eutrophication and result in the death of the native fauna. Herbicides, insecticides, fungicides, and other pesticides are easily washed from fields into streams along with silt particles to which they adhere. While being transported downstream, they may be ingested by filter feeders, which include these native clams. Pesticide laden silt particles eventually settle to and become a part of the substrate. This increases the concentration of pesticide in the clams' habitat.

All five species may also be adversely affected by loss of their fish hosts. Although the host fish for these particular species have not been identified, the hosts of clams from riffle habitats tend to be riffle-dwelling species (Fuller 1974) and are likely to decline or become extirpated as this habitat is modifed.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these five species of clams in determining to propose this rule. Based on this evaluation, the preferred action is to list Marshall's mussel, Curtus' mussel, Judge Tait's mussel, the stirrup shell, and the penitent mussel as endangered. Endangered status is proposed because of the loss of historic habitat in the Tombigbee River by construction of the TTW and the reduction in quality of the remaining habitat owing to reduced water velocity and resulting sedimentation. Tributary populations also face threats. Threatened status would not be appropriate because these species are restricted to very limited areas, are reduced to low numbers, and remain vulnerable to a single catastrophic event. The Tombigbee River populations are close to extinction. Critical habitat is not proposed for these species for reasons given in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species that is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat

is not prudent for the five Tombigbee mussels at this time owing to lack of benefit from such designation. The CE is the Federal agency most involved and is already aware of the location of the remaining populations of these five species. The CE has conducted numerous studies of the Tombigbee River system fauna and is very knowledgeable of the fauna and of project impacts. No additional benefits would accrue from the critical habitat designation that do not already accrue from the listing. In addition, these species are so rare that taking for scientific purposes and private collections is a threat. The publication of critical habitat maps and other publicity accompanying critical habitat designation would increase that threat. The locations of populations of these species have consequently been described only in general terms in this proposed rule. Precise locality data are available to appropriate Federal agencies through the Service office described in the **ADDRESSES** section.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include CE projects for flood control and navigation and Soil Conservation Service watershed projects on Tombigbee River tributary streams. The CE will conduct annual maintenance dredging for navigation on the TTW and will manage a number of the bendways for recreation and other beneficial values. This will require the maintenance of some river flow and of boat access from one or both ends of these bendways. Structural management will be required at 12 bendways. Structural management actions include blockage structures, using dredged material, at the upstream end of seven bendways to prevent sedimentation. The downstream ends of bendways would remain open for access. The upstream ends of five bendways would be dredged initially and maintained to pre-TTW channel dimensions, plus sediment basins designed to contain the projected annual sediment deposition would be dredged and maintained (U.S. Army Corps of Engineers 1984). This management action would maintain water flows and boat access, but would require periodic dredging to remove sediment. The remaining 22 bendways will be monitored to determine the need for further structural management measures. Other CE projects that occur in rivers where these species have been found are: 84.5 miles of channel improvement and 32 miles of clearing and snagging in the Sipsey River (U.S. Army Corps of Engineers 1981); 53 miles of clearing and snagging in the East Fork (U.S. Army Corps of Engineers 1983); and 70 miles of clearing, snagging, enlargement, channels, and cutoffs in 18 streams for flood control on the Tombigbee River (U.S. Army Corps of Engineers 1983). The Soil Conservation Service has eight watersheds in operation, one in the planning stage, and one application for planning in the western tributaries of the Tombigbee River in Mississippi (U.S. Department of Agriculture 1983). Channelization activities with watershed projects could increase siltation and adversely affect potential habitat. If this rule is made final, the above agencies would be required to consult with the Service on such activities to ensure that they are not likely to jeopardize the continued existence of any of these species.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that had been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final rule adopted wil be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to Marshall's mussel, Curtus' mussel, Judge Tait's mussel, the stirrup shell, or the penitent mussel;

(2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of these species; and

(4) Current or planned activities in the subject area and their possible impacts on these species.

Final promulgation of the regulations on Marshall's mussel, Curtus' mussel,

Judge Tait's mussel, the stirrup shell, and the penitent mussel will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Endangered Species Field Supervisor at the location given in the ADDRESSES section.

National Environmental Policy Act

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

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Authors

The primary authors of this proposed rule are James H. Stewart and John J. Pulliam III (see **ADDRESSES** section). Contact by telephone at 601/960–4900 or FTS 490–4900.

List of Subjects in 50 CFR Part 17

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

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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

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

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under CLAMS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
CLAMS							
Mussel, Curtus'	*Pleurobema curtum*	U.S.A. (AL, MS)	Entire	E		NA	NA
Mussel, Judge Tait's	*Pleurobema taitianum*	U.S.A. (AL, MS)	do	E		NA	NA
Mussel, Marshall's	*Pleurobema marshalli*	U.S.A. (AL, MS)	do	E		NA	NA
Mussel, penitent	*Epioblasma (=Dysnomia) penita*	U.S.A. (AL, MS)	do	E		NA	NA
Stirrup shell	*Quadrula stapes*	U.S.A. (AL, MS)	do	E		NA	NA

Dated: February 28, 1986.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-7554 Filed 4-4-86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 66
Monday, April 7, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 86-308]

Gypsy Moth Suppression and Eradication Projects; Final Addendum to the Final Environmental Impact Statement as Supplemented—1985; Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of decision.

SUMMARY: This gives notice that based on the environmental analysis as documented in the Final Environmental Impact Statement, (FEIS), as Supplemented—1985, and its final addendum, a decision has been made by the Animal and Plant Health Inspection Service (APHIS) to adopt Alternative 4 as identified in the FEIS, as Supplemented—1985, and its final addendum. Alternative 4 provides for an Integrated Pest Management (IPM) approach for gypsy moth eradication projects and is environmentally preferable to the other alternatives identified in the FEIS as Supplemented, and its final addendum.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION: The 1985 final Environmental Impact Statement (FEIS), as supplemented, on gypsy moth suppression and eradication projects was filed with the U.S. Environmental Protection Agency and made available to the public on March 18, 1985. Since the issuance of the FEIS, as supplemented, the United States District Court of Oregon ruled on April 26, 1985, that although the body of the FEIS was legally adequate, the worst case analysis is Appendix F failed to meet the regulatory requirement of readability, (*Oregon Environmental Council* v. *Kunzman*, Civil No. 82-504 RE). As a result of this ruling, the Animal and Plant Health Inspection Service and Forest Service prepared a plain language summary of the health risk analysis presented in Appendix F.

A notice was published in the **Federal Register** on October 25, 1985, (50 FR 43430-43431) announcing the availability of and requesting comments on a draft addendum to the FEIS. The official comment period ended December 12, 1985. However, all comments on the draft received through December 23, 1985 were responded to in the final addendum. The final addendum contains a plain language version of the human health risk presented in Appendix F and translates the technical data into language that all readers can understand. This version is contained in Appendix H. Appendix I includes toxicity information presented to the court during *Oregon Environmental Council* v. *Kunzman*, and Appendix J contains the comment letters and agency responses. A notice was published in the **Federal Register** on February 18, 1986, (51 FR 5750-5751) announcing the availability of the final addendum to the FEIS. The final addendum was sent to agencies, organizations, and individuals listed in Appendix B of the FEIS, as Supplemented—1985.

Implementation of Alternative 4, Integrated Pest Management (IPM), by APHIS for gypsy moth eradication projects will provide for mitigation and monitoring measures to minimize environmental impacts of the techniques utilized. The biological and/or chemical insecticides approved for use in the gypsy moth eradication projects are registered for this purpose pursuant to the Federal Insecticide Fungicide and Rodenticide Act will be applied according to label directions. Currently, there is a national injunction on the use of the four chemical insecticides discussed in the FEIS, as supplemented—1985. The use of these four chemical insecticides in this years gypsy moth eradication projects would be contigent upon the injunction being lifed. Appropriate public involvement, public notification, and utilization of mitigating measures for insecticide treatments will further reduce human exposure during periods of application. When appropriate, specific mitigation and monitoring measures, and public involvement and notification procedures will be identified and addressed in site-specific environmental analyses.

Alternative 4, IPM, will be carried out by APHIS through technical and financial assistance to cooperating State and Federal agencies. Decisions on granting such assistance will be made on the basis of site-specific environmental analyses conducted in accordance with regulations implemented pursuant to the National Environmental Policy Act (NEPA) regulations, APHIS guidelines implementing NEPA, and other applicable laws.

The Organic Act of September 21, 1944 (7 U.S.C. 147a), and 7 U.S.C. 450 authorizes APHIS to cooperate with State authorities to eradicate isolated infestations of gypsy moth.

Done at Washington, DC, this 2d day of April, 1986.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-7671 Filed 4-4-86; 8:45 am]

BILLING CODE 3410-34-M

CIVIL RIGHTS COMMISSION

Rhode Island Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission of Civil Rights, that a meeting of the Rhode Island Advisory Committee to the Commission will convene at 12:00 noon and adjourn at 2:00 p.m. on May 14, 1986, at the Rhode Island Commission for Human Rights, 10 Abbott Park Place, Providence, Rhode Island. The purpose of the meeting is to screen a video presentation by the Commission on Human Rights on housing discrimination, discuss the status of Asian immigrants, and review progress of a project on local civil rights capacities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, David Sholes of Jacob Schlitt, Director of the New England Regional Office at (611) 223-

4671 (TDD 617/223-0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 2, 1986.

Donald A. Deppe,

Program Specialist for Regional Programs.

[FR Doc. 86-7699 Filed 4-4-86; 8:45 am]

BILLING CODE 6335-01-M

South Dakota Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Dakota Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 1:00 p.m. on April 25, 1986, at the Imperial Inn, 125 Main Street, Rapid City, South Dakota. The purpose of the meeting is to review the Committee's project on the status of women in South Dakota and to discuss current civil rights issues in the State.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Francis Whitebird or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-2211, (TDD 303/844-3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 2, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-7700 Filed 4-4-86; 8:45 am]

BILLING CODE 6335-01-M

Utah Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Utah Advisory Committee to the Commission will convene at 7:00 p.m. and adjourn at 10:00 p.m., on April 30, 1986, at the State Office Education Building, 200 East 500 South, Salt Lake City, Utah. The purpose of the meeting is to plan for a community forum on pay equity and discuss current civil rights issues.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Wilfred J. Bocage, or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844-2211, (TDD 303/844-3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 2, 1986.

Ann E. Goode,

Program Specialist for Regional Programs.

[FR Doc. 86-7701 Filed 4-4-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Advisory Committees for Trade Policy Matters; Renewal

SUMMARY: In accordance with subsection 135(c) of the Trade Act of 1974, 19 USC 2155, as amended by the Trade Agreements Act of 1979, (Pub. L. 95-39), and the Trade and Tariff Act of 1984 (Pub. L. 98-573), the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 41 CFR Part 101-6, as amended, Federal Advisory Committee Management Interim Rule, it has been determined by the delegate of the Secretary of Commerce (the Secretary) and the United States Trade Representatives (the USTR) that the renewal of the Advisory Committees for Trade Policy Matters is in the public interest.

Committee of Chairmen of Industry Advisory Committees for Trade Policy Matters

Industry Sector Advisory Committees for Trade Policy Matters

- (ISAC 1)—Aerospace Equipment
- (ISAC 2)—Capital Goods
- (ISAC 3)—Chemicals and Allied Products
- (ISAC 4)—Consumer Goods
- (ISAC 5)—Electronics and Instrumentation
- (ISAC 6)—Energy
- (ISAC 7)—Ferrous Ores and Metals
- (ISAC 8)—Footwear, Leather, and Leather Products
- (ISAC 9)—Industrials and Construction Material and Supplies
- (ISAC 10)—Lumber and Wood Products
- (ISAC 11)—Nonferrous Ores and Metals
- (ISAC 12)—Paper and Paper Products
- (ISAC 13)—Services
- (ISAC 14)—Small and Minority Business
- (ISAC 15)—Textiles and Apparel
- (ISAC 16)—Transportation, Construction, and Agricultural Equipment
- (ISAC 17)—Wholesaling and Retailing

Industry Functional Advisory Committee on Customs Matters

Industry Functional Advisory Committee on Standards.

The committees were established in 1980, and renewed in 1982, and 1984, to provide technical and policy advice and information to the Secretary and the USTR on trade policy matters, including factors relevant to U.S. positions in trade negotiations, and on other matters arising in connection with the administration of U.S. trade policy. Members of each committee are appointed by and serve at the discretion of the Secretary and the USTR. It is proposed that each committee will meet at least semi-annually at the request of the Secretary and the USTR, and will function solely as an advisory body in compliance with the provisions of the Federal Advisory Committee Act. The Trade Advisory Center, International Trade Administration (ITA) of the Department of Commerce, administers the program.

Copies of the Committees' charters will be filed with appropriate committees of the Congress and copies will be forwarded to the Library of Congress.

EFFECTIVE DATE: March 7, 1986.

Membership: Representatives from industry or industry associations wishing to be considered for appointment to serve on these committees are requested to make application in writing to the Trade Advisory Center, Room H-6816, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 377-3268. Comments and inquiries may be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Jacob Moose, Acting Director, Trade Advisory Center, telephone (202) 377-4125.

Dated: April 1, 1986.

H.P. Goldfield,

Assistant Secretary for Trade Development.

[FR Doc. 86-7605 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DR-M

[A-351-603]

Brass Sheet and Strip From Brazil; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether brass sheet and strip from Brazil are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make ours on or before August 18, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the United States industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Brazil are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on brass sheet and strip from Brazil and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation.

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States, Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

United States Price and Foreign Market Value

The petitioners based United States price on actual sales or offers made by a Brazilian producer to U.S. purchasers and from monthly average unit values of Brazilian brass sheet and strip imports as derived from the Bureau of Census import statistics. Using actual sales prices and price offers from the Brazilian producer, petitioners arrived at ex-factory prices by subtracting estimated charges for ocean freight, insurance, customs duties, and U.S. inland freight.

Petitioners based foreign market value on the Brazilian producer's home market prices.

Petitioners adjusted for differences in packing and credit costs.

Based on the comparison of these estimated values, petitioners alleged dumping margins ranging from 11.03 percent to 55.93 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent to the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from Brazil are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 31, 1986.

[FR Doc. 86-7611 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-122-601]

Brass Sheet and Strip From Canada; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether brass sheet and strip from Canada are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make ours on or before August 18, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–1769.

SUPPLEMENTARY INFORMATION:

The Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussey Copper Ltd., Miller Company, Olin Corporation-Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union-Allied Industrial Workers of America (AFL–CIO), and the Mechanics Educational Society of America (Local 56). The petition was filed on behalf of the United States industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on brass sheet and strip from Canada and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered by this investigation are brass sheet and stip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States, Annotated (TSUSA)* item numbers 612.3960, 612.3962, and 612.3966. The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compostions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

United States Price and Foreign Market Value

The petitioners based United States prices on actual sales or offers made by Canadian producers to U.S. purchasers and from monthly average unit values of Canadian brass sheet and strip imports as derived from the Bureau of Census import statistics. Using actual sales prices and price offers from Canadian producers, petitioners arrived at ex-factory prices by subtracting estimated charges for customs duties and U.S. inland freight.

Petitioners based foreign market value on home market prices of the Canadian producers.

Petitioners adjusted for differences in packing and credit costs.

Based on the comparison of these estimated values, petitioners alleged dumping margins ranging from 9.15 percent to 24.94 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from Canada are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Action Deputy Assistant Secretary for Import Administration.

March 31, 1986.

[FR Doc. 86–7612 Filed 4–4–86; 8:45 am]

BILLING CODE 3510-DS-M

[A–428–602]

Brass Sheet and Strip From the Federal Republic of Germany; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether brass sheet and strip from the Federal Republic of Germany (FRG) are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make ours on or before August 18, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377–1769.

SUPPLEMENTARY INFORMATION:

The Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL–CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL–CIO/CLC). The petition was filed

on behalf of the United States industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on brass sheet and strip from the FRG and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States, Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Cooper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

United States Price and Foreign Market Value

The petitioners based United States price on actual sales or offers made by FRG companies to U.S. purchasers and from monthly average unit values of FRG brass sheet and strip imports as derived from the Bureau of Census import statistics. Using actual sales prices and price offers from FRG companies, petitioners arrived at ex-factory prices by subtracting estimated charges for ocean freight, insurance, customs duties, and U.S. inland freight.

Using an FRG producer's home market prices, petitioners arrived at ex-factory prices by deducting insurance and discounts.

Petitioners also adjusted for differences in packing and credit costs.

Based on the comparison of these estimated values, petitioners allege average dumping margins ranging from 2.71 percent to 62.43 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notfiy the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from the FRG materially injure, or threaten material injury to, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 31, 1986.

[FR Doc. 86-7617 Filed 4-4-86; 8:34 am]

BILLING CODE 3510-DS-M

[A-427-602]

Brass Sheet and Strip From France; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether brass sheet and strip from France are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make ours on or before August 18, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the United States industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from France are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on brass sheet and strip from France and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States, Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Cooper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

United States Price and Foreign Market Value

The petitioners based United States price on actual sales or offers made by a French producer to U.S. purchasers and from monthly average unit values of French brass sheet and strip imports are derived from the Bureau of Census import statistics. Using actual sales prices and price offers from the French producer, petitioners arrived at ex-factory prices by subtracting estimated charges for ocean freight, insurance, customs duties, and U.S inland freight.

Using the French producer's home market prices, petitioners arrived at ex-factory prices by deducting discounts.

Petitioners also adjusted for differences in packing and credit costs.

Based on the comparison of these estimated values, petitioners alleged dumping margins ranging from 1.76 percent to 60.85 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from France are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 31, 1986.

[FR Doc. 86-7613 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-475-601]

Brass Sheet and Strip From Italy; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether brass sheet and strip from Italy are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make ours on or before August 18, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION: .

The Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the United States industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on brass sheet and strip from Italy and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumpting duty investigation to determine whether brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States, Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

United States Price and Foreign Market Value

The petitioners based United States price on actual sales or offers made by an Italian producer to U.S. purchasers and from monthly average unit values of Italian brass sheet and strip imports as derived from the Bureau of Census import statistics. Using actual sales prices and price offers from the Italian producer, petitioners arrived at ex-factory prices by subtracting estimated charges for ocean freight, insurance, customs duties, and U.S. inland freight.

Using the Italian producer's home market prices, petitioners arrived at ex-factory prices by deducting discounts.

Petitioners also adjusted for differences in packing and credit costs.

Based on the comparison of these estimated values, petitioners alleged dumping margins ranging from 2.78 percent to 22.00 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from Italy are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 31, 1986.

[FR Doc. 86-7614 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

[A580-603]

Brass Sheet and Strip From the Republic of Korea; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether brass sheet and strip from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United StatesInternational Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make ours on or before August 18, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussy Copper Ltd., Miller Company, Olin Corporation-Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union, Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United States Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the United States industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petiion on brass sheet and strip from the Republic of Korea and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States, Annotated (TSUSA)* item numbers 612.3960, 612.3962, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

United States Price and Foreign Market Value

The petitioners based United States price on actual sales or offers made by a Korean producer to U.S. purchasers and from monthly average unit values of the Republic of Korea's brass sheet and strip imports as derived from the Bureau of Census import statistics. Using actual sales prices and price offers from the Korean producer, petitioners arrived at ex-factory prices by subtracting estimated charges for foreign inland freight, ocean freight, insurance, customs duties and U.S. in land freight.

Petitioners based foreign market value on home market prices of the Korean producer.

Petitioners adjusted for differences in packing and credit costs.

Based on the comparison of these estimated values, petitioners alleged dumping margins ranging from 2.97 percent to 37.15 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from the Republic of Korea are causing material injury, or threaten material injury, to a United States industry. If its determination is negative, the investigation will terminate;

otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 31, 1986.

[FR Doc. 86-7615 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-601]

Brass Sheet and Strip From Sweden; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether brass sheet and strip from Sweden are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make ours on or before August, 18, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass and Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation—Brass Group, and Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union—Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and United Steelworkers of America (AFL-CIO/CLC). The petition was filed on behalf of the United States industry that casts, rolls, and finishes brass sheet and strip. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Sweden are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on brass sheet and strip from Sweden and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether brass sheet and strip are being, or are likely to be, sold in the United States at less than fair value.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States, Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

United States Price and Foreign Market Value

The petitioners based United States price on actual sales or offers made by a Swedish producer to U.S. purchasers and from montly average unit values of Swedish brass sheet and strip imports as derived from the Bureau of Census import statistics. Using actual sales prices and price offers from the Swedish producer, petitioners arrived at ex-factory prices by subtracting estimated changes for ocean freight and insurance, customs duties, and U.S. inland freight.

Using the Swedish producer's home market prices, petitioners arrived at ex-factory prices by deducting discounts.

Petitioners also adjusted for differences in packing and credit.

Based on the comparison of these estimated values, petitioners allege dumping margins ranging from 5.47 percent to 35.72 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an adminstrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from Sweden materially injure, or threaten material injury to, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary of Import Administration.

March 31, 1986.

[FR Doc. 86-7616 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-604]

Initiation of Countervailing Duty Investigation: Brass Sheet and Strip From Brazil

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Brazil of brass sheet and strip, as described in the "Scope of the Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of

these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make our preliminary determination on or before June 3, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202/377–2830.

SUPPLEMENTARY INFORMATION:

Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass & Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation-Brass Group, Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, the International Union, Allied Industrial Workers of America (AFL–CIO), the Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL–CIO/CLC). In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Brazil of brass sheet and strip receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). Since Brazil is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Brazil materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of a countervailing duty investigation, and, further, whether it contains information reasonably available to the petitioner supporting the allegations. We examined the petition on brass sheet and strip from Brazil, and we have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in Brazil of brass sheet and strip, as described in the "Scope of Investigation" section of this notice, receive subsidies.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* under item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Copper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Allegations of Subsidies

The petition alleges that manufacturers, producers, or exporters in Brazil of brass sheet and strip receive benefits under the following programs which constitute subsidies:

- Working Capital Financing for Exporters;
- Preferential Financing for Trading Companies;
- Export Financing Under the CIC–CREGE 14–11 Circular;
- Financing for Storage of Exports;
- PROEX Export Financing;
- Resolution 68 Financing;
- Accelerated Depreciation for Brazilian-made Capital Equipment;
- BEFIEX;
- Income Tax Exemptions for Export Earnings;
- CIEX;
- Resolution 509;
- Exemption on IPI Tax and Customs Duties on Imported Machinery;
- FINEP/ADTEN Long-Term Loans;
- Preferential Electricity Rates; and
- BANDES Financing and Other Regional Subsidies.

We are not initiating an investigation on the following allegations:

- Subsidization of Copper and Zinc

Petitioners allege that brass sheet and strip is subsidized through price controls on the input product, copper, and perhaps on zinc. However, absent an allegation and evidence of preferential pricing, purchase price controls do not constitute countervailable subsidization. Petitioners further allege that brass sheet and strip benefit from upstream subsidies through the purchase of inputs from the state-owned copper project Caraiba Metals, S.A. However, there has been no proper allegation of a counteravailable subsidy, bestowed by the Government of Brazil on copper and zinc, which confers a competitive benefit to brass sheet and strip production, within the meaning of section 771A of the Act.

- BNDES Loans

The Department has previously investigated BNDES loans and has found that these loans are not limited to a specific enterprise or industry or group of enterprises or industries. See, *Final Affirmative Countervailing Duty Determination: Certain Carbon Steel Products from Brazil*, 49 FR 17988. Because petitioners have not submitted any new evidence or alleged changed circumstances with respect to BNDES loans we are not initiating on the program.

- IPI Export Credit Premium

The Department has previously investigated this program and has determined that the program has been terminated by the Brazilian Government. See, *Final Affirmative Countervailing Duty Determination: Certain Heavy Iron Construction Castings from Brazil*, 51 FR 9491.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information in our files. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from Brazil materially injure, or threaten material injury to, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 31, 1986.

[FR Doc. 86–7620 Filed 4–4–86; 8:45 am]

BILLING CODE 3510–DS–M

[C-427-603]

Initiation of Countervailing Duty Investigation: Brass Sheet and Strip From France

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in France of brass sheet and strip, as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the U.S. International Trade Commission (ITC) of this action, so that it may determine whether imports of these products materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before April 24, 1986, and we will make our preliminary determination on or before June 3, 1986.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: 202/377-2830.

SUPPLEMENTARY INFORMATION:

Petition

On March 10, 1986, we received a petition in proper form filed by American Brass, Bridgeport Brass Corporation, Chase Brass & Copper Company, Hussey Copper Ltd., the Miller Company, Olin Corporation-Brass Group, Revere Copper Products, Inc., domestic manufacturers of brass sheet and strip, and by the International Association of Machinists and Aerospace Workers, International Union, Allied Industrial Workers of America (AFL-CIO), Mechanics Educational Society of America (Local 56), and the United Steelworkers of America (AFL-CIO/CLC). In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in France of brass sheet and strip receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act). Since France is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from France materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of a countervailing duty investigation, and, further, whether it contains information reasonably available to the petitioner supporting the allegations. We examined the petition on brass sheet and strip from France, and we have found that it meets these requirements. Therefore, we are initiating a countervailing duty investigation to determine whether the manufacturers, producers, or exporters in France of brass sheet and strip, as described in the "Scope of the Investigation" section of this notice, receive subsidies.

Scope of Investigation

The products covered by this investigation are brass sheet and strip, other than leaded brass and tin brass sheet and strip, currently classified under the *Tariff Schedules of the United States Annotated (TSUSA)* item numbers 612.3960, 612.3982, and 612.3986. The chemical compositions of the products under investigation are currently defined in the Cooper Development Association (C.D.A.) 200 series or the Unified Numbering System (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this investigation.

Allegations of Subsidies

The petition alleges that manufacturers, producers, or exporters in France of brass sheet and strip receive benefits under the following programs which constitute subsidies:

- Government Equity Infusions into Trefimetaux Since 1981;
- Government Subordinated Shareholder Loans to Trefimetaux;
- Benefits from Fonds National L'Emploi to Trefimetaux;
- Preferential Electricity Rates for Trefimetaux;
- Other Government Financing;
- Regional Development Incentives;
- Export Credit Insurance for Political, Exchange Rate; Fluctuation and Inflation Risks;
- Export Financing.

We have determined not to initiate on the following allegations:

- Modernization Grants to Trefimetaux

Petitioners note several expensive modernization projects undertaken by Trefimetaux during the last six years. Petitioners allege that such expenditures would have been impossible without direct government grants, but they have failed to show any evidence that Trefimetaux could not finance these projects through other means and have provided no evidence that any such grant program for modernization exists.

- Pechiney Divestitures

Petitioners note that Pechiney, the parent company of Trefimetaux, sold two unprofitable subsidiaries to French nationalized companies in 1981 and 1983, and allege that these divestitures bestowed benefits on Trefimetaux. Petitioners have provided no evidence that these divestitures were inconsistent with commercial considerations or that they bestowed a countervailable benefit on Trefimetaux.

- Research and Development Incentives

Petitioners believe that manufacturers, producers, or exporters in France of brass sheet and strip may receive research and development incentives from Direction General a la Recherche et a la Technologie (DGRT), an agency in the Ministry of Research and Technology. Benefits from this agency were found not countervailable in *Industrial Nitrocellulose from France*, 48 FR 28521, because they are not limited to a specific industry or enterprise or group of industries or enterprises and because research results are publicly available.

Notification of ITC

Section 702(d) of the Act requires us to notify the ITC of this action, and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information in our files. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by April 24, 1986, whether there is a reasonable indication that imports of brass sheet and strip from France materially injure,

or threaten material injury to, a United States industry. If its determination is negative, the investigation will terminate; otherwise, it will proceed according to the statutory procedures.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 3, 1986.

[FR Doc. 86-7621 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-580-504]

Offshore Platform Jackets and Piles From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Republic of Korea (Korea) of offshore platform jackets and piles. Because of the unique nature of the subject merchandise, we are calculating platform specific rates. The estimated net subsidy is 8.73 percent *ad valorem* for Platform Harvest, 0.15 percent *ad valorem* for Platform Esther, 3.22 percent *ad valorem* for Platform Julius, and 4.42 percent *ad valorem* for all other platforms.

We have notified the U.S. International Trade Commission (ITC) of our determination. If the ITC determines that imports of offshore platform jackets and piles materially injure, or threaten material injury to, a U.S. industry, we will direct the U.S. Customs Service to resume the suspension of liquidation of offshore platform jackets and piles from Korea and to require a cash deposit on entries or withdrawals from warehouse for consumption equal to 3.22 percent *ad valorem* for Platform Julius and 4.42 percent *ad valorem* for all other platforms not investigated. Platform Harvest was entered before our preliminary determination and has already been liquidated. Platform Ester was entered after our preliminary determination but before we discontinued our suspension of liquidation.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Rick Herring, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0187.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles. For purposes of this investigation, the following programs are found to confer subsidies.

- Export Credit Financing from the Export-Import Bank of Korea
- Accelerated Depreciation under Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption"
- Tax Incentives for Exporters under Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption"

We determine the estimated net subsidy to be 8.73 percent *ad valorem* for Platform Harvest, 0.16 percent *ad valorem* for Platform Ester and 3.22 percent *ad valorem* for Platform Julius. If this investigation results in a final countervailing duty order, the cash deposit rate for all other imported platforms will be 4.42 percent *ad valorem*.

Case History

On April 19, 1985, we received a petition in proper form from the Kaiser Steel Corporation and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers filed on behalf of the U.S. producer(s) and workers producing offshore platform jackets and piles for sale in the U.S. West Coast market. The petitioners subsequently amended the petition to allege, in the alternative, that it was filed on behalf of U.S. producers and workers in the national U.S. market. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Korea of offshore platform jackets and piles directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on May 9, 1985, we initiated the investigation (50 FR 20253). We stated that we expected to issue a preliminary determination by July 15, 1985.

Since Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On June 3, 1985, the ITC determined that there is a reasonable indication that these imports materially injure a U.S. industry.

We presented a questionnaire concerning the allegations to the government of Korea in Washington, DC on May 20, 1985. On June 24, 1985, we received responses to our questionnaire from the government of Korea, Daewoo Shipbuilding and Heavy Machinery Ltd. and Daewoo Corporation (the manufacturer and exporter of Platforms Harvest and Esther), and Hyundai Heavy Industries Co. Ltd. and Hyundai Corporation (the manufacturer and exporter of Platform Julius).

The Department has received letters and comments from several U.S. importers of platform jackets and piles from Korea claiming that the petition was not filed on behalf of the U.S. industry producing platform jackets and piles. However, we have not received any opposition from any members of the domestic industry.

On July 19, 1985, we published our preliminary determination that benefits constituting subsidies within the meaning of the countervailing duty law were being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles from Korea (50 FR 29461). In that notice we stated that if this investigation proceeded normally, we would make our final determination by September 30, 1985. However, on July 25, 1985, petitioners filed a request to extend the deadline date for a final determination in the countervailing duty investigation to correspond to the date of the final determination in the antidumping investigation of offshore platform jackets and piles from Korea. On August 29, 1985, we published notice in the **Federal Register** (50 FR 35108) extending the date of the final determination pursuant to section 705(a)(1) of the Act, as amended by section 606 of the Trade and Tariff Act of 1984. In keeping with Article 5, paragraph 3 of the Agreement on Interpretation and Application of Articles VI, XVI and XXIII of the General Agreement on Tariffs and Trade (the Subsidies Code), the Department instructed the U.S. Customs Service to discontinue suspension of liquidation for all entries on or after November 15, 1985.

On November 21, 1985, we received a request from respondents in the antidumping duty investigations of offshore platform jackets and piles from Korea and Japan that the final determinations be postponed as provided for in section 735(a)(2)(A) of the Act, until March 31, 1986. Accordingly, the countervailing duty investigation was also postponed until March 31, 1986, to correspond to the antidumping cases.

Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. Petitioners and respondents requested a hearing, but both parties subsequently withdrew their requests. On February 12 and 21, 1986, we received written views from interested parties and have taken them into consideration in this determination.

On July 9, 1985, petitioners alleged that government equity infusions into Daewoo Shipbuilding and Heavy Machinery (Daewoo Shipbuilding) were made on terms inconsistent with commercial considerations. They also alleged that Daewoo Shipbuilding was uncreditworthy and that the company received benefits from loans from the Korea Development Bank because of extended grace periods on principal repayments. On August 8, 1985, we presented supplemental questionnaires to the government of Korea, Daewoo Shipbuilding, Daewoo Corporation, Hyundai Corporation, and Hyundai Heavy Industries. We received responses to the supplemental questionnaires on August 23 and 26, 1985.

During the course of this investigation, we found that another contract for the subject merchandise was awarded to Daewoo Shipbuilding and Daewoo Corporation. This contract was awarded after the date of initiation, but the project (Platform Esther) was scheduled to enter the United States before the date of our final determination. We sought additional information on Platform Esther in our supplemental questionnaire.

We conducted verification in Korea from September 23 to October 10, 1985.

Scope of Investigation

The products covered by this investigation are steel jackets (templates) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix offshore drilling and/or production platforms to the ocean floor. Appurtenances include grouting systems, boat landings, pre-installed conductor pipes and similar attachments. These jackets and piles are currently classified in the *Tariff Schedules of the United States* (TSUS) under item 652.97.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

During the period 1983 through the first quarter of 1985, two Korean firms were awarded contracts for construction of offshore platform jackets and piles for export to the United States: Daewoo Corporation and Daewoo Shipbuilding (collectively referred to as Daewoo) and Hyundai Corporation and Hyundai Heavy Industries (collectively referred to as Hyundai). The two platforms are Platform Harvest and Platform Julius. We learned that a third contract was awarded to Daewoo in April 1985, for Platform Esther.

For purposes of this determination, we investigated only the manufacturers and exporters of these platforms and we calculated the subsidy conferred upon the three platforms, Harvest, Julius and Esther. This is a departure from our normal investigation practice of choosing a historical period and calculating subsidies bestowed on the total output of exports during that period.

In this case, the normal practice does not apply. Once a contract for a platform is awarded, it can take fourteen months to construct, and then, after it is entered into the United States, payment terms are extended for up to ten years. Also, as noted above, there have been only three contracts awarded to Korean firms in two years. Therefore, were we to choose 1984, for example, as the period for measuring subsidization, there would be no exports of the subject merchandise.

The nature of the platform market (including the infrequency, high value, and length of production contracts) prevents us from fully countervailing the benefits granted to the subject merchandise using our normal methodology. We not only lack a period representative of the total subsidy bestowed on total exports of the subject merchandise, but there is also an absence of a reasonable expectation of continuous production and future export of the subject merchandise to the United States. However, in this case we can directly tie specific subsidy programs, particularly long-term post-export financing, to specific benefits on particular platforms. Therefore, the nature of the platform market and our ability to tie specific subsidy programs to particular platforms means that we can calculate the subsidy conferred on Platform Harvest, Julius, and Esther. This is a specific exception from our normal practice and should not be construed as a movement away from our policy of calculating subsidies on a country-wide basis. We have chosen these particular sales because they constitute entries of the merchandise that are potentially liable for countervailable duties. However, during the course of this investigation, we discovered that Platform Harvest was formally entered on May 28, 1985, and was liquidated on December 20, 1985. Since Harvest entered through Customs before our preliminary determination and was liquidated before our final determination, we are not establishing a duty deposit rate for Platform Harvest. However, we are using the subsidy which was conferred on Harvest in the determination of the cash deposit rate for all future entries, other than the platforms which we investigated.

Based upon our analysis of the petition, the responses to our questionnaires submitted by the government of Korea, Daewoo Shipbuilding, Daewoo Corporation, Hyundai Heavy Industries, Hyundai Corporation, our verification of those responses, and comments submitted by interested parties, we determine the following:

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers, or exporters in Korea of offshore platform jackets and piles under the following programs:

A. Export Credit Financing From the Export-Import Bank of Korea

Petitioners allege that U.S. purchasers of the subject merchandise receive preferential buyers' credits from the Export-Import Bank of Korea (KXMB). Petitioners also allege that National Investment Fund loans provided through the KXMB are used to finance exports of the subject merchandise on a deferred payment basis and at below-market interest rates.

Regarding the National Investment Fund (NIF), the government of Korea established the National Investment Fund in 1973. The NIF is a source of funds for banks to loan. NIF funds are used to finance development or to finance exports on a deferred payment basis. The only deferred export financing utilizing NIF funds is wholly administered by the KXMB. The NIF is not a specific export loan program but rather a source of funding within the KXMB's Export Credit Financing program.

NIF loans are also provided through commercial and government banks. A number of Korea Development Bank (KDB) loans made to Daewoo Shipbuilding have been made with NIF money. These loans are discussed in the section "Programs Determined Not To Confer Subsidies."

The KXMB inaugurated on July 1, 1976, under the authority of the Export-Import Bank of Korea Act (Law No. 2122; July 28, 1969). The purpose of this Act is to promote the sound development of the national economy and economic cooperation with foreign countries by extending financing for export and import transactions, overseas investments, and development of natural resources abroad.

The KXMB has provided two types of export credit: (1) A pre-delivery loan to cover the period of construction of the project, and (2) a deferred export credit in the form of a post-delivery loan for ten years including a two-year grace period. To be eligible for deferred export credit, the following criteria must be met by the exporter: (1) the contract on the sale must require a minimum 15 percent cash payment by the foreign purchaser; (2) the requested financing cannot exceed a ten-year period for loans greater than U.S. $1,000,000; and (3) the requested financing cannot be at interest rates below the KXMB's lending rates.

For pre-delivery financing, interest is pre-paid quarterly beginning at the time each principal installment is drawn down and extending throughout the life of the loan. The principal of the pre-delivery loan is repaid in one lump sum at the time of acceptance of delivery. Post-delivery financing is repaid semi-annually over an eight-year period beginning two years after disbursement of the loan. Interest on the post-delivery loan is paid semi-annually. The KXMB requires that the borrower obtain Medium- and Long-Term Credit Risk Insurance for post-delivery financing. For our determination on the Export Credit Insurance program, see the section "Programs Determined Not to Confer Subsidies."

Daewoo and Hyundai received pre- and post-delivery financing for Platform Harvest and Platform Julius, respectively, from the KXMB. We verified that KXMB financing was not received on Platform Esther. The financing was in the form of seller's credits, rather than buyer's credits as alleged by the petitioners; *i.e.*, the lending was direct to the manufacturer/exporter. Daewoo received all of its financing at a fixed interest rate of nine percent, while Hyundai received its pre-delivery loan at a fixed interest rate of nine percent and its post-delivery loan at a fixed interest rate of ten percent. These are dollar-denominated loans.

To determine if KXMB pre-delivery financing was provided on preferential terms, we sought the cost to Daewoo and Hyundai of comparable alternative commercial financing. The pre-delivery loans are usually 13 to 14 months in duration, therefore, we did not deem it appropriate to use the swap rate (see discussion below on post-delivery financing) which we used as the benchmark to measure the benefit conferred by the ten-year post-delivery loans.

For Platform Harvest, Daewoo received co-financing by a commercial bank to cover the construction costs not financed by the KXMB. This loan carried a floating interest rate which was based on a spread over the London Interbank Offered Rate (LIBOR).

To determine if the KXMB pre-delivery loan was made on preferential terms, we compared the interest rate of the co-financing loan to the interest rate of the KXMB pre-delivery loan. We made this comparison on each date on which interest was paid on the KXMB pre-delivery loan, since the co-financing loan carried a variable interest rate. Based on this, we determine that the KXMB pre-delivery loan was made on preferential terms.

We used the interest rate on the co-financing loan, even though it is a variable rate loan, because it represents the actual commercial alternative used by Daewoo to finance the construction of Platform Harvest. Also, because the KXMB pre-delivery loan in question was paid prior to our preliminary determination, we were able to determine the rates Daewoo would have had to pay using the variable commercial interest rate. Therefore, we believe that the co-financing loan is the most appropriate benchmark to use for the pre-delivery loan, despite the fact that we are comparing fixed and variable rate loans.

Hyundai also received co-financing from a commercial bank, with an interest rate spread over LIBOR, to finance construction costs of Platform Julius not covered by the KXMB pre-delivery financing. However, since the pre-delivery loan is still outstanding on Platform Julius, we cannot use the same methodology as used in calculating the benfit on the KXMB pre-delivery loan received by Daewoo to finance the construction of Platform harvest. That methodology is inappropriate because we cannot speculate on future LIBOR rates to coincide with future interest payments on the KXMB pre-delivery loan. Therefore, as best information available, we took the interest rate Hyundai would have paid based on the interest rate of the co-financing loan. We calculated this as the LIBOR rate in effect on the date of the commitment of the commercial bank to co-finance the construction of Platform Julius, plus the spread over the LIBOR rate as specified by the co-financing loan. We then treated this as a fixed rate for the duration of the KXMB pre-delivery loan. Comparing that interest rate to the interest rate received on the KXMB pre-delivery loan, we determine that the KXMB pre-delivery loan was made on preferential terms. Since the pre-delivery loan received by Hyundai for Platform Julius does not have to be paid off until the platform is exported, we assumed that the length of the pre-delivery loan for Platform Julius will be the same length as the loan for Platform Harvest.

We believe that because of the duration of the pre-delivery loan, the benchmark constructed under this methodology more accurately reflects the benefits to be conferred upon Platform Julius than the use of the swap interest rate which we are using to measure the benefits of the ten-year post-delivery loans, or the use of the interest rate on 90-day commercial paper, which is the rate suggested by respondents.

To calculate the benefit on the KXMB pre-delivery loan to Daewoo for Platform Harvest, we took the difference between each interest payment made at the nine percent KXMB interest rate and what Daewoo would have paid at the interest rate charged by the commercial co-financing bank. Since we calculated the benefit based on actual interest payments, and these payment were made at the nominal interest rate of nine percent, our benchmark is also at a nominal interest rate. To calculate the benefit on the KXMB pre-delivery loan to Hyundai for Platform Juilius, we took the difference between the nine percent KXMB interest rate and the interest rate charged on the co-financing loan set on the date of the commercial bank's

commitment to provide co-financing. We then multiplied that difference by the amount of the KXMB pre-delivery loan to calculate the amount of the benefit. We took these benefit amounts and divided by he contract value of the respective platform to calculate an estimated net subsidy of 0.61 percent *ad valorem* for the KXMB pre-delivery loan on Platform Harvest and 0.27 percent *ad valorem* for the KXMB pre-delivery loan on Platform Julius.

In order to determine if KXMB post-delivery financing was provided on preferential terms, we sought the cost to Daewoo and Hyundai of comparable alternative, fixed-interest, dollar-denominated, commercial financing. Since these are long-term loans, we first reviewed the credit histories of both of the companies. We found that both have received commercial long-term dollar-denominated loans, but all were at variable interest rates. We also learned that there are no established commercial fixed-rate dollar loans available in Korea. However, we discovered that there is a well-established international market available to companies that wish to swap variable-rate dollar obligations for fixed-rate dollar obligations, and that Daewoo has participated in this market. Based on the fact that one of the producers of the subject merchandise has used the swap market on several occasions, and on a careful review of information we obtained regarding all alternative sources of long-term, fixed-interest, dollar-denominated, commercial financing, we determine that, absent the availability of the KXMB financing, both Daewoo and Hyundai could have obtained long-term fixed-interest, dollar-denominated, commercial post-delivery financing for the projects under investigation in the swap market.

The effective fixed interest rate for a company which wants to swap out of a floating rate obligation and into fixed rate is based on (1) the prevailing fixed-interest yield of its swap partner (this is called the referenced fixed rate); (2) the swap partner's desired spread below LIBOR; (3) the annualized arrangement fee for the swap (usually a bank will arrange the swap); (4) the note issuance facility fee (to underwrite the Euronotes); and (5) the cost over LIBOR of the company's floating rate funds. For the referenced fixed rate on the swap rate for Daewoo, we went to the international bond market to select an appropriate fixed-interest rate of a potential swap partner. We selected bonds with a six- to a seven-year maturity to correspond to the effective average maturity of the KXMB loans. The source of the bond information was *Euromoney*. The reference fixed rate on the swap for Hyundai is based on long-term bonds as reported by the *Wall Street Journal*. Hyundai received post-delivery commercial co-financing on Platform Julius. We used the spread over LIBOR of that loan to determine the cost over LIBOR of the company's floating rate funds. We used that same spread, as best information available, as the cost over LIBOR to determine Daewoo's cost of floating rate funds. We used the information submitted on the record to determine the costs of the other three components used in the calculation of the swap interest rate. Based on that information, we were able to determine the fixed-interest financing costs which each company would have had to bear after a swap.

A comparison of these rates with those of the companies' KXMB post-delivery loans indicates that, in the case of both loans to both companies, the KXMB export financing rates are less. Because this financing is contigent upon export and the rates of interest charged are less than that on comparable commercial financing, we determine that the post-delivery loans from the KXMB confer benefits which constitute export subsidies.

Under our normal methodology for allocating the benefits of long-term loans, benefits are deemed to begin accruing at the time of the first cashflow effect and continue through the life of the loan. Therefore, if we were measuring subsidization in calendar year 1984, for example, and the first interest payment would not be made until 1985, then we would find no benefits conferred upon exports of the subject merchandize in 1984. Instead, the benefits of the loan would be allocated to exports in 1985 and each year thereafter for as long as the loan was outstanding.

The use of our standard long-term methodology is not appropriate in this case because of the nature of the platform jackets and piles market. In the first place, the loans in question can be tied to specific platforms. Secondly, allocating the benefits over the life of the loan would mean that we might not capture, and countervail, all the benefit conferred upon these exports. This is because the platforms would be imported into the United States and their entries liquidated by U.S. Customs ten years before the last interest payments would be made on the KXMB loans, *i.e.*, ten years before the last countervailable benefits would be conferred upon the products.

In order to capture the full benefit conferred by each of the KXMB post-delivery loans, we measured the difference in the present value of the repayment stream on the KXMB post-delivery loans and the repayment stream on swap market financing. This amount was divided by the contract value of the respective platform. Using this methodology, we calculated an estimated net subsidy of 7.97 percent *ad valorem* for Platform Harvest and 2.72 percent *ad valorem* for Platform Julius for the KXMB post-delivery loans.

B. Accelerated Depreciation Under Article 25 of the "Act Concerning the Regulation of Tax Regulation and Exemption"

Petitioners alleged that manufacturers and exporters of the subject merchandise receive accelerated depreciation under this program.

Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption" permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation, determined by a formula based on the firm's foreign exchange earnings and total business earnings. Of the firms manufacturing or exporting the products under investigation, only Hyundai Heavy Industries, the manufacturer of Platform Julius, used accelerated depreciation under this program. Because the use of accelerated depreciation is contingent upon export performance, we determine that this program confers benefits which constitute export subsidies.

Under our normal methodology for determining the benefits from export-related accelerated depreciation, we would calculate the subsidy based on the tax savings received during the period of review and then we would divide the taxing savings by the amount of export sales during the same period. For the same reasons described *supra* regarding KXMB financing, however, the use of our standard methodology is not appropriate in this case. Hyundai Heavy Industries will record no export sales income from Platform Julius until it files its taxes in 1986 and 1987. The most recent year in which taxes have been filed is 1984. Therefore, none of the tax savings in 1984 derive from, or are attributable to, sales of the subject merchandise to the United States.

In order to capture and countervail all of the tax benefits attributable to

Platform Julius, we should calculate the present value of the benefits that will accrue in 1986 and 1987. Obviously, it is impossible to make this calculation in 1985 because we do not know how much or whether accelerated depreciation will be claimed. Therefore, believing it to be the only reasonable alternative methodology available to us, we have instead calculated the benefit that would have accrued in 1984 (the most recent year for which we have all the necessary data) had the entire sales income earned from Platform Julius been reported in that year. Using this methodology, we calculated an estimated net subsidy of 0.15 percent *ad valorem* for Platform Julius.

C. Tax Incentives for Exporters Under Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption"

Petitioners alleged that manufacturers and exporters of the subject merchandise receive tax benefits under Articles 22, 23 and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption" which provide for the deduction from taxable income of a number of different reserves relating to export activities. These reserves cover export losses, overseas market development and price fluctuation losses.

Under Article 22, a corporation may establish a reserve amounting to one percent of the foreign exchange earnings or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve fund. If there are no offsets for export losses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

Under Article 23, governing overseas market development, a corporation may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in developing overseas markets are offset from the reserve fund. Like the export loss reserve fund, if there are no offsets for expenses, the reserve is returned to the income account and taxed, after a one-year grace period, over the next three years.

A price fluctuation reserve fund may be established under Article 24. Under this article, a corporation may establish reserves equivalent to five percent of the book value of the products and works in progress which will be exported by the close of the business year. This reserve may be used to offest losses incurred from the fluctuation of prices for export goods. These losses may be offset by returning an amount equivalent to those losses to the income account. If not utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses, are used to develop overseas markets, or when the grace period expires. Daewoo Corporation claimed reserves under Articles 22 and 23 and Hyundai Heavy Industries claimed reserves under Article 22. We determine that these export reserve programs confer benefits which constitute export subsidies because they provide a deferral of direct taxes specifically related to export performance.

As with the previous program, our normal methodology for calculating the benefit arising from these tax deferrals does not apply in this case. This is because the deferrals currently being enjoyed are not derived from sales of the subject merchandise to the United States. Nor can we anticipate that there will be imports in each of the years that deferrals attributable to these sales are in effect. Therefore, to calculate the benefits received under this program applicable to the products under investigation, we first took one percent of the value of the platform contract and treated it as if it were placed into the respective reserve fund based on when the company would enter the contract value as sales revenue in its accounting records. For Daewoo Corporation, the entire one percent was treated as if it were put into each of the tax-free reserves on the date of shipment of the platform. Hyundai Heavy Industries recognizes income progressively during the period of construction rather than in one lump-sum on a single date and, thus, the one percent of the contract was divided into two reserves.

Because these export reserve funds constitute a deferral of tax liabilities, we treat the tax savings on these funds as short-term interest-free loans. Thus, we took the tax savings on one percent of the contract value (or that portion of the contract treated as sales revenue) for the platform in the year in which it would be treated as sales revenue and treated it as an interest-free loan, rolled over in each year that taxes would be deferred. We compared the zero-interest to the interest that would be paid in each year had the money been borrowed from commercial sources. We used as our benchmark the average interest rate on commercial short-term loans in Korea which we determine to be 11.50 percent. The source of our benchmark determination is the Bank of Korea's *Monthly Statistical Bulletin*. In November 1984, the ceiling on interest rates for short-term loans was raised to 11.50 percent. Commercial banks can charge interest rates from 10 to 11.50 percent. In meetings with the Korea Development Bank, the Bank of Korea, and two commercial banks, we were told that commercial banks will usually charge the ceiling rate of 11.50 percent of all their lending. We necessarily assumed that the benchmark interest rate would extend into the future periods. We then calculated the present value of the benefits in each of the years in which there would be a tax savings accruing to the respective reserve fund. The total benefit for each of the reserve funds was allocated over the contract value of the respective platform. Using this methodology, we calculated an estimated net subsidy of 0.15 percent *ad valorem* for Platform Harvest and Platform Esther and 0.08 percent *ad valorem* for Platform Julius.

II. Programs Determined Not to Confer Subsidies

A. Government Provision of Equity Into Daewoo Shipbuilding

The KDB has provided equity into Daewoo Shipbuilding from 1978 through 1980. The KDB also provided equity into Daewoo Shipbuilding in 1984. Petitioners alleged that these equity provisions were made on terms inconsistent with commercial considerations.

The Korea Shipbuilding and Engineering Company (KSEC) began building a shipyard facility at Okpo Island in the 1970's. In 1978, with only 30 percent of the shipyard constructed, KSEC, citing management and construction difficulties, notified the KDB that it was pulling out of the operations and that it intended to declare bankruptcy. The KDB was the major creditor bank of KSEC, holding the majority of loans outstanding to that company. At that time, the KDB sught a new company to take over the Okpo facilities and to complete construction of the shipyard, so that the KDB could recover the loans that it had provided in the construction of the shipyard.

The Daewoo Group performed a feasibility study to determine the future commercial prospects of the operations and based on this study, entered into a joint venture with the KDB. The Daewoo Group also agreed to guarantee the repayment of loans to the KDB which had been extended to KSEC by the bank. In late 1978 Daewoo Shipbuilding was incorporated. The Daewoo Group

maintained majority ownership of the company, and it and the KDB purchased common stock of Daewoo Shipbuilding on the same terms. Equity investments were made by the KDB and the Daewoo Group, on the same terms between 1978 and 1980. These investments were used for the construction of the shipyard which was completed during 1981. Several equity investments of the KDB were made through the conversion of debt. These conversions were on the same basis as the investments made by the Daewoo Group.

Requests were made to the KDB for additional equity infusions between 1981 and 1983, but he KDB declined. During this period, the Daewoo Group continued to purchase new stock in Daewoo Shipbuilding, thus increasing its control of the company. Another request to the KDB was made in 1984 and this time the KDB did decide to provide additional equity purchases into Daewoo Shipbuilding.

We have consistently held that government provision of equity does not *per se* confer a subsidy. Government equity purchases bestow countervailable subsidies only when they occur on terms inconsistent with commercial considerations. In making a determination on whether Daewoo Shipbuilding was equityworthy, we analyzed feasibility studies, the actions of commercial investors into the company, and the company's financial statements. Based on this examination, we determine that KDB's equity infusions were made on the same terms as private investors (the Daewoo Group) and that Daewoo Group's infusions are an appropriate benchmark for measuring whether KDB's equity infusions were consistent with commercial considerations. Because KDB's and Daewoo Group's investments were made on the same terms, we determine that the KDB's equity infusions into Daewoo Shipbuilding are not countervailable.

B. Export Credit Insurance by the Export Import Bank of Korea

Petitioners allege that the Korean government makes substantial contributions to the export credit insurance program of the KXMB and that this program is not self-supporting, thus providing countervailable benefits to producers of the subject merchandise.

The KXMB operates an export insurance program which provides commercial, political and managerial risk insurance. A separate budget for this program is maintained by the KXMB. Hyundai Corporation and Daewoo Corporation have both applied for commercial risk insurance. Purchase of this insurance is compulsory on all loans provided by the KXMB.

To be a subsidy, a government-operated export insurance program has to charge premiums which are inadequate to cover the long-term operating costs and losses of the program. We verified that the premiums charged to exporters allow the KXMB to cover its losses and its long-term operating expenses. Therefore, we determine that this program does not constitute a subsidy.

C. Korea Development Bank Loans to Daewoo Shipbuilding

Petitioners alleged that Daewoo Shipbuilding received benefits from NIF loans because of extended grace periods on repayment of principal from the KDB. Petitioners also alleged that these loans provided countervailable benefits to Daewoo Shipbuilding because the company was uncreditworthy from its inception through 1984.

We learned in meetings with commercial banks in Korea that grace periods are typically tied to the company's cash flow. For loans used for infrastructure development, the grace period is based on the period of construction, plus generally one additional business year. Commercial banks will also look at the expected cash flow from the development. The standard grace period for long-term borrowing for such development is around four years. Therefore, we determine that these loans are not countervailable because the length of the grace periods are not inconsistent with commercial considerations.

Regarding the uncreditworthy allegation, we determine Daewoo Shipbuilding to be creditworthy because a significant portion of its loans in each year since its inception have been provided by a multitude of commercial banks.

III. Programs Determined Not To Be Used

We have determined that manufacturers, producers, or exporters in Korea of offshore platform jackets and piles did not use the following programs:

A. Short-term Export Financing

Petitioners alleged that the manufacturers and exporters receive preferential export financing under the Export Financing Regulations. We verified that this program was not used by manufacturers and exporters of the subject merchandise.

B. Special Depreciation Under Article 11 of the "Act Concerning the Regulation of the Tax Reduction and Exemption"

Petitioners alleged that certain designated industries receive preferential depreciation benefits under Article 11. We verified that assets used to construct jackets and piles did not receive accelerated depreciation under Article 11.

C. Export Guarantees From Export-Import Bank of Korea

Petitioners alleged that producers of the subject merchandise receive advance payment export guarantees and performance export guarantees from the KXMB. We verified that the jackets and piles covered by this investigation have not received such guarantees from the KXMB.

Petitioners' Comments

Comment 1: Petitioners contend that there existed essentially one loan from KXMB that was rolled over upon delivery of Platform Harvest, rather than two separate (one pre-delivery and one post-delivery) loans.

DOC Position: We disagree. We verified that for Platform Harvest, Daewoo received pre-delivery and post-delivery financing from the KXMB and that these were two separate loans. For a discussion of the KXMB financing, see the section of the notice on "Export Credit Financing from the Export-Import Bank of Korea."

Comment 2: Petitioners argue that the most reasonable commercial alternative to, and, thus, the appropriate benchmark for Daewoo's post-delivery loan from the KXMB, would be a ten-year bond or a ten-year commercial bank loan rather than an interest rate swap.

DOC Position: In determining the benefit received from preferential long-term loans, we examine the actual loan history of the company at the time of receipt of the loan in question. The KXMB loans in question are ten-year loans with fixed rates of interest. The Korean companies did not have any fixed-rate dollar loans at the time of receipt of the KXMB loans. The companies did have a wide array of long-term dollar loans from commercial banks, but these loans were made at variable interest rates and, therefore, according to our long-term loan methodology, did not provide the preferred method for measuring the benefits conferred upon the exported platforms by the KXMB fixed rate loans.

Petitioners have argued that Daewoo and Hyundai have not used interest rate swaps for financing of the subject

merchandise. This is correct. These companies have financed exports by obtaining co-financing from commercial banks, and the rates provided by these banks have been on a variable basis, *i.e.*, LIBOR plus a spread. This has been their alternative method of export financing, not the use of bonds. However, as stated above, we prefer not to measure a long-term fixed-rate loan against a variable-rate long-term loan. To compensate for this methodological problem, we have turned to the interest swap market to calculate an appropriate fixed interest rate to allow us to measure the benefit of the KXMB loans.

We verified that the international swap market is available to companies in Korea wishing to exchange floating interest rate obligations for long-term dollar fixed interest rate obligations. We also verified that Daweco has participated in this swap market. Therefore, we believe that, absent KXMB financing, Daewoo and Hyundai could have obtained long-term fixed-interest dollar-denominated commercial financing for the projects under investigation in the swap market.

We reject petitioners' argument that we should use a ten-year bond rate to measure the KXMB loans. Daewoo and Hyundai have not used such an instrument to finance their exports; they have always used loans.

Comment 3: Petitioners argue that the Department should use the rates on ten-year bonds as the basis of determining the referenced fixed rate used in calculating the cost of Daewoo's swap interest rate.

DOC Position: We disagree. We used the rates on bonds of six to seven years' duration as the basis of determining the referenced fixed rate because the length of these bonds corresponded to the effective maturity of the KXMB post-delivery loan.

Comment 4: Petitioners argue that in determining the cost of Daewoo's swap interest rate, the Department should select 0.50 percent as the swap partner's desired spread below LIBOR.

DOC Position: We disagree. We selected 0.25 percent as the swap partner's desired spread below LIBOR in calculating Daewoo's cost in an interest swap transaction. If its swap partner would normally be able to receive a loan with a floating interest rate of LIBOR plus 0.25, a spread below LIBOR of 0.25 in an interest swap would provide a net savings of 0.50 to the swap partner. This is the average savings which usually must be present for each participant to agree to the swap transaction.

Comment 5: Petitioners claim that the feasibility studies submitted by respondents during verification should be rejected because they were submitted too late for the record, and because they were all prepared by the government Korea or Daewoo, *i.e.*, not by an independent source.

DOC Position: We believe that petitioners had an adequate amount of time to comment on all information which was used in making our final determination. We also disagree with petitioners' contention that we should reject the feasibility studies conducted by both the government of Korea and Daewoo. Daewoo is a private commercial enterprise, and we believe it is reasonable that a private commerical enterprise may use its own feasibility studies as a basis for making a commercial investment. Also, because these studies were prepared in 1978 and 1984, they were clearly not written for the purposes of this investigation.

Comment 6: Petitioners submit that the financial state of Daewoo Shipbuilding immediately prior to the 1984 equity investment indicates that the company was not considered to be a reasonable investment.

DOC Position: We disagree. Daewoo Shipbuilding was formed in 1978 and was constructing the shipyard through 1981 and expanding the facilities in 1982. In 1983, the company made a profit, which increased in 1984. In 1984, the KDB and the Daewoo Group made equity investments on the same terms. Therefore, we determined that the equity investment of the KDB in 1984 was made on terms consistent with commercial considerations.

Comment 7: Petitioners argue that the 1984 investment in Daewoo Shipbuilding should be countervailable because it was based on national policy interests rather than on commercial considerations.

DOC Position: Regarding the decision of a government to provide equity into a company, we examine whether a commercial investor would have made the same decision. The fact that a government may make an equity investment for a different purpose than a private commercial investor, does not mean that the investment was made on terms inconsistent with commercial considerations.

Comment 8: Petitioners maintain that the 1984 investment constituted a conversion of debt to equity and that it should therefore be countervailed as being inconsistent with commercial considerations.

DOC Position: The 1984 government investment was not a conversion of debt into equity. Regardless, we found KDB's equity infusions into Daewoo Shipbuilding to be consistent with commercial considerations, as discussed in the section "Programs Determined Not To Confer Subsidies."

Comment 9: Petitioners argue that Daewoo Shipbuilding received preferential long-term loans from the KDB and from the NIF and that these loans should be countervailed with respect to all of Daewoo's sales, regardless of Daewoo's ultimate use of the funds.

DOC Position: We found these loans not be countervailable.

Comment 10: Petitioners contend that Daewoo Shipbuilding is receiving long-term preferential financing, which is countervailable regardless of whether the company is creditworthy, because loans terms include longer than commercially available grace periods on repayment of principal.

DOC Position: We determined that the grace periods were provided on terms consistent with commercial banking practices in Korea.

Comment 11: Petitioners contend that respondents have been non-responsive regarding the interest payment schedules between 1977 and 1983 on loans from the KDB.

DOC Position: We did not ask respondents to provide such information. Because the long-term loans in question carry variable interest rates, we are only concerned with the interest rates on the loans during our period of review. The interest rates of the loans in question during that period were consistent with commercial considerations, and therefore, no countervailable benefits are found.

Comment 12: Petitioners contend that ITA should investigate further an apparent loan to Hyundai Heavy Industries from the fund for Expanding Export Facilities.

DOC Position: The Fund for Expanding Export Facilities was established in 1973 and was abolished in 1982. Eligibility for these loans was limited to manufacturers building facilities for producing export goods or raw materials, and purchasers of ocean-going vessels used for the fish export industry. Hyundai Heavy Industries received a loan from this funding source which is still outstanding. The loan contract specified the purpose of the loan and the loan was not received in relationship to the construction of platform jackets and piles.

Comment 13: Because the loan from the Fund for Expanding Export Facilities are provided exclusively to exporters, petitioners argue against ITA's conclusion that Export Facility Loans are generally available and thus, not countervailable in Korea.

DOC Position: We have never concluded that loans from the Fund for Expanding Export Facilities are not countervailable because they are not limited to a group of enterprises or industries. We found that loans from this Fund were not countervailable because the interest rate on such loans was the same as the interest rate on comparable domestic long-term loans; see our *Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods from Korea* (49 FR 46776). In that investigation, we did determine that since loans from commercial banks and specialized banks, including loans made from the Fund for Expanding Export Facilities, were provided to all sectors and industries in the Korea, and because the steel industry did not receive a disproportionate share of loans, that there was no government direction of credit.

Comment 14: Petitioners maintain that loans which Daewoo Shipbuilding received from the KDB for tourist facility development are countervailable since they are targeted to a specific industry.

DOC Position: Tourist facility loans are provided for hotel construction in Korea. Since the loans received by Daewoo Shipbuilding for tourist facility development are not related to the manufacture of offshore jackets and piles, they confer no countervailable benefit upon the subject merchandise.

Comment 15: Petitioners argue that the short-term interest rate used to calculate the tax benefits to Daewoo under Articles 22 and 23 may understate the actual benefit received, and that we should use a weighted-average interest rate on all short-term domestic credit, including the curb market.

DOC Position: We treat the export tax reserves available under Articles 22 and 23 as interest-free loans and we use the interest rate on short-term loans in Korea to measure the benefit conferred by these tax reserves. In *Oil Country Tubular Goods,* we used the weighted-average cost of all domestic short-term credit to measure the preference built into the government's rediscount mechanism for short-term export loans. In that investigation, we still used the ten percent interest rate on short-term loans to measure the benefit provided by the export tax reserves. In this investigation, we are using the interest rate on those same loans.

Comment 16: Petitioners argue that benefits should be calculated to include both the 1984 incentives under Article 22 to Hyundai Heavy Industries as well as the 1984 incentive under Article 23 to Hyundai Corporation.

DOC Position: We calculated a benefit for every tax reserve which was used by each company and which could possibly be applied to exports of platform jackets and piles. Article 23, which was used by Hyundai Corporation, was only used in connection with ship exports.

Comment 17: Petitioners claim that the Article 25 benefits claimed by Daewoo on its Pusan factory should be spread over Daewoo's total sales and countervailed.

DOC Position: We disagree. The Pusan factory is not involved in the manufacture of offshore platform jackets and piles. It is our practice that when we can verify that benefits are tied to the production of merchandise other than the subject merchandise, we do not include them in our subsidy determination.

Comment 18: Petitioners contend that Hyundai Heavy Industries' claim for Article 11 special depreciation should be countervailed, even if the division in the company which produces platforms did not make use of this program.

DOC Position: We verified that Article 11 depreciation was only used for Hyundai Heavy Industries' shipbuilding operations. No assets used in the construction of platform jackets and piles benefitted from Article 11 depreciation. It is our practice that when we can verify that benefits are tied to the production of merchandise other than the subject merchandise, we do not include them in our subsidy determination.

Comment 19: Petitioners argue that because respondents have failed to provide complete details on the short-term export financing, ITA should use best information available and countervail such financing.

DOC Position: We disagree and have determined that short-term exports loans were not used.

Comment 20: Petitioners claim that Daewoo would have had to rely on its own allegedly poor credit standing, rather than on the creditworthiness of Texaco due to the holding of Texaco promissory notes, in obtaining alternate commercial financing for a post-delivery loan.

DOC Position: We disagree. As part of the sale of Platform Harvest, Daewoo received promissory notes from Texaco which, if it so desired, could be used as a basis to obtain alternative commercial financing.

Respondent's Comments

Comment 1: Respondents state that interest rate swaps were used in Korea at the time of Daewoo's post-delivery loan.

DOC Position: We verified that interest rates swaps were being used in Korea in 1984.

Comment 2: Respondents argue that because Korean manufacturers and exporters of the subject merchandise have renounced use of KXMB export credits for all contracts entered into on or after April 19, 1985, the Department should exclude the subsidy from this program from the duty deposit rate.

DOC Position: Verified information shows that of the three platforms examined, two received KXMB financing. Platform Ester, which was contracted for after April 19, 1985, did not receive financing. However, because this was a relatively small platform for which financing was not as necessary as for the larger platforms, the absence of financing is not a good indicator of whether this subsidy program is being used.

Furthermore, we believe that a suspension agreement under section 704 of the Act would have been the appropriate framework in which to take into account the renunciation of KXMB export credits. Section 704 includes detailed and comprehensive conditions and procedures, which would be undercut by the approach which respondents, and several importers, suggest. We note that, although respondent did, at one point in this investigation, propose a suspension agreement under section 704(b)(1), based upon the complete elimination of the subsidy, they did not offer to eliminate the subsidy attributable to counteravailable programs other than KXMB export financing.

Further, we would adjust the deposit rate only to reflect program-wide changes. Since this renunciation is by the firms rather than a change in the operation of the program, we believe it to be inappropriate to adjust the deposit rate. Jackets and piles continue to be eligible for such financing, whether or not the manufacturers choose to use the program. Thus, we can best estimate future use through historical practice. We note that if another platform is imported before any eventual 751 review, and the review shows that the renunciation remained in effect, the duty posted plus interest will be refunded to the importer. At that time, the non-use of KXMB financing will be reflected in the assessment and cash deposit rate for any other platforms subsequently imported.

Comment 3: Respondents argue that since platform Harvest has been liquidated, the Department should not establish a duty deposit rate for the platform.

DOC Position: We agree and have not set a duty deposit rate for Platform Harvest. However, we did calculate a subsidy rate for Platform Harvest and used that rate in our calculation of the "all other" cash deposit rate.

Comment 4: Regarding the calculation of the swap rate, respondents argue that the Department overstated the alleged subsidy on post-delivery loans by including a spread above LIBOR on the company's Euronote financing; they contend that with the use of Texaco's promissory notes, Daewoo could have received such financing at LIBOR. Respondents also argue that we selected a referenced fixed rate which is too long.

DOC Position: We believe that we selected an appropriate spread over LIBOR and referenced rate in our calculation of the swap interest rate. The referenced fixed rate, which we used in calculating the swap costs for Daewoo, was based on six- to seven-year bonds. The terms of these bonds correspond to the effective maturity of the KXMB loan. The spread over LIBOR, which we selected and computed in the swap costs, was based on the spread over LIBOR of the co-financing loan received by Hyundai. Daewoo did not receive co-financing on the post-delivery loan for Platform Harvest and, therefore, we did not have a company and project specific spread over LIBOR for Daewoo. Moreover, like Daewoo, the co-financing loan received by Hyundai involved the use of promissory notes. We believe that it is more accurate to use the actual financing of one of the exporters of the subject merchandise as the basis of determining the costs incurred by a swap, than to speculate on the rate Daewoo could have received if it had used Texaco's promissory notes to receive Euronote financing.

Comment 5: Respondents argue that the Department should use a 90-day commercial paper rate as the benchmark for KXMB pre-delivery financing.

DOC Position: We disagree. The interest rate on a 90-day loan instrument is not as accurate a benckmark to measure a loan which is over a year in duration as the co-financing loans which are of a comparable duration to the KXMB pre-delivery loans. As a further note, we believe that if the companies could have used less expensive 90-day commercial paper to finance the construction of the platforms, they would have done so. Instead, both Hyundai and Daewoo used loans to co-finance the construction of the two platforms.

Comment 6: Respondents argue that the Department should base the calculations of the alleged benefits of the KXMB pre-delivery loans on actual outstanding principal balances, not on the face value of the loans.

DOC Position: We have done so. For Platform Harvest, we calculated the benefit based on actual interest payments made on the pre-delivery loan. Similarly, for Paltform Julius, we estimated the draw-down on the principal of the pre-delivery loan based on the actual draw-down schedule of the loan received for Platform Harvest.

Comment 7: Respondents argue that the Department should use the full contract values as the denominator in its calculations.

DOC Position: For the calculation of the subsidy of the KXMB loans, we did use the contract value of the platforms, which included transportation costs, because the amount of KXMB financing is based on the contract value of the project.

Comment 8: Respondents argue that Article 25 did not provide benefits to Platform Julius.

DOC Position: In 1984, the offshore engineering division of Hyundai Heavy Industries, the division which constructs platform jackets and piles, was reorganized into the Hyundai Offshore and Engineering Company (HONECO). In 1985, it again became part of Hyundai Heavy Industries, but HONECO did file separate tax returns for 1984. In its 1984 tax return, HONECO did not claim accelerated depreciation under Article 25. When HONECO was the offshore engineering division of Hyundai Heavy Industries in the previous year, Article 25 depreciation was claimed by all divisions, and thus for assets which are used in the construction of platform jackets and piles. Since the offshore engineering division is now back as a part of Hyundai Heavy Industries, and since in the past two years' tax return filings, all divisions of Hyundai Heavy Industries claimed Article 25 accelerated depreciation, we are calculating a benefit for Platform Julius under this program.

Comments of Texaco Inc. (Texaco)

Comment 1: Texaco argues that respondents' renunciation of KXMB financing amounts to an agreement to eliminate the subsidy completely, and provides the basis for the Department to suspend this investigation.

DOC Position: Renunciation of one program, where other counteravailable programs exists and are being used, does not provide a basis for the Department to suspend an investigation. Section 704 of the Act provides for the suspension of an investigation. The standards set forth in section 704 for such a suspension have not been met by respondents in this investigation.

Comment 2: Texaco contends that, if the Department chooses not to suspend this investigation, it should nevertheless set the duty deposit rate at an amount which does not include benefits attributable to KXMB financing.

DOC Position: We disagree. See our response to Resondents' Comment 2.

Comments of Chevron U.S.A., Inc. (Chevron)

Comment 1: Chevron supports the request of respondents that the Department acknowledge their renunciation of KXMB financing, and argues that the duty deposit rate should be set at an amount exclusive of such financing.

DOC Position: We disagree. See our response to Respondents' Comment 2.

Comments of Cities Service Oil and Gas Corp. (Cities Service)

Comment 1: Cities Service argues that the Department overstated the benefits Hyundai received from pre-delivery KXMB financing because the swap market rate is an inappropriate benchmark for such short-term credit covering the construction period.

DOC Position: For purposes of measuring the benefit conferred by the KXMB pre-delivery loan, we did not use the swap market rate for our final determination. We used the interest rate of the co-financing loan which was received from a commercial bank, which we consider a more appropriate benchmark.

Comment 2: Cities Service maintains that benefits received under Articles 25 should be excluded from the subsidy calculation because they were not used by Hyundai in the construction of the products under investigation.

DOC Position: We disagree. See our response to Respondents' Comment 8.

Verification

In accordance with section 776(a) of the Act, we verified the data used in making our final determination. During this verification, we followed normal verification procedures, including inspection of documents and ledgers, and tracing the information in the responses to source documents, accounting ledgers, and financial statements.

Suspension of Liquidation

In accordance with our preliminary countervailing duty determination published on July 19, 1985, we directed the U.S. Customs Service to suspend liquidation on the products under

investigation and to require that a cash deposit or bond be posted equal to the estimated net subsidy. The countervailing duty final determination was extended to coincide with the final antidumping duty determinations on the same products from Korea and Japan, pursuant to section 606 of the Trade and Tariff Act of 1984 (section 705(a)(1) of the Act). Under Article 5, paragraph 3 of the Subsidies Code, provisional measures cannot be imposed for more than 120 days. Thus, we cannot impose a suspension of liquidation on the subject merchandise for more than 120 days without final determinations of subsidization and injury. Therefore, on November 15, 1985, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered on or after November 15, 1985.

We will reinstate suspension of liquidation if the ITC issues a final affirmative determination. If we issue a final countervailing duty order, we will instruct Customs Officers to collect a cash deposit of 3.22 percent *ad valorem* for Platform Julius; no cash deposit will be required for Platform Harvest since it has already been liquidated; and all other entries of the subject merchanise will be required to make a cash deposit of 4.42 percent *ad valorem* (which is a weighted-average of the amount of subsidies conferred upon Platforms Harvest, Julius and Esther). Platform Esther was entered after our preliminary determination and before we instructed Customs to discontinue suspension of liquidation of future entries. We will direct Customs not to proceed with liquidation of Platform Esther until the final duty is determined under section 751 of the Act.

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure or threaten material injury to a U.S. industry 45 days after the date of publication of this notice. If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that injury exists, we will issue a countervailing duty order, directing Customs officers to assess a countervailing duty on offshore platform jackets and piles from Korea entered, or withdrawn from warehouse, for consumption as described in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 31, 1986.

[FR Doc. 86-7622 Filed 4-4-86; 8:45 am]

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[A-588-501]

Offshore Platform Jackets and Piles From Japan: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have determined that offshore platform jackets and piles from Japan (jackets and piles) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and the ITC will determine, within 45 days of the publication of this notice, whether a U.S. industry is being materially injured or threatened with material injury by imports of this merchandise. We have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise and to require a cash deposit or posting of a bond for each such entry in amounts equal to the estimated dumping margins as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe or Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 377-4087 or 377-1769.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that jackets and piles from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) (19 U.S.C. 1673d(a)) of the Tariff Act of 1930, as amended (the Act). We found dumping margins for all companies investigated. The weighted-average margins for the two firms investigated and for all other firms are listed in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On April 19, 1985, we received a petition in proper form filed by Kaiser Steel Corporation and the International Brotherhood of boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers filing on behalf of the U.S. producer(s) and workers producing offshore platform jackets and piles for sale in the U.S. West Coast market. The petitioners subsequently amended the petition to allege, in the alternative, that it was filed on behalf of U.S. producers and workers in the national U.S. market. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a U.S. industry. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on May 9, 1985 (50 FR 20252). On June 3, 1985, the ITC determined that there is a reasonable indication that imports of jackets and piles materially injure, or threaten material injury to, a U.S. industry (50 FR 24716).

On September 6, 1985, the petitioners requested that the Department postpone the preliminary determination until not later than November 15, 1985. On September 6, we granted the request (50 FR 37566). The preliminary determination was made on November 15, 1985 (50 FR 48454).

On December 5, 1985, a respondent that accounts for a significant proportion of exports of the subject merchandise asked us to postpone the final determination until not later than the 135th day after the date of our preliminary determination. We granted

the request on December 24, 1985 (50 FR 53369) and postponed the final determination until not later than March 31, 1986.

On July 1, 1985, a two-part questionnaire was presented to potential respondents. On July 19, 1985, Hitachi Zosen Corporation (Hitachi) responded to the first part of the questionnaire which requested initial information concerning sales of the products under investigation. On July 22, 1985, Nippon Steel Corporation (NSC) and Nippon Kokan K.K. (NKK) also responded to the initial portion. Based upon the initial responses, we did not require NKK to respond to the second part of the questionnaire, the portion which sought detailed sales and cost data. NKK had two U.S. sales during the period of investigation, April 1, 1983, through March 31, 1985. However, these projects are not scheduled for completion until mid-1986. Until completion, only projected costs data would be available for NKK's projects. By contrast, both Hitachi and NSC made sales of jackets and piles during the period of investigation that were completed and exported in mid-1985.

Because, whenever possible, the Department uses actual rather than projected data, for the calculation of foreign market value, we limited our investigation to the single sales by Hitachi and NSC. Accordingly, we required Hitachi and NSC to respond to the second portion of our questionnaire. Their responses were received August 15, 1985.

The Department has received letters and comments from several U.S. importers of platform jackets and piles from Japan claiming that the petition was not filed on behalf of the U.S. industry producing platform jackets and piles. However, we have not received any opposition from any members of the domestic industry.

Scope of Investigation

The products covered by this investigation are steel jackets (templates) and/or piles for offshore platforms, subassembles thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which permanently affix offshore drilling and/or production platform to the ocean floor. Appurtenances include grouting systems, boat landings, pre-installed conductor pipes and similar attachments. These jackets and piles are currently classified in the *Tariff Schedules of the United States* (TSUS) under item 652.97.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price based on purchase price with the foreign market value based on the constructed value of the imported merchandise.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to an unrelated purchaser prior to its importation into the United States. We calculated the purchase price based on the delivered price to the unrelated customer in the United States. We made deductions for ocean freight and loadout and tiedown charges.

Foreign Market Value

In accordance with section 773(e) of the Act, we calulated foreign market value based on constructed value since there were no home market or third country sales of such or similar merchandise. NSC claimed that a third country project, the Union Thai project, constituted such or similar merchandise, but we disagree. For a further discussion of the issue, refer to the "Comments Section" of this notice.

In determining constructed value, we calculated the costs of materials, fabrication and general expenses from data provided in the respondent's submissions and at verification. We made certain adjustments to the constructed value where costs necessary for the puduction of products were not included and for other costs where it appeared that the value may not have been stated appropriately. The specific methodology used to calculate constructed value for each company is listed below:

1. Hitachi's Constructed Value

The Department based the calculation on the costs of materials, fabrication, the statutory minmum of 10 percent general expenses, and the statutory minimum of 8 percent profit.

The information presented by the company in its response was adjusted in the following manner:

- Certain overhead expenses which the company excluded from its overhead cost for the submission but which were part of the overhead cost in the normal course of business were included in the constructed value.
- A protion of retirement costs which the company excluded from direct labor costs for the submission was included in the constructed value.
- Certain fabrication expenses such as quality control and testing were reclassified from general expenses to fabrication expenses.
- In accordance with generally accepted accounting principles, financial expenses related to the manufacturing of the product were included in fabrication. For further discusson, see our response to Petitioner's Comment 16.
- Expenses for preparation of the bid for the project were included.
- Actual long-term interest expenses were included in the general expenses.
- Selling expenses, in accordance with the policy established by *Cell Site Transceivers from Japan* (49 FR 43080, 43084 (1984)), were those direct expenses incurred for and the income accrued from the sales of the product in the United States, substituted for home market selling expenses because there were no sales of the products in the home market.

2. NSC's Constructed Value

The Department based the calculation on the costs of materials, fabrication, actual general expenses and the statutory minimum of 8 percent profit. The information presented by the company in its response was adjusted in the following manner:

- The cost of steel was adjusted to reflect the weighted-average cost of production for steel manufactured by NSC.
- In accordance with generally accepted accounting principles, financial expenses related directly to the manufacture of the product were included in fabrication. For further discussion, see our response to Petitioners' Comment 16.
- Actual long-term interest expenses were included in the general expenses.
- Selling expenses, in accordance with the policy established by *Cell Site Transceivers from Japan* (49 FR 43080, 43084 (1984)), were those direct expenses incurred for and income accrued from the sales of the product in the United States, substituted for home market selling expenses because there were no sales of the product in the home market.

Currency Conversions

We made currency conversions in accordance with § 353.56(a)(1) of the Commerce Regulations, using certified exchange rates as furnished by the Federal Reserve Bank of New York. We considered the dates of purchase to be

the dates of acceptance of the contracts, and we used those dates as the dates for currency conversion.

Verification

As provided in section 776(a) of the Act, we verified all information provided by respondents by using standard verifiction procedures, including on-site inspection of the manufacturers' operations and examination of accounting records and randomly selected documents.

Comments

Petitioners' Comments

Comment 1: The petitioners argue that the third country sale proposed by NSC, the Union Thai project, cannot be used as a basis for determining foreign market value. They state that the third country project does not meet the statutory requirements for "such or similar" merchandise contained in section 771(16) of the Act. Petitioners note that while both the U.S. project, Union Irene, and the third country project are produced by the same person, the projects are not identical. Thus, section 771(16)(A) is inapplicable. Section 771(16)(B) is similarly inapplicable because, while the projects may be "like" merchandise with respect to component materials and purposes for which used, they are not approximately equal in commercial value—the price of the third country project being approximately double the price of the U.S. project. Further, they argue that category C of section 771(16) is inapplicable because, although the projects may be of the same general class or kind of merchandise, they cannot "reasonably be compared" for the following reasons:

- The projects are fundamentally different. The U.S. project consists of one jacket and its piles while the third country project is for four complete platforms including, in addition to jackets and piles, deck modules and conductors. Because the third country project contains elements not subject to the investigation, the prices of which cannot adequately be separated, there is no comparable price for jackets and piles in the third country.
- The physical differences between the projects are too significant to permit a reasonable comparison. A comparison of the two projects would require what would amount to a calculation of a constructed value of the third country project.
- The third country project may be also dumped.
- The third country sale is not contemporaneous with the U.S. sale.

Finally, petitioners argue that there is no preference for use of third country sale prices over constructed value if home market sales are insufficient or cannot be used.

DOC Response

We agree with the conclusion reached by the petitioners that the U.S. and third country projects do not constitute such or similar merchandise, but not necessarily for all the reasons stated. We agree with petitioners that since the Union Thai and Union Irene projects are neither "identical in physical characteristics" nor "approximately equal in commercial value," neither category A nor B of section 771(16) would apply. Thus, the only relevant consideration is whether the two projects are "such or similar" merchandise within the meaning of section 771(16)(C), specifically, whether the Union Thai project may "reasonably be compared" with the Union Irene project. In *High Capacity Pagers from Japan* (48 FR 28682, 28686 (1983)), we stated that the phrase "may reasonably be compared" entails at least two considerations: (1) It must be fair to compare the merchandise in question; and (2) it must be administratively feasible and convenient to do so. We do not feel that either of these conditions would be met here.

While Union Irene consists of one jacket and associated piles, Union Thai consists of four complete platforms. For the Union Thai project, a sales price was established for four complete platforms, not just for jackets and piles. These complete platforms include deck modules and conductors in addition to the jackets and piles. Separate, identifiable prices do not exist for the jackets and piles alone. The respondent has attempted to identify such separate market prices for jackets and piles by isolating, in the contract, prices for certain facets of construction pertaining to jackets and piles, and by allocating to the various elements of the platform project (*i.e.*, jackets, piles, decks and conductors) portions of lump-sum prices which include all elements of the platform. According to NSC's allocation, the jackets and piles constitute less than half of the total lump-sum price for the complete platforms. Even if such prices could be derived from material and processing components of the total lump-sum price, we cannot assume that such prices represent market prices for the individual components which when added together total the lump sum price. We cannot speculate as to whether the same pricing considerations would apply equally to the four jackets and piles as to four complete platforms in which, according to the allocation by the respondent, the jackets and piles constitute less than half of the total lump-sum price.

Thus, the third country "sale" of jackets and piles was an integral part of a larger sale of complete platforms. Not only are the jackets and piles portion of this sale a relatively minor portion of a larger sale, but no separate sales price was established or can reasonably be established for these jackets and piles. In similar circumstances, we have held that it is "unreasonable" to use such a third country sale as a basis for determining foreign market value. See *High Power Microwave Amplifiers and Components Thereof from Japan* (48 FR 28682, 28686 (1983)).

Nor can adjustments for differences in the physical characteristics of the merchandise reasonably be performed. The respondent has proposed adjustments which it believes are appropriate for accounting for differences in the physical characteristics of the U.S. and third country jackets and piles, without regard to differences caused by the addition of platforms and conductors included in the third country price. The proposed adjustments involve differences between relatively "simple" jacket and pile structures that are essentially composed of sections of welded pipe. These structural differences are reduced to differences in the weight and grades of steel, differences in the amount of welding material and labor, and assorted miscellaneous adjustments. However, such adjustments are complicated in their own right. The determination of the amount of the adjustments requires a review of the entire cost of the project. With respect to the Union Thai project, the adjustments must be made not only to the third country jackets and piles, but to the entire project, including the deck modules and conductors. The deck structures are more complicated structures than either the jacket or piles structures as they involve superstructure, process pipework, electrical and mechanical systems, and instrumentation. Thus, the type of adjustment required for comparing jackets and piles to complete platforms is more than just comparing the weight of steel or amount of welding required for the projects, as complex as that may be. The adjustment would require not only verification of the complete cost of production of the jacket and pile components of the third country platform sales, but also the additional verification of dissimilar components of

the platform project costing more than double the price of the jackets and piles.

Given the fact that the third country sale of the jackets and piles was an integral part of a larger sale of complete platforms, that it constituted a relatively small portion of that sale, and that the extent and number of difference in merchandise adjustments which would be required to compare the Union Thai to the Union Irene project would be extensive and extremely difficult, we have concluded that the two projects cannot be reasonably compared and determined that they do not constitute such or similar merchandise.

Comment 2: The petitioners argue that NSC's intra-company transactions for steel constitute transactions between related parties as defined by section 773(e) of the Act. As such, they propose that the Department should disregard the transactions and use Japanese market prices for steel in constructing the value of the U.S. project being investigated.

DOC Response: We disagree. Since NSC's steel was manufactured internally by another division of the same company, section 773(e) of the Act is inapplicable. Section 773(e)(2) directs the disregarding, in certain instances, of "a transaction directly or indirectly between [related] persons." A single corporation is not two or more persons; it is legally one. Thus, we have used NSC's actual verified costs rather than Japanese market prices for steel.

Comment 3: Petitioners contend that NSC's "makeready" costs (the costs for facilities development and the other costs incurred in the preparation for work on the U.S. project) are understated, not reported, or have been expensed to some other project. Petitioners provide an additional minimum expense which they propose that the Department add to the cost of the U.S. project.

DOC Response: The Department verified NSC's overhead and direct labor costs which were related to the Union Irene project. These costs included such items as engineering/design and depreciation for equipment used directly and indirectly for the project. During the process, the Department tested these costs to determine if "makeready" costs necessary for the construction of the project were included and were appropriately valued, *e.g.*, reviewing capital equipment acquisitions to determine if any were specifically identified with the Union Irene project. We concluded that no adjustments to NSC's costs were warranted.

Comment 4: Petitioners state that "something is amiss" with NSC's reported labor costs and method of calculation of variance from budgeted labor rates. Further, they complain that no data are provided for subcontractor manhours employed in the U.S. project. They urge the Department to make adjustments to NSC's reported labor costs based upon actual costs incurred.

DOC Response: The Department did not adjust NSC's labor costs. The subcontractor's costs were based on a price paid for a specific function, not on an hurly basis. Therefore, actual manhours of the contractor were not a relevant factor.

The labor costs, as submitted, were based on budgeted hours adjusted for the variances as stated in the cost of production verification report.

Comment 5: Petitioners state that inadequate explanations were given by NSC in its response and by the Department in its verificaton reports to enable the petitioners to assess effectively whether variable overhead costs (*e.g.*, costs for mobile equipment and cranes), factory administration expenses, and fixed overhead expenses, have been included or properly calculated by NSC. They argue, however, because of alleged irregularities in NSC's allocation system, the Department should reject NSC's reported costs and use "other data available" for NSC's overhead.

DOC Response: Because of the complexities and details involved in the verification process, the Department's verification report cannot provide all the specifices of every verification procedure and of every finding from these procedures which were performed. However, it does summarize major discrepancies noted and issues which arose during the process which could potentially affect the outcome of the proceeding. The Department did not note irregularities in NSC's allocation system. Variable overhead, factory administration, and depreciation for cranes and other fixed costs were included in the overhead costs.

Comment 6: Petitioners state that NSC's cost data indicate that it sold the U.S. project at less than fair value. Therefore, progress payments made by the purchaser could not have covered all the expenses. As a result, petitioners advocate including an interest expense during the construction period for all costs not covered by the progress payments and an additional interest expense based on the petitioners' estimated margin of dumping multiplied by an average interest rate for the period of construction.

DOC Response: We have included in NSC's constructed value financial expenses related to the manufacturing of the product. These expenses were calculated by applying the corporation's average interest rate to costs not covered by progress payments during the construction period. We do not consider it appropriate to include an additional amount reflecting the petitioners' estimated dumping margin because such interest expenses bear no relation to the cost of producing the product.

Comment 7: Petitioners state the NSC has ignored its expenses in the period between the date of bid award and the date on which it began work. Petitioners have prepared an estimated adjustment to NSC's reported costs during the period and urge the Department to add this adjustment to NSC's costs.

DOC Response: The Department has included NSC's reported, verified expenses incurred during this period. The Department also included in the constructed value an amount for bid preparation based on "best information available" as submitted by the petitioners.

Comment 8: Petitioners argue that because NSC segregated a commission paid to a trading company from its general, selling and administrative (GS&A) expenses, the Department should also exclude the commission from NSC's GS&A expenses in calculating the constructed value for the U.S. project. They propose the inclusion of the commission in NSC's costs of manufacturing.

DOC Response: The commission was related to the sale to the United States and, therefore, was not included in fabrication costs. The commission has been added to the GS&A expenses.

Comment 9: Petitioners state that NSC's loadout and tiedown costs are only estimated and that no expenses relating to the skidway, such as for adaptation to the project, refurbishing, placement, repair and removal, are shown. Petitioners request that the Department seek an explanation of these apparent discrepancies and include the explanation in the final determination.

DOC Response: Examination of company records at verification showed tht NSC does not segregate loadout and tiedown material costs from other raw material costs. Therefore, these loadout and tiedown costs are necessarily estimated, based upon costs specifically identifiable as such. Costs relating to the skidway are inclued in cost of manufacture.

Comment 10: Petitioners argue that the Department should continue to apply the exchange rate in effect as of the date

of contract acceptance for all necessary conversions of currency.

DOC Response: We agree. The Department's regulations direct that in a purchase price situation, in determining the existence and amount of any difference between the U.S. price and the fair value or foreign market value for the purposes of the Act, "... any necessary conversion of a foreign currency into its equivalent in United States currency" shall be made as of the date of purchase or agreement to purchase (19 CFR 353.56).

Comment 11: Petitioners argue that, if the Department continues to adjust United States price for loadout and tiedown, it should use the price, including all change orders, for these items rather than the cost. The price is appropriate because it includes not only direct costs but also the overhead, GS&A, and profit attributable to loadout and tiedown. The cost of such items should be deducted from the constructed value.

DOC Response: We have treated loadout and tiedown as a reduction to the United States price pursuant to section 772(d)(2)(A) of the Act. That section calls for an adjustment "... attributable to any costs, charges, and expenses ... incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States." We, therefore, have deducted the costs, not the prices, of loadout and tiedown and related charges from the United States price, as well as from the constructed value.

Comment 12: Petitioners argue that the Department should include certain retirement costs, excluded by Hitachi because of their tax treatment, as direct labor costs in the calculation of the constructed value for Hitachi's project.

DOC Response: The Department has included the actual retirement costs incurred by Hitachi. The tax treatment related to these expenses is not a relevant consideration.

Comment 13: Petitioners urge the Department to consider certain makeready costs incurred by Hitachi, namely, ground reinforcement and skidway construction, as part of the cost of production of the U.S. project rather than as part of loadout costs. They claim that such costs must be incurred prior to assembly of the jacket. Additionally, petitioners argue that the costs for these items should not be capitalized, but that at least half of the costs should be directly expensed to the project on the assumption that because of the different sizes of jacket projects, at least one of the two skidway tracks (and corresponding foundation) must be relocated for the next jacket project.

DOC Response: The Department agrees that the ground reinforcement and assembly skidway are part of fabrication. However, since these are part of the company's facilities to be used in its normal course of business, the expenses have been capitalized and depreciated over the useful life of these items.

Comment 14: Petitioners argue that certain welder training costs should be expensed directly to Hitachi's U.S. jacket project. They claim that "TKY" welder training and qualification are required only for jacket construction and not required in shipbuilding.

DOC Response: Verification of Hitachi's records indicated that Hitachi employs a significant number of "TKY" qualified welders at all times, regardless of specific projects in the shipyard. Almost half of all Hitachi's welders were TKY qualified in 1984 and 1985. The total number of TKY welders employed by Hitachi during the period of construction of the U.S. project was many times the number of TKY welders needed at the peak period of activity on the project. Therefore, we do not believe that Hitachi incurred any extraordinary expenses for welder training for the U.S. project that should be expensed to the project in addition to the qualification testing expenses already reported by Hitachi and included in the constructed value.

Comment 15: Petitioners state that Hitachi grossly understated its overhead costs by improperly deducting certain costs prior to allocating the overhead expenses to the U.S. project. They state that while Hitachi utilizes a facility-wide basis to allocate such expenses, all the appropriate expenses related to the facility-wide operations were not included. Such alleged improper deductions were for certain depreciation expenses not directly related to the project, certain expenses misclassified as GS&A expenses and indirect labor costs related to retirement. Petitioners urge the Department to reject Hitachi's reported overhead costs and have proposed an alternate calculation of such costs.

DOC Response: The Department agrees. Since the company used a facility-wide basis for allocation, all appropriate costs must be included for this allocation. Additionally, the expenses reclassified by the company as GS&A were fabrication expenses and should not have been reclassified. We included indirect labor expenses related to retirement as part of the labor expense.

Comment 16: Petitioners argue that expenses related to financing required by the construction of Hitachi's project should be considered part of overhead in the constructed value calculation, not part of GS&A expenses.

DOC Response: The Department recognizes the unique characteristics of the product under investigation which require substantial expenditures over an extended time because of its size and the length of time required for completion of the production process prior to delivery of the product to the purchaser. Because of the magnitude of the project and the specific need for working capital to finance the project during construction, the Department considered the total financing cost to be an integral cost of manufacturing and, consistent wtih generally accepted accounting principles (FASB 34), included such cost in the fabrication expense.

Comment 17: Petitioners submitted comments on the scope of the investigation in response to submissions by a subcontractor for Hitachi and a respondent in the antidumping duty investigation of these products Korea. The submission in the investigation of these products from from Korea is also applicable to the scope of this investigation.

The subcontractor for Hitachi questioned whether piles that are separately contracted for or that are separately imported, apart from jackets, are included in the scope of the investigation. Petitioners state that both jackets and piles whether separately contracted or imported, should be included in the scope of the investigation.

The Korean respondent raised a question regarding the inclusion of conductor pipe in the scope of the investigation. Petitioners state that their intention is to include only "pre-installed" conductor pipe, pipe installed during assembly or attached to the jackets when imported, not conductor pipe that is imported separately from the jackets.

DOC Response: We agree with the petitioners that the scope of the investigation includes only pre-installed conductor pipe. We also agree that it includes jackets and/or piles whether or not they are separately contracted or imported. We have modified the language in the "Scope of Investigation" section of this notice to clarify these issues.

Respondents' Comments

Comment 1: NSC argues for the use of a third country sale to determine foreign

market value. NSC argues that the antidumping duty law contains a preference for the use of third country sales over constructed value where there are inadequate home market sales of such or similar merchandise. Further, they argue that their proposed third country project constitutes merchandise which is such or similar to the U.S. project under investigation.

While stating that the projects are not identical, NSC claims that the third country project meets the criteria for similar merchandise under either section 771(16) (B) or (C) of the Act.

Union Oil of California (Union), an importer of the merchandise and a customer of NSC, also submitted arguments in support of this position.

DOC Response: While we agree that, in general, the Commerce Regulations express a preference for the use of third country price to constructed value information, here we have determined that the proposed third country project is not such or similar to the U.S. project. (See response to Petitioners' Comment 1.) Thus, there is no basis for making third country comparisons in this case and the Department is left with no choice but to use constructed value as the basis for making its foreign market value determination.

Comment 2: NSC argues that, should the Department disregard NSC's third country sale, it must base the calculation of constructed value on NSC's steel costs, not market prices. NSC claims that these costs are fully absorbed costs for steel manufactured by a division of the same company and should be distinguished from a purchase of steel by related companies.

DOC Response: The Department agrees. See our response to Petitioners' Comment 2.

Comment 3: NSC argues that steel costs used in the constructed value of the U.S. project must be based only on the cost of steel from the steel mill that produced the steel, not on a theoretical weighted-average of steel costs of all of NSC's plate mills. Alternatively, NSC argues that a significant portion of the plate used in the fabrication of the U.S. project was of a size that could only have been produced at one mill. They advocate that if the Department uses the weighted-average cost for steel, only that mill's cost for the plate of that size should be used.

DOC Response: The Department used the weighted-average cost of steel produced by NSC, in accordance with the Department's usual methodology for determining the costs of production.

In this case, the actual weighted-average costs for two size categories of steel plate used in the construction of the platform were recognized by the Department. It was possible to produce one category at only one of NSC's mills. Therefore, this mill's cost represented the weighted-average cost for that category which was used by the Department. The other category was based on the weighted-average costs of four mills.

Comment 4: NSC claims that the Department deviated from its policy of basing constructed value on actual costs when, in the preliminary determination, it used the date of bid acceptance as the date for conversion of production costs to dollars. Using that methodology, the costs were converted to dollars using a rate established from 6 to 14 months before the costs were actually incurred. They claim that the use of the date of acceptance as the date of sale introduces a distortion into the calculation of the foreign market value and creates artifical margins.

NSC proposes that the Department convert yen costs to dollars using the rates in effect when the costs were incurred or, alternatively, that the Department use a weighted-average exchange rate during the period of construction.

Counsel for Union also supports NSC's position that exchange rates used should be those in effect during the production period rather than on a single day.

DOC Response: The Department did use the respondent's actual costs, as reflected in the company's books, as the basis for making its constructed value calculations. After the Department determined the actual costs of the Union Irene project, it converted the constructed value to U.S. currency pursuant to 19 CFR 353.56, that is, as of the "date of purchase or agreement to purchase." Use of the same date as the basis for currency conversion purposes for both foreign market value and U.S. price freezes at one point in time both prices to ensure a fair comparison. This was the rate that was in effect at the time the respondents contracted to sell the jackets and piles to the United States, and they undertook whatever risks were associated with exchange rate fluctuatings at that point. Thus, the exchange rate on the date of sale is the sole rate that both reflects true value and avoids the creation or elimination of dumping margins by virtue of exchange rate fluctuations.

NSC's suggestion that the regulations on currency conversions are in some way limited to price conversions and not cost conversions is unsupported by the language of the regulations. Section 353.56(a)(1) explicitly states that "any" currency conversion necessary for the determination of "foreign market value" is to be performed based on the date of purchase or agreement to purchase. Neither the regulations nor the Act make any distinction between constructed value and any other method of determining foreign market value for currency conversion purposes. See, *e.g.*, section 773 of the Act.

Comment 5: Hitachi argues that because of price modifications resulting from change orders, any currency conversions must be made at the rate in effect when the final price is known, not when the contract is accepted. The date for the establishment of exchange rates suggested by Hitachi is May 20, 1985, the date on which the parties ratified all prior change orders. Hitachi argues that on the date of contract, the price of the Hermosa Jacket was not "definite and determinable" because the parties contemplated that substantial adjustments to the contract price would be made by subsequent change orders.

Chevron also supports Hitachi's view that the conversion of yen to dollars should be calculated using the exchange rate in effect when the parties reached agreement as to the final contract price, May 20, 1985. Chevron also offers an alternative method for determining currency conversions if the Department reject the May 20 date. It argues that the Department should use the exchange rate in effect when Hitachi was paid progress payments for construction as a more accurate reflection of Hitachi's cost of production than using the rate in effect prior to actual construction. As another alternative, Chevron proposes the use of quarterly exchange rates in effect during the period of construction rather than a single date.

DOC Response: As noted, the Department's applicable regulations provide that in purchase price situations, any necessary conversion of a foreign currency into its equivalent in United States currency shall be made as of the date of purchase or agreement to purchase (19 CFR 353.56). It is clear that there was an "agreement to purchase" as of September 13, 1983, the date Hitachi entered into a contract to sell its project. Hitachi's contract to sell the project set forth a United States price for the work defined therein and also contemplated that certain change orders would be issued. It further established certain formulae for the determination of the amount of these change orders, including unit costs of materials and equipment, as well as labor costs. At the time the contract was issued, the price of the contract was "determinable" in the sense that there was basically nothing more on which the parties to the

contract needed to agree. Thus, we used the date of the September 13, 1983, contract acceptance as the date on which currency conversions should be made in accordance with § 353.56 of our regulations.

The Department has recognized that it may be necessary to take a more flexible approach regarding contract requirements where, as here, goods are to be specifically manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business. However, contrary to respondents' suggestions, the Department tends to exercise this flexibility in favor of finding an agreement to sell at an *earlier* point in a transaction than it might ordinarily, rather than at a later point. This is consistent with general contract law, see *e.g.*, UCC 2–201(3)(a). Thus, in *Large Power Transformers from Japan*, (48 FR 26498, 26499 (1983)), the Department used the letter of intent date as the date of sale.

Finally, none of the alternative sales dates offered by Chevron or Hitachi can be justified as a matter of law. Hitachi states that as of May 20, 1985, it had agreed to a final price for the Hermosa contract and thus that May 20 should be used as the date of sale for all necessary currency conversions. Hitachi admits, however, that ". . . three or four change orders . . . were issued after May 16, 1985 . . ." and not incorporated in the May 20, 1985, agreement. (Hearing Transcript at 33). Thus, the May 20 agreement did not reflect all of the change orders to the contract but merely the ones that had occurred by May 16.

Use of the May 20 date, therefore, does not accomplish what Hitachi purportedly seeks—the revision of the contract price to reflect the final adjustment to the contract price shown in the change orders. Furthermore, Hitachi's argument that the price was *not* "determinable" on September 13, 1983 because it was contemplated that further change orders would be issued does not make sense in light of the fact that Hitachi also argues that the price *was* "determinable" on May 20, 1985, even though further change orders were contemplated at that time, and were in fact subsequently issued.

Nor is Chevron's proposal regarding using progress payment dates or quarterly exchange rates justified as a matter of law, since neither of these proposed methodologies would tie the date of currency conversion to the date of purchase or agreement to purchase as required by 19 CFR 353.56.

Comment 6: Hitachi argues that the Department erred in adding an "imputed" interest expense to the cost of manufacture in the cost of production calculation based upon the difference between the amount of partial payments and accumulated construction costs.

Hitachi states that the Department's policy directs that financing costs, as part of the cost of production, must be based on company-wide interest expense and allocated to the product under investigation. Hitachi states that it made no specific borrowings to finance construction of the U.S. jacket, but that it was financed with internally generated funds and by general corporate borrowings. The computation of interest expense amounts to including an "opportunity cost" which is contrary to the Department's practice.

DOC Response: We have recognized that financing is necessary to cover the difference between partial payments and accumulated construction costs. We have used the corporation's average interest rate to determine the costs.

Comment 7: Hitachi states that because of an interest differential on "back-to-back" loans used to finance the purchase of the U.S. project, it receives a net interest earning from financing the purchase. It argues that the amount of the earnings is a gain to Hitachi and a detriment to the purchaser. As such, it increases the effective price to the U.S. purchaser. Therefore, United States price should be increased by the present value of the earning.

DOC Response: The interest differential is not the straight difference between the two loans. Because the two loans are in different currencies, any credit earnings are subject to exchange fluctuations. We cannot estimate what effect future exchange fluctuations will have on any earnings. Therefore, for purposes of this final determination we are assuming that exchange rate fluctuations will result in the equalization of the two loans. Thus, it would be improper to make an adjustment to reflect credit earnings that may never be realized.

Comment 8: Hitachi argues that all expenses relating to the skidway and its foundation should be capitalized and not expensed directly to the U.S. project being investigated. Additionally, they argue that the Department should not increase depreciation by an additional one-year period to account for idle time between jacket projects. They state that such post-delivery expense cannot be included in the cost of manufacture under the law.

DOC Response: The Department agrees that the expenses related to the skidway and its foundation should be capitalized and depreciated over the useful life. (See our response to Petitioners' Comment 13). The Department also agrees that the company's accounting system adequately absorbs depreciation for the idle time of the major assets identified relating to the project. Therefore, we did not adjust the depreciation expense.

Comment 9: Hitachi asserts that it is improper to include in the cost of manufacture depreciation of those yard facilities not used for or related to offshore platform construction. Only the depreciation of equipment specifically used in the production of the product under investigation should be included.

DOC Response: The company allocates all overhead expenses, including yard-wide depreciation, to all the products manufactured in the yard. If depreciation costs of equipment not directly related to the project under investigation are excluded from this overhead amount, the company is essentially allocating part of depreciation related to the product under investigation to other products while not absorbing a proportional amount of the remaining depreciation.

Comment 10: Chevron U.S.A. Inc. (Chevron), an importer of jackets and piles and a customer of Hitachi, argues in support of Hitachi that the prices of change orders should be included in the calculation of United States price since such changes become part of the contract price.

DOC Response: We agree that the United States price should include the price of all change orders.

Comment 11: Hitachi maintains that the method of adjusting its direct labor costs proposed in the Department's cost verification report is incorrect in that it overstates Hitachi's labor cost by including costs relating to a period after exportation of the U.S. project and that it includes costs not directly related to construction of the U.S. project. Hitachi maintains that its internal accounting system supplies a "proper" methodology for adjusting the labor cost.

DOC Response: The Department did not use the calculation that was proposed in the verification report. We used the verified labor amount which was standard costs adjusted by the cost variance. The Department did not include labor expenses incurred after exportation.

Comment 12: Hitachi urges the Department to disregard petitioners' arguments regarding the deduction of a price for loadout and tiedown from the United States price. They state that there is no separate price for those operations and that the proper methodology is to deduct costs.

DOC Response: We agree. Refer to our response to Petitioners' Comment 11.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of jacket and piles from Japan that are entered, or withdrawn from warehouse, for consumption, on or after November 25, 1985. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign value of the merchandise subject to this investigation exceeds the United States price as shown in the table below on or after the date of publication of this notice in the **Federal Register**. The security amounts established in our preliminary determination published in the **Federal Register** on November 25, 1985, will no longer be in effect. The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin percentage
Hitachi	8.88
NSC	9.19
All Others	8.92

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order, without the consent of the Deputy Assistant Secretary for import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice.

If the ITC determine that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs Officers to assess an antidumping duty on offshore platform jackets and piles from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 31, 1986.

[FR Doc. 86-7618 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-580-505]

Offshore Platform Jackets and Piles From the Republic of Korea: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have determined that offshore platform jackets and piles (jackets and piles) from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination, and the ITC will determine within 45 days of the publication of the notice, whether a U.S. industry is being materially injured or threatened with material injury by imports of this merchandise. We have directed the U.S. Customs Service to continue to suspend liquidation of all entries of the subject merchandise and to require a cash deposit or posting of a bond for each entry in amounts equal to the estimated dumping margins as described in the "Continuation of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe or Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-4087 or 377-1769.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we have determined that jackets and piles from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) (19 U.S.C. 1673d(a)) of the Tariff Act of 1930, as amended (the Act). The margin found for the company investigated and the average margin for all other firms are listed in the "Continuation of Suspension of Liquidation" section of this notice.

Case History

On April 19, 1985, we received a petition in proper form filed by Kaiser Steel Corporation and the International Brotherhood of Boilermakers, Iron Ship Builders, Blacksmiths, Forgers and Helpers filing on behalf of the U.S. producer(s) and workers producing jackets and piles for sale in the U.S. West Coast market. The petitioners subsequently amended the petition to allege, in the alternative, that it was filed on behalf of U.S. producers and workers in the national U.S. market. In compliance with the filing requirements of section 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from the Republic of Korea are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a U.S. Industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on May 9, 1985 (50 FR 20254). On June 3, 1985, the ITC determined that there is a reasonable indication that imports of jackets and piles are materially injuring, or threatening material injury to, a U.S. industry (50 FR 24716).

On September 6, 1985, the petitioners requested the Department to postpone the preliminary determination until not later than November 15, 1985. On September 6, we granted the request (50 FR 37566). The preliminary determination was made on November 15, 1985 (50 FR 48452).

On November 21, 1985, the respondents in this investigation asked us to postpone the final determination until not later than the 135th day after the date of our preliminary determination. We granted the request on December 17, 1985 (50 FR 52823) and postponed the final determination until not later than March 31, 1986.

On June 21, 1985, a two-part questionnaire was presented to the potential respondents. On July 18, 1985, Daewoo Shipbuilding and Heavy Machinery Ltd. (Daewoo) and Hyundai Heavy Industries Co. (Hyundai) responded to the first part of the questionnaire which requested initial information concerning sales of the product under investigation.

On August 1, 1985, based upon the initial responses, we informed Hyundai that we were not requesting that they respond to the second part of the questionnaire, the portion which sought detailed sales and cost data. Even though Hyundai had a U.S. sale during the period of investigation, April 1, 1983, through March 31, 1985, its project is not scheduled for completion until August 1986. Until completion, only projected cost data would be available for Hyundai's project.

By contrast, Daewoo had a sale of a jacket and piles during the period of invsetigation which was completed and exported in mid-1985. Because, whenever possible, the Department uses actual, rather than projected data for the calculation of foreign market value, we required only Daewoo to respond to the second portion of the questionnaire. Its response was received on August 12, 1985. Also on that date, Hyundai submitted a voluntary response to the second part of the questionnaire. However, we limited our investigation to Daewoo for the reason stated above.

The Department has received letters and comments from several U.S. importers of platform jackets and piles from Korea claiming that the petition was not filed on behalf of the U.S. industry producing platform jackets and piles. However, we have not received any opposition from any members of the domestic industry.

Scope of Investigation

The products covered by this investigation are steel jackets (templates) and/or piles for offshore platforms, subassemblies thereof that do not require removal from a transportation vessel and further U.S. onshore assembly, and appurtenances attached to the jackets and piles. These products constitute the supporting structures which premanently affix offshore drilling and/or production platforms to the ocean floor. Appurtenances include grouting systems, boat landings, pre-installed conductor pipes and similar attachments. These jackets and piles are currently classified in the *Tariff Schedules of the United States* (TSUS) under item 652.97.

Fair Value Comparison

To determine whether sales in the United States of the subject merchandise were made at less than fair value, we compared the United States price based on purchase price with the foreign market value based on the constructed value of the imported merchandise.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold to an unrelated purchaser prior to its importation into the United States. We calculated the purchase price based on the delivered price to the unrelated customer in the United States. We made deductions for loadout and tiedown charges, and ocean freight. We made an addition for import duties which were rebated, or not collected, by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

In accordance with section 773(e) of the Act, we calculated foreign market value based on constructed value, since there were no home market or third country sales of such or similar merchandise. In determining constructed value, we calculated the cost of materials, fabrication, general expenses from data provided in the response and at verification. We made certain adjustments to the cost data where costs necessary for the production of the jackets and piles were not included and for other costs when the values did not fully reflect the costs incurred by the company to produce the project.

We adjusted the cost of manfacturing to include:

- Consulting fees for technical assistance during construction,
- Import duties not paid on raw materials due to exportation of the finished product,
- Depreciation to reflect the fully absorbed expense of certain major equipment used predominantly for large projects,
- Depreciation to more fairly reflect the useful life of certain assets,
- Depreciation of certain capital improvements, and
- Financing expenses during construction. (For further discussion of financing expenses see our response to Petitioners' Comment 17.)

We excluded from the cost of manufacturing:

- Depreciation related to certain idle equipment not used for the project, and
- Loadout and tiedown costs.

We adjusted general expenses by excluding:

- Financing expenses related to the construction period,
- Consulting fees for technical assistance which were required for the manufacturing, and
- Foreign exchange gain resulting from the sale of the project.

We adjusted general expenses to include:

- The amortized portion of foreign exchange losses, and
- Bid preparation.

Because the general expenses calculated were not above the statutory minimum of 10 percent of the sum of material and fabrication costs, we used the 10 percent statutory minimum. As the company has not sold another product in the general class or kind of merchandise, no profit rate or similar merchandise exists. Therefore, for the purpose of this determination, we are using the statutory mimimum of 8 percent.

Currency Conversions

We made currency conversions in accordance with § 353.56(a)(1) of the Commerce Regulations, using certified exchange rates as furnished by the Federal Reserve Bank of New York. We considered the date of purchase to be the date of acceptance of the contract and used that date as the date for currency conversion.

Verification

As provided in section 776(a) of the Act, verified all information provided by respondents using standard verification procedures, including on-site inspection of Daewoo's operations and examination of accounting records and randomly selected documents.

Petitioners' Comments

Comment 1: The petitioners claim that the Department should include duties, waived upon importation or rebated upon later exportation of imported materials, in the costs of materials.

DOC Response: The Department followed its usual practice and included the duties which would have been waived or rebated upon exportation in constructed value because such duties are added to United States price under section 772(d)(1)(B).

Comment 2: Petitioners assert that Daewoo may have introduced potential inaccuracy and obfuscation in its materials costs by converting the costs at one exchange rate and reconverting them at a different rate. They claim that dollar (or other currency) denominated materials were first converted into won at a current rate on the date of purchase and then were reconverted into dollars at another rate for this investigation.

They state that Daewoo should have reported the cost of its materials in the currency of the actual contract prices for the materials.

DOC Response: In calculating the constructed value, the Department used the cost of all purchases as valued on the company's records in the ordinary course of business. The constructed value was converted to U.S. dollars at the rate of exchange on the date of sale for purpose of this proceeding.

Comment 3: Petitioners allege that Daewoo's direct labor costs and the claimed subcontract labor costs may be significantly understated. They cite references in the Department's verification report which indicate a higher per hour wage rate and higher subcontract labor cost than those reported by Daewoo in its submission. They request that the Department clarify whether or not it has rejected Daewoo's reported labor costs.

DOC Response: The Department used Daewoo's reported labor and subcontract labor costs which were reconciled to Daewoo's company records during verification.

Comment 4: The petitioners emphasize that the depreciation for the assembly and loadout skidways attributed to the U.S. project under investigation, Platform Harvest, is significantly understated because one track of the skidways could only be used for Harvest. They urge that one-half of the costs (for the one skidway which may only be used for Harvest) be expensed to Harvest, and that the balance of the costs be depreciated.

DOC Response: The Department concluded that both sides of the skidways and their foundations could be used for projects other than Harvest and, therefore, depreciated both skidways over the useful life of such assets.

Comment 5: The petitioners emphasize that the one-month depreciation for the loadout skidway and the hydraulic jacking system is not reflective of the actual costs which should be attributed to Harvest, since both of these investments were required and made expressly for the Harvest project, and there is little likely use for future projects, if any. The petitioners suggest the use of two-year depreciation. In addition, they advocate that the cost for repair of damage that allegedly was done to the skidway during loadout (*i.e.*, moving the jacket from the assembly yard to the transportation vessel) be expensed to the Harvest project.

DOC Response: The Department agrees that one month depreciation does not fully reflect the costs of those assets for Harvest. The Department adjusted the expenses to reflect full absorption of such costs. As evidenced by the successful loadout of Harvest, the damage, if any, which may have occurred at loadout would have been insignificant.

Comment 6: The petitioners claim that a 40 year useful life for the skidway foundation, launching quay, lighting towers and the tubular area utility is excessive as a basis for depreciation, and that the Department should use 25 years.

DOC Response: The Department agrees and has adjusted the useful life for the skidway foundation and launching quay to more closely reflect their economic life.

Comment 7: The petitioners urge, because of idle time between projects, that depreciation expense related to the assembly yard be attributed to Harvest for 2½ years, since such facilities have significant idle time between projects.

DOC Response: The assembly yard is currently being used. Therefore, an adjustment to depreciation expense for 2½ years would not be warranted.

Comment 8: Petitioners advocate, because of alleged damage to the launching quay during loadout, the expensing of the cost of repairs of the quay to the U.S. project. Rather than depreciate this asset over only the short period of loadout as Daewoo did, petitioners propose that one-third of the cost of the quay be expensed to the U.S. project since it was built to meet the severe requirements of Harvest, and the remainder be capitalized over a shorter period than that used by Daewoo.

DOC Response: As evidenced by the successful loadout of Harvest, the damage, if any, which may have occurred at loadout would have been insignificant. The Department concluded that the launching quay may be used for other projects. Therefore, the cost of the launching quay is being depreciated in accordance with generally accepted accounting principles over its useful life.

Comment 9: Petitioners claim that certain welder training expenses incurred by Daewoo prior to and during the construction should not be allocated on a shipyard-wide basis, but should be directly expensed to the U.S. project or allocated to the project based on its costs of production.

DOC Response: Company records reviewed at verification indicates that Daewoo has an ongoing vocational program for training workers in many skills, including welding. The permanent training center was established well before construction (or bidding) began on the U.S. project under investigation. It has a large number of arc welders as part of its equipment for use in welder training. At the facility, Daewoo conducts welder training for the entire shipyard, not just for jackets and piles projects. Records indicate that a low percentage of the welders enrolled in training classes immediately prior to the start of construction of the U.S. project were used on the project. Concerning the specialized training requested for "TKY" joints on jackets and piles, a similarly low percentage of the trainees in that group received such training, not the entire group as claimed by petitioners. In addition to the project under investigation, the examination of company documents at verification showed that Daewoo has other jackets and piles projects under construction which also require TKY welders. Because of the nature of Daewoo's ongoing training program which provides welders for the shipyard and because of the need for specialized TKY welders on other projects, we do not believe that Daewoo's training expenses are project-specific and should be expensed to the U.S. project.

Comment 10: Petitioners allege that because scaffolding and walkways are unique to each project, their cost should be totally expensed to the U.S. project rather than capitalized.

DOC Response: The scaffolding/walkways are part of the company's ordinary fixed assets. Therefore, the depreciation expense of these fixed assets has been included in the overhead depreciation expense for the facilities.

Comment 11: Petitioners allege that an existing area in Daewoo's yard had to be expanded to accommodate the assembly of the project under investigation. The expansion required the removal of a "hill" and subsequent development of the area, such as the emplacement of a compacted earth cap, the completion of a drainage system and underground utilities, and an access road relocation. Daewoo did not expense nor depreciate the costs to Harvest. Petitioners urge the Department to expense one-half of such costs to the U.S. project and the capitalize the remainder.

DOC Response: The cost for excavating the hill was capitalized to the "E Quay," which utilized the earth for its construction. The E Quay was not used for the construction of Harvest. The improvements to the expanded area, such as the earth cap, drainage and utilities (which will require routine maintenance), have been depreciated by the Department over an estimated useful life and a proportional amount of such

expenses has been attributed to Harvest.

Comment 12: Petitioners allege that the cost of dredging in the vicinity of the launch quay should be expensed to the U.S. project.

DOC Response: Dredging expenses are usually considered part of the construction cost of a launching quay and, therefore, the Department concluded such expenses are included in the construction cost of the quay.

Comment 13: Petitioners state that Daewoo was required by the buyer to enter into a contract which provided for technical assistance during construction. Therefore, they claim that the expense of this assistance should be included as a manufacturing expense and not as part of general expenses. Further, they argue that an additional amount paid to the third party that provided the assistance for additional "expatriate personnel services" should be added to the manufacturing cost.

DOC Response: We agree. The technical service contract was entered into as part of, and was necessary for, the manfacturing of Harvest. Therefore, the Department considered the expense of obtaining this technical expertise as part of the fabrication expense. The cost of the expatriate personnel services was reported by Daewoo in its response as a fabrication expense. We have treated it accordingly.

Comment 14: Petitioners allege that certain adjustments to the final contract price characterized as financing fees by Daewoo relate to actual financing costs and, as such, should be included in the constructed value of the U.S. project.

DOC Response: Verification showed that the "financing fees" referred to by the petitioners were modifications to the negotiated contract price made by Daewoo to account for, in the price, certain financing costs expected to be incurred by Daewoo during construction of the U.S. project. All such costs relating to financing the project have been included in Daewoo's constructed value. No additional amounts were added for the financing fees.

Comment 15: Petitioners allege that Daewoo has grossly understated the costs of equipment and machinery used in the construction of the project. They allege that Daewoo's apportionment scheme is invalid. As as example, they state that certain crawler cranes had to be exclusively dedicated to the project, yet only 41 percent of their cost was allocated to the U.S. project. They propose that all of the cost of such dedicated equipment be allocated to the project under investigation.

DOC Response: The Department reviewed Daewoo's methods of allocating the facility's depreciation expenses to the projects which are manufactured by the company. The Department concluded that the basis used to allocate certain depreciation expenses for equipment which is predominantly used for large projects was not appropriately attributing such costs to these projects. Therefore, the Department adjusted the cost to fully account for this depreciation. The Department did not consider any equipment to be used exclusively for Harvest.

Comment 16: Petitioners argue that the Department should not allow a five-year amortization of foreign exchange losses claimed by Daewoo, but should expense the entire amount to the U.S. project.

DOC Response: We agree. The foreign exchange loss associated with Daewoo's debt has been fully recognized. This is in accordance with generally accepted accounting principles.

Comment 17: Petitioners urge that the interest expense incurred by Daewoo for materials purchases and other construction needs should be included in the cost of fabrication not included in the general expense.

DOC Response: The Department recognizes the unique characteristics of the products under investigation which require substantial expenditures over an extended time because of its size and the length of time required for completion of the production process prior to delivery of the products to the purchaser. Because of the magnitude of and the specific need for working capital to finance the project during construction, the Department considered that total financing costs from progress payments and from debt, which were required for construction, to be an integral cost of manufacturing and, consistent with generally accepted accounting principles (FASB 34), included such costs in the fabrication expense.

Comment 18: Petitioners argue that Daewoo's methods of allocation of indirect interest and other expenses related to debt understate both long- and short-term expenses which should be allocated to the U.S. project. They state that the method used by the Department in its preliminary determination, one based on the sale of the U.S. project as a percent of Daewoo's total sales, is better than Daewoo's methodology. However, they argue that the Department's method fails to recognize the fact that the sales price is a dumped price. They propose that the allocations be based on the "properly stated cost of production."

DOC Response: The Department reviewed, in depth, its method of attributing financing expenses to the project for its final determination. Because of certain unique characteristics of the product (as described in Comment #17) and the usual practice in the industry of partially financing the required expenditures by periodic prepayments of the sales price by the purchaser, the Department concluded that its usual basis of a allocation would not appropriately reflect this product's financial costs. Therefore, the Department included the financing costs required for construction of the project in the cost of manufacturing as described in Comment #17, and included a portion of long-term interest expense required to finance the on-going operations of the company in the general expenses.

Financial income accruing from the periodic prepayments of the sales price by the purchaser was recognized as a "credit" adjustment and, therefore, included as "income credit" from the sale of the product resulting in an offset to the general expenses.

Comment 19: Petitioners state that if the Department excludes loadout and tiedown from its calculations, then the price used in the calculation of the United States price should be the fabrication price of jackets and piles which is already exclusive of loadout and tiedown. In addition, all prices from change orders pertaining to loadout and tiedown should be disregarded. Petitioners claims that if loadout and tiedown are excluded from the calculation, the cost of loadout and tiedown should also be excluded from the constructed value, no further costs need be deducted by the Department for change orders relating to loadout and tiedown because Daewoo did not include those costs in the cost of production.

DOC Response: We have treated loadout and tiedown as a reduction to the United States price pursuant to section 772(d)(2)(a) of the Act. That section calls for an adjustment ". . . attributable to any costs, charges, and expenses . . . incident to bringing the merchandise from the place of shipment in the country of exportation to the place of delivery in the United States." We, therefore, have deducted the costs, not the prices, of loadout and tiedown and related charges from the United States price. We have also verified that such costs were included in Daewoo's reported cost. Therefore, we reduced the constructed value for such costs.

Comment 20: Petitioners argue that the Department should continue to apply

the exchange rate in effect as of the date of the contract's acceptance for all necessary conversions of currency.

DOC Response: We agree. The Department's regulations direct that in a purchase price situation, in determining the existence and amount of any difference between the United States price and the fair value or foreign market value for the purposes of the Act, "any necessary conversion of a foreign currency into its equivalent in U.S. currency" shall be made as of the date of purchase or agreement to purchase (19 CFR 353.56).

Comment 21: Petitioners argue that the Department should not offset any dumping margin found in the investigation by the level of export subsidies related to post-delivery financing found with respect to the merchandise. They contend that the dumping margin does not reflect a post-delivery export financing preference that the countervailing duty will be imposed to offset and does not address the same unfair pricing situation. They suggest that if the Department does offset the dumping margin it should either include an amount for financing in the constructed value or reduce the United States price by the amount of the benefit.

Further, petitioners argue that, in calculating the interest expense from the financing, the Department should use commercial rates rather than the preferential rates received on this financing.

DOC Response: We disagree with the petitioners' contention that we should not offset the dumping margin by the full export subsidy found with respect to this merchandise. The Departmental practice has been to deduct the amount of the export subsidy from the dumping deposit or bonding requirement when there is a final countervailing duty rate in effect on the imported merchandise.

The petitioners' contention that the dumping margin is not reflective of the post-delivery export financing is incorrect. This financing was part of the offer which led to the contract acceptance. Any financing offered will be reflected in the United States price and, thus, in the dumping margin. Also, outstanding financing is included in the interest expense for calculating the constructed value.

Since we did not adjust post-delivery financing, the question of whether to use a commercial rate or the actual interest rate is moot.

Comment 22: Petitioners submitted comments on the scope of the investigation in response to submissions by Daewoo and a subcontractor to a respondent in the antidumping duty investigation of this product from Japan. The submissions in the Japanese investigation are also applicable to the scope of this investigation.

Daewoo raised a question regarding the inclusion of conductor pipe in the scope of the investigation. Petitioners state that their intention is to include only "pre-installed" conductor pipe, *i.e.*, pipe installed during assembly or attached to the jackets when imported, not conductor pipe that is imported separately from the jackets.

The Japanese subcontractor questioned whether piles which are separately contracted for and which are separately imported, apart from jackets, are included in the scope of the investigation. Petitioners state that both jackets and piles, whether separately contracted for or imported, should be included in the scope of the investigation.

DOC Response: We agree with the petitioners that the scope of the investigation includes only preinstalled conductor pipe and jackets and/or piles whether or not they are separately contracted or imported. We have modified the language in the "Scope of Investigation" section of this notice to clarify these issues.

Comment 23: Petitioners argue that, in calculating the interest expense for pre-delivery financing, the Department should use commercial interest rates rather than actual, preferential rates.

DOC Response: We disagree. Departmental practice regarding subsidies in an antidumping investigation is to calculate them as they are recorded in the company's accounts. Thus, here, we would use the actual interest rates applicable to the respondent's corporate borrowing.

Respondent's Comments

Comment 1: Doewoo argues that the Department's methodology used in the preliminary determination of adjusting the company's depreciation expense to account for idle time between projects, the so-called normalization of expenses, contradicts the Department's policy of refusing to impute costs where actual cost were not incurred. Daewoo states further that the methodology, by ignoring the company's over-all cost structure, results in double-counting by not allocating the idle time of assets used in the construction of the U.S. project over the rest of the yard, as would be done in Daewoo's cost system. Further, Daewoo states that the concept of normalization penalizes it for cost savings realized due to its prudent behavior in acquiring assets as closely as possible to the time they were needed.

DOC Response: The Department did not normalize nor impute depreciation expenses in the preliminary determination or in its final determination. The Department adjusted depreciation expense for certain equipment used by "large projects" to fully reflect such expense. Additionally, depreciation expenses related to idle equipment not used for the project were excluded from the costs.

Comment 2: Daewoo states that the Department, in its preliminary determination, erroneously charged to the U.S. project expenses related to depreciation of the land used for assembly and its associated development costs. Daewoo states that the value of the land, costs of levelling the land, installation of the drainage system and construction of a compacted earth cap together constitute the historical cost of land which properly is a nondepreciable capital asset. However, Daewoo recommends that if the Department determines that any of the expenses are depreciable, the Department must only depreciate the drainage system, the only questionable area. Additionally, Daewoo argues against expensing costs of levelling the land, because even if those costs were depreciable, the depreciation should be assigned to another development project for which the removed dirt was needed, a project unrelated to the construction of the U.S. project. Further, Daewoo states the "existing area," the assembly yard that predated the newly levelled yard, was of sufficient size for completion of the U.S. platform project and, therefore, development of the expanded yard was not necessary for the project. Texaco, Inc. (Texaco), the buyer of Harvest, also states that yard expansion was not a condition of the contract for the project. Daewoo also states that depreciation of improvements to the expanded yard is inappropriate.

DOC Response: The Department included a portion of the depreciation expenses related to those assets which have a useful life, *i.e.*, the utilities, drainage system and earth cap. The cost of the hill removal, which was capitalized by Daewoo to another project, was not included.

Comment 3: Daewoo argues that the Department's methodology utilized in the preliminary determination incorrectly allocated long-term interest expenses to the U.S. project. Daewoo states that the Department included interest expense tied to projects other than the U.S. platform project in its allocation of interest expense. However, Daewoo states that use of its cost system, in which assets were

specifically tied to projects, results in a significantly lower interest expense charged to the U.S. project. Daewoo states that its system is precise, accurate, and mathematically correct and should be used by the Department.

DOC Response: The Department included the long-term interest expense submitted by Waewoo, since such amount was based on the long-term fixed costs.

Comment 4: Daewoo claims that the method used by the Department in its preliminary determination for the allocation of short-term interest expense was incorrect and resulted in double-counting. They state that the Department's method resulted in assigning a proportional share of expense to all projects whether or not project-specific borrowing was involved. They state that project-specific cash inflows for the U.S. platform project covered almost the entire amount of financing of the project during the construction period. Therefore, Daewoo did not need additional short-term funds and they state that the Department should not allocate additional short-term borrowing from the company's overall short-term borrowing pool. Alternately, they propose that if the Department determines to allocate short-term borrowing over the cost of sales, then the directly related borrowing should be included in the company-wide pool and allocated equally to all projects.

DOC Response: The Department reviewed its method for attributing financial expense to the project and attributed such costs as described in our response to Petitioners' Comment 17. We did not include corporate-wide short-term interest in general expenses.

Comment 5: Daewoo argues against the Department's inclusion of project-specific interest expense as a manufacturing expense. They state that past practice by the Department dictates that the expense should be included as a general expense for purposes of the 10 percent statutory test for general expenses required by the antidumping duty law.

DOC Response: See our response to Petitioners' Comment 17.

Comment 6: Daewoo contends that § 353.56(b) of the Department's regulations gives the Department the flexibility to make exchange rate calculations using quarterly exchange rates to calculate actual costs over an extended construction period rather than using a simple exchange rate which would yield a distorted result. They state, additionally, that the use of quarterly exchange rates in this situation is the only way to avoid creating dumping margins solely by virrtue of exchange rates.

Texaco and Cities Service Oil & Gas Corporation (Cities Service) submitted comments in support of Daewoo's position with respect to use of quarterly exchange rates.

DOC Response: We have used the date of contract acceptance as the "date of purchase" or "agreement to purchase" and accordingly have used that date as the date on which all necessary conversion of a foreign currency should occur in accordance with 19 CFR 353.56. Use of the same date as the basis for currency conversion purposes for both foreign market value and United States price freezes at one point in time both prices and costs in order to insure a fair comparison. This is the rate that was in effect at the time the respondent contracted to sell the jackets and piles to the United States and undertook whatever risks were associated with exchange rate fluctuations at that point. Thus, the exchange rate on the date of sale is the sole rate that both reflects true value and avoids the creation of dumping margins by virtue of exchange rate fluctuations.

The Department has recognized that it may be necessary to take a more flexible approach regarding contract requirements where, as here, goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business. H owever, contrary to respondent's suggestions, the Department tends to exercise this flexibility in favor of finding an agreement to sell at an *earlier* point in a transaction than it might ordinarily, rather than at a later point. This is consistent with general contract law, see, *e.g.*, UCC 2–201(3). Thus, in *Large Power Transformers from Japan* (48 FR 26498, 26499 (1983)), the Department used the letter of intent date as the date of sale.

Nor is Daewoo's proposal regarding using quarterly exchange rates justified as a matter of law, since the proposed methodology would not tie the date of currency conversion to the date of purchase or agreement to purchase as required by 19 CFR 353.56.

Comment 7: Daewoo argues that the Department, in its preliminary determination, incorrectly expensed one-half of the skidway foundation to the U.S. project. They state that that methodology ignores the skidway's intended use, in that it could be reused at a later date, and that it ignores the fact that it is currently being used and expensed against a new project. Further, they state that the useful life as reported by Daewoo is proper because it is in accordance with the Korean Corporate Tax Code.

Texaco submitted comments in support of Daewoo's position concerning the reusable nature of Daewoo's skidway.

DOC Response: We agree that skidways and foundations are reusable. See our response to Petitioners' comments 4 and 6.

Comment 8: Daewoo states that, contrary to statements made by the petitioners, the loadout skidway and launching quay were not damaged during loadout of the U.S. jacket. They cited as the most conclusive evidence of that statement the fact that the jacket was successfully loaded-out. Therefore, the Department should not include imputed costs for damages.

DOC Response: We agree. Refer to our responses to Petitioners' Comments 5 and 8.

Comment 9: Daewoo argues that all welder training that took place before and during construction of the U.S. project should not be directly expensed to the U.S. project as alleged by the petitioners.

DOC Response: We agree. Refer to our response to Petitioners' Comment 9.

Comment 10: Daewoo states that scaffolding and walkways used on the U.S. project should not be expensed to the project. Rather, they state that the scaffolding and walkways were not purchased for specific projects and that portions of those assets could be reused for other projects.

DOC Response: We agree. Refer to our response to Petitioners' Comment 10.

Comment 11: Daewoo argues that the expenses of relocating a road when the assembly yard was expanded and the provision of utilities in the expanded area should not be expensed to the U.S. project but, rather, they should be included in the pool of general use assets.

DOC Response: We agree. The road is part of the company's ordinary fixed assets for operations.

Comment 12: Daewoo states that costs associated with dredging needed for the launching quay are included in the launching quay costs, and not omitted, as claimed by petitioners.

DOC Response: We agree. Refer to our response to Petitioners' Comment 12.

Comment 13: Daewoo states that in the preliminary determination, the Department disregarded foreign exchange gains and losses. Dawwoo argues that if the Department recognizes these items in the final determination, it should take into account both gains and losses. They note that Generally Accepted Accounting Principals state

that realized gains must be taken into account, while both realized and unrealized losses must be expensed.

DOC Response: The Department analyzed the basis for the foreign exchange gains and losses. Those gains or losses which were related to the costs of the product, the Department included in the constructed value. The foreign exchange gain which was not a result of the costs of production of the product was not included.

Comment 14: Concerning an adjustment made for loadout and tiedown in the preliminary determination, Daewoo argues that the Department, if it makes such an adjustment in the final determination, should deduct the cost of loadout and tiedown from both the United States price and the foreign market value. Such a deduction should include the cost for all applicable change orders.

DOC Response: We agree. Refer to our response to Petitioners' Comment 19.

Comment 15: Daewoo maintains that the Department must adjust any potential margin found in the final determination by the level of export subsidy determined in the comparison countervailing duty investigation. They state that not recognizing the subsidy, by using any one of the three alternatives offered by the petitioners, will result in a double imposition of tariff measures to correct the same unfair pricing situation. Furthermore, they claim that the GATT and the antidumping duty statute do not allow discretion in this area. Also, they state that neither the GATT nor the Act requires a prerequisite test showing that the export subsidy must first be a proven part of the price or constructed value in a dumping calculation prior to making the subsidy adjustment.

Texaco and Cities Service also submitted arguments in support of Daewoo's position with regard to the offset for export subsidies.

DOC Response: We are adjusting the deposit or bonding requirement to reflect all export subsidies found in the countervailing duty investigation. See, our response to Petitioners' Comment 21.

Comment 16: Hyundai argues that the sale of jackets and piles to the United States by Hyundai should have been investigated by the Department. Hyundai claims that, even though their project will not be completed until August 1986, the Department should have based a determination on its actual costs incurred to date and on its standard, projected costs for the remainder. It maintains that a rate based upon Hyundai's estimated costs is a better basis for a cash deposit than on a rate found for another producer. If Hyundai is not to be investigated for the final determination, Hyundai urges the Department to establish a zero cash deposit rate, if there is an antidumping duty order, and to conduct an administrative review immediately upon entry of the merchandise into the United States.

Cities Service and Exxon Corporation, in support of Hyundai, allege that the Department should use Hyundai's submitted cost as the best information available for the final determination. They allege that the Department's concerns about Hyundai's projected costs are unwarranted, since the Department has accepted the use of estimates in other cases. Further, they state that the Department should disregard the unsubstantiated testimony presented by petitioners related to Hyundai's ability to estimate costs and petitioners' assertion that, because the jacket and piles for Platform Julius were larger than other jackets and piles built by Hyundai, Hyundai's cost projections are invalid.

Exxon argues that if the Department does not provide a separate margin for Hyundai, it should conduct an expedited administrative review of Hyundai.

DOC Response: Section 773(e) of the Act requires us to include in the constructed value the cost of materials and fabrication ". . . at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of the particular merchandise in the ordinary course of business." It is our view, based on the record in this investigation, that each jacket and piles project is sufficiently unique that an accurate constructed value is not possible without the actual costs associated with a particular project.

Further, because the Daewoo sale constitutes over 60 percent of the sales during the investigatory period and 100 percent of the exports pursuant to such sales, we had adequate product coverage for purposes of our determination. It has consistently been the practice of the Department that, in an affirmative determination, producers/exporters for whom a separate weighted-average margin has not been calculated will fall within the "all other manufacturers" category. Absent a determination that a company had no or *de minimis* sales at less than fair value, we have no basis for determining a zero rate. Therefore, we see no reason to change our policy with regard to establishment of a deposit rate for a firm not investigated. Questions relating to a possible early administrative review under section 751 of the Act will be addressed pursuant to a properly filed request.

Continuation of Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of jackets and piles from the Republic of Korea that are entered, or withdrawn from warehouse, for consumption, on or after November 25, 1985. The Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign value of the merchandise subject to this investigation exceeds the United States price as shown in the table below on or after the date of publication of this notice in the **Federal Register.** The security amounts established in our preliminary determination published in the **Federal Register** on November 25, 1985, will no longer be in effect.

The suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturers/sellers/exporters	Weighted-average margin percentage
Daewoo	17.34
All Others	17.34

Article VI.5 of the GATT provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on jackets and piles from the Republic of Korea, we found export subsidies. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit for that amount. Thus, the amount of the export subsidies will be subtracted for deposit or bonding purposes from the dumping margins.

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential

information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days of the publication of this notice.

If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or canceled.

However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on offshore platform jackets and piles from Korea entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

March 31, 1986.

[FR Doc. 86-7619 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Americanization Committee will convene its first public meeting, April 18–19, 1986, from 9 a.m. to 5 p.m., both days, at the auditorium of the Northwest and Alaska Fisheries Center, National Marine Fisheries Service, 2725 Montlake Boulevard East, Seattle, WA. The Committee has been charged by the North Pacific Fishery Management Council to study the Americanization of the North Pacific bottomfish fisheries. In its deliberation, the Committee is to give special consideration to Council-established phaseout dates for foreign fishing and foreign processing, established on a fishery-by-fishery, or species, basis.

The Committee will take public comment on phaseout on the first day of the meeting, April 18. Those who wish to offer oral statements that day are requested to submit copies of their testimony, along with a one-page summary before April 14 to: North Pacific Fishery Management Council, Attn: Americanization Committee, P.O. Box 103136, Anchorage, Alaska 99510.

Those wishing to submit testimony only may do so before April 14 at the above address.

At the meeting, witnesses will be given five minutes to make oral presentations. Committee members may ask questions of each witness after a presentation. Those intending to offer oral testimony are requested to be at the auditorium on April 18 at 9 a.m. The order of appearence of witnesses will be decided after April 14.

The second day of the Committee meeting will be devoted to Committee deliberations and will also be open to the public. Questions regarding the Americanization Committee meeting are to be directed to Ron Miller, Special Advisor, North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, Alaska 99510; telephone: (907) 274–4563.

Date: April 2, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-7694 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Man-Made Fiber Apparel Products From the Republic of the Philippines

April 1, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 7, 1986. For further information contact Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated December 20, 1985 (50 FR 52830) established limits for certain specified categories of cotton, wool, and man-made fiber textile products, including Categories 635–T, and 635–NT (women's, girls', and infants' coats of man-made fibers), produced or manufactured in the Philippines and exported during the agreement year which began on January 1, 1986. Pursuant to an exchange of notes between the Governments of the United States and the Republic of the Philippines under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, special swing in the amount of 109,500 dozen is being applied to the limits established for Category 635–T, increasing it to 151,736 dozen. As agreed, the limit for Category 635–NT is being reduced by the same amount to 153,576 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

April 1, 1986.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 20, 1985 from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Philippines and exported during 1986.[1]

Effective on April 7, 1986, paragraph 1 of the directive of December 20, 1985 is hereby further amended to include the following adjusted restraint limits for Categories 635–T, and 635–NT:

Category	Adjusted 12-mo limit [1]
635–T	151,736 dozen.
635–NT	153,576 dozen.

[1] The restraint limits have not been adjusted to reflect any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs

[1] The agreement, provides, in part, that: (1) Specific limits may be exceeded during the agreement year by designated percentages; (2) specific limits may be adjusted for carryover and carryforward; and (3) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-7607 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Limits for Certain Man-Made Fiber Textile Products Produced or Manufactured in the Republic of the Philippines

April 1, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 7, 1986. For further information contact Ross Arnold, International Trade Specialist (202) 377-4212.

Background

The Governments of the United States and the Republic of the Philippines have exchanged letters dated March 13 and 14, 1986 further amending their Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of November 24, 1982, as amended, to increase the designated consultation level for other man-made fiber manufactures in Category 669 to 750,000 pounds for goods produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. Agreement was further reached to establish a sublimit of 350,000 pounds for man-made fiber sewing thread (only T.S.U.S.A. 310.9500) in Category 605. Accordingly, in the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to increase the level for Category 669 to the designated amount and to control the level for Category 605 and its agreed sublimit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the letter of December 20, 1985 which directed you to prohibit entry for consumption or withdrawal from warehouse for consumption in the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of the Philippines and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986.

Effective on April 7, 1986, the directive of December 20, 1985 is hereby further amended to increase the previously established level for man-made fiber textile products in Category 669 to 750,000 pounds.[1] Also effective on April 7, 1986, the directive of December 20, 1985 is amended to establish the following level for man-made fiber textile products in Category 605:

Category	12-mon level [1]
605	1,052,229 pounds of which not more than 350,000 pounds shall be in TSUSA 310.9500.

[1] The levels have not been adjusted to reflect any imports exported after December 31, 1985. In January 1986 there were no imports in Category 605 pt. (only TSUSA 310.9500).

Textile products in Category 605 which have been exported to the United States prior to January 1, 1986 shall not be subject to this directive.

Textile products in Category 605 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-7606 Filed 4-4-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The levels have not been adjusted to reflect any imports exported after December 31, 1985. In January 1986 there were no imports in Category 605 pt. (only TSUSA 310.9500).

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986; Additions

Correction

In FR Doc. 86-6880, beginning on page 10651 in the issue of Friday, March 28, 1986, make the following correction:

On page 10652, the third line of the first column should read: "7930-00-985-6911".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Privacy Act of 74; Systems of Records

AGENCY: Office of the Secretary, Defense (DOD).

ACTION: Notification of amendments to system of records.

SUMMARY: This notice makes minor administrative amendments to a system of records maintained by the Office of the Secretary of Defense. The changes are set forth below, followed by the system notice as amended in its entirety.

DATE: These amendments will be effective on or before May 17, 1986, unless comments are received which result in a contrary determination.

ADDRESS: Send comments to the System Manager identified in the system notice.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODADS(A), Room 5C-3154, The Pentagon, Washington, D.C. 20301. Telephone: (202) 695-0970.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense inventory of records notices as prescribed by the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have appeared in the **Federal Register** FR Doc. 85-10237 (50 FR 22286) May 29, 1985 and FR Doc. 85-27008 (50 FR 47087) November 14, 1985.

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 1, 1986.

AMENDMENTS

DMRA&L 22.0

System name:

DoD Dependent Children's School Program Files (50 FR 22299), May 29, 1985.

Changes.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Delete entry; substitute therefor: "See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices. Academic data may be provided to other educational institutions and employers or prospective employers in accordance with current policies and procedures. Academic achievements and data may be provided to the public, via distribution of information within the school and through various media sources, for positive reinforcement purposes. This information will not be distributed for commercial uses."

SYSTEM MANAGER(S) AND ADDRESSES:

Delete second and third words; substitute therefor: "Beth Stephens."

DMRA&L 22.0

SYSTEM NAME:

DoD Dependent Children's School Program Files.

SYSTEM LOCATION:

Active Students—DoD operated overseas dependents schools, regional offices, and the Office of Dependent Schools (ODS), Alexandria, Virginia.

Former High School Students—Permanent records (high school transcripts) are retained at the school for 4 years subsequent to graduation, transfer, or termination, then forwarded to the regional office for 1 year where they are compiled and forwarded to the Washington National Records Center (WNRC) except Panama. Records for the Panama region are retired to the East Point, Georgia, Federal Archives Records Center (FARC).

Former Panama Canal College Students—Permanent records (college transcripts) are retained at the college for 10 years, then retired to East Point FARC.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Students in the DoD operated overseas dependent schools.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. *Enrollment files.* Documents relating to the admission, registration, and departure of dependent school students. Included are pupil enrollment applications, course preference, admission cards, drop cards, and similar or related documents.

B. *Daily attendance register files.* Documents reflecting the daily attendance of pupils at dependent schools. Included are forms, printouts, bound registers and similar or related documents.

C. *Elementary school academic records.* Documents reflecting the standardized achievement, mental ability, yearly grade-average, attendance of each student and the teacher's comments. Included are forms, notes, and similar or related documents.

D. *Elementary school report card files.* Documents reflecting grades, personality traits, and promotion or failure. Included are report cards and similar or related documents.

E. *Elementary school teacher class register files.* Documents reflecting daily, weekly, semester, or annual scholastic grades and averages, absence and tardiness data.

F. *Elementary school student files* Documents pertaining to individual elementary school students. Included in each folder are reading and health records; individual education plans; intelligence quotient; achievement, aptitude, and similar test results; notes related to pupil's progress and characteristics; and similar matters used by counselors and successive teachers.

G. *Secondary school absentee files.* Documents reflecting absence of students. Included are homeroom teachers' registers, secondary school daily attendance records of absentees reported by teachers, tardy slips for admission of student to classroom, transfer slips notifying teachers of new class or homeroom assignment, notices of change by school principal to teacher upon change of classroom, student applications for permission to be absent, student pass slips, and similar or related documents.

H. *Secondary school academic record files.* Documents reflecting student grades and credits earned. Included are forms, notes, and similar or related documents.

I. *Secondary school report card files.* Documents reflecting scholastic grades, personality traits, and promotion or failure. Included are report cards and related documents.

J. *Secondary school teacher class register files.* Documents reflecting daily, weekly, semester, or annual scholastic marks and averages, absence and tardiness, and withdrawal data. Included are class registers and similar or related documents.

K. *Secondary school class reporting files.* Documents reflecting teacher reports to principals and used as source documents for preparing secondary school academic record cards. Included are forms, correspondence, and similar or related documents.

L. *Credit transfer certificate files.* Documents reflecting secondary school scholastic credits earned. Included are certificates and similar or related documents.

M. *Secondary school student files.* Documents pertaining to individual secondary school students. Included in each folder are student health records; individual education plans; absence reports and correspondence with parents pertaining to absence; records of achievement and aptitude tests; notes concerning participation in extracurricular activities, hobbies, and other special interests or activities of the student; and, miscellaneous memorandums used by student counselors.

N. *College absence, withdrawal, and add files.* Student applications for permission to be absent from final exams. Student drop and add class records and administrative withdrawal letter.

O. *College academic record files.* Documents reflecting student grades and credits earned. Included are forms, notes, and similar or related documents.

P. *College report card files.* Documents reflecting scholastic grades and promotion or failure. Included are report cards and related documents.

Q. *College teacher class register files.* Documents reflecting daily, weekly, semester, or annual scholastic marks and averages, absence and withdrawal data. Included are class registers and similar or related documents.

R. *College class reporting files.* Documents reflecting teacher reports to Registrar and used as source documents for preparing college transcripts. Included are forms, correspondence, and similar or related documents.

S. *Credit transfer certificate files.* Documents reflecting college scholastic credits earned. Included are certificates and similar or related documents.

T. *College student files.* Documents pertaining to individual college students. Included in each folder are absence reports, records of achievement, and aptitude tests.

U. *Automated support files.* Automated data files are composed of records containing the following information (varies by regional system):

Student registration data—student identification number, student name, sex, grade level, bus number, date of enrollment, date of birth, course numbers and names, teachers, credit, grades received, dates of absences, and sponsor's name, status, rank, date of rotation, organization, location of unit, local address, emergency address and phone.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Recurring provisions of the DoD Appropriations Act and Department of Defense Directive 1342.6, "Department of Defense Dependent's Schools," dated October 17, 1978, with change 1.

PURPOSE(S):

A. Dependent children's school program files (general):

1. Records of students attending DoD operated overseas dependent schools are used by school officials, including teachers, to:

a. Determine the eligibility of children to attend these schools;

b. Schedule children for transportation;

c. Record daily and/or class attendance of students and date(s) of withdrawal;

d. Determine tuition paying students and record status of payments;

e. Determine students located in areas not serviced by dependents schools so that alternative arrangements for education can be made and payment made, as required;

f. Monitor special education services required by and received by the student; and,

g. Used to develop and maintain reading and health records, including school related medical needs.

2. Records may also be released to other officials of the Department of Defense requiring information for operation of the Department (including defense investigative agencies) on a case-by-case basis in accordance with established policies and procedures.

B. Dependent children's school program files (elementary):

1. Used by school officials, including teachers, in the current and/or gaining school to develop and provide an educational program for elementary students by school personnel cited above.

2. Used in the following manner to record:

a. Teacher or standardized test data;

b. Attendance, absences, and/or tardiness of each student;

c. Recommendations for promotion or retention including teacher comments;

d. Daily, weekly, semester, or annual grades; and,

e. Notes related to the individual pupil's progress and learning characteristics useful to professional school personnel in counseling the student and in the determination of his/her proper placement.

C. Dependent children's school program files (secondary):

1. Used by school officials, including teachers, in the current and/or gaining school to develop and provide an education program for secondary students.

2. Documents are used by school personnel cited above in the following manner to:

a. Record teacher and/or standardized test data;

b. Record attendance, absences, and/or tardiness of each student;

c. Form the basis for a decision on a student request for permission to be absent from a class or classes;

d. Determine proper class or grade placement or graduation;

e. Determine scholastic grades and/or grade point average;

f. Form the basis for school recommendations for student financial aid for postsecondary education;

g. For the basis for preparing the secondary school transcript;

h. Determine secondary school academic credits earned; and,

i. Note special interest or hobbies of the student.

3. Used by DoD recruiting officials to determine eligibility for military service.

D. Dependent children's school program files (college):

1. Used by school officials, including teachers, in the current and/or gaining school to develop and provide an educational program for college students.

2. Documents are used by school personnel cited above in the following manner to:

a. Record teacher and/or standardized test data;

b. Record attendance and absences of each student;

c. Form the basis for a decision on a student request for permission to be absent from a class or clases;

d. Determine proper class or grade placement or graduation;

e. Determine scholastic grades and/or grade point average;

f. Form the basis for school recommendations for student financial aid for college education;

g. Form the basis for preparing the college transcript; and,

h. Determine college academic credits earned.

3. Used by DoD recruiting officials to determine eligibility for military service.

E. Automated support. Automated support is used by school and regional officials (where applicable) to:

1. Provide academic data to each student upon request, provide report cards, etc., at the end of each grading period, provide transcripts upon request, and provide hard copy for manual files.

2. Provide academic data within the region and to ODS.

3. Provide data within the Department of Defense on a need-to-know basis.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

Academic data may be provided to other educational institutions and employers or prospective employers in accordance with current policies and procedures.

Academic achievements and data may be provided to the public, via distribution of information within the school and through various media sources, for positive reinforcement purposes. This information will not be distributed for commercial uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to U.S.C. 552a(b)(12), may be made from this system to consumer reporting agencies' as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are paper records in file folders.

RETRIEVABILITY:

A. Elementary school academic records and secondary school and college academic records (transcripts) are filed alphabetically by school, school year, and last name of student.

B. Elementary, secondary, and college teacher class register files are filed by school, school year, and last name of teacher.

C. Remaining dependent school student files are filed by school, school year, and last name of student.

D. The automated files are indexed by a variety of data, depending upon the region and school involved (some have regionally assigned student identification numbers, others are by

last name of student). Also, any combination of data in the file can be used to select individual records. Only authorized personnel have required information to access the system or process jobs.

SAFEGUARDS:

Paper records are maintained in files accessible only to authorized personnel.

Authorized records.

A. *Description of the automated process.* Current hard copy records of all information are kept in locked file cabinets in limited access school offices. Computer-produced student records and reports become an integral part of the manual system and are retained in limited access school offices and/or locked cabinets. Computer disks, tapes, etc., are maintained in limited access areas within the various computer centers, regional offices, and/or schools. Approved special requests for data can be supported by ad hoc inquiry. Any combination of data can be used to select individual records for special processing.

B. *Physical safeguards.* Computer facilities and remote terminals are located in schools and regional offices throughout the school system. Particular regional systems vary; however, the same basic safeguards are employed (in various combinations) in all the systems. Computer hardware disk cards and other materials are secured in locked facilities after normal duty hours or are maintained in secure military computer centers. During school hours, storage media is stored in areas where access can be monitored. On-line access is protected by combinations of the following various factors: (1) Users must have file and/or disk names; (2) users must have possession or approval to gain possession of appropriate disk(s); and, (3) users must have specifically designed codes and/or keys to permit read/write operations.

C. *Storage media.* Hard copy files are stored in the school offices of each participating school and regional offices. Computer files are stored on magnetic tape and disks, as outlined above.

D. *Risk analysis.* All personal information which is collected and/or maintained for this system is stored in locations adequately secure for such information. Administrative safeguards have been instituted to prevent access to information in the automated systems.

RETENTION AND DISPOSAL:

A. *Enrollment files.* Maintained at the respective school for 1 year after graduation, withdrawal, transfer, or death of the student, then destroyed.

B. *Daily attendance register files.* Destroyed after reviewing attendance registers for the next school year.

C. *Elementary school academic records files.* When a student transfers to another school, this file is forwarded by mail to officials of the receiving school on request in accordance with current regulations, or destroyed at the school 5 years after graduation, death, or withdrawal of the student.

D. *Elementary school report card files.* Released to parents or students at the end of the school year or on transfer of the student.

E. *Elementary school teacher class register files.* Destroyed at the school concerned after 5 years.

F. *Elementary school student files.* 1. When a student transfers to another school, the reading and health records are released to the parent or student (if over 18 years of age) for hand-carrying to the receiving school.

2. Remaining documents pertaining to the students are forwarded by mail to the officials of the receiving school or the parent/guardian on request in accordance with current regulations; if not requested, documents are destroyed at the school concerned 1 year after graduation, death, or withdrawal of the student.

G. *Secondary school absentee files.* Destroyed at the school after 1 year.

H. *Secondary school academic record files (high school transcript).*

1. Permanent file.

2. When a student transfers to another DoD dependents school, this film (transcript) is forwarded by mail to officials of the receiving school on request.

3. When a student transfers to a non-DoD school, a copy of the transcript is forwarded to the receiving school on request in accordance with current regulations.

4. Files not forwarded to another DoD school are retained at the school concerned for 4 years, the regional office for 1 year and then retired to the WNRC (or East Point FARC if in the Panama region) for an additional 60 years.

I. *Secondary school report card files.* Released to parents of students or student (if over 18 years of age) at the end of the school year or on transfer of student.

J. *Secondary school teacher class register files.* Retained at the school concerned for 5 years and then destroyed.

K. *Secondary school class reporting files.* Destroyed at the school after 1 year.

L. *Credit transfer certificate files.* Destroyed at the school after 1 year.

M. *Secondary school student files.* 1. Retained at the school concerned for 2 years after graduation, death, or withdrawal of the student.

2. When a student transfers to another school:

a. A copy of the record may be released to the parents or student (if over 18 years of age) for hand-carrying to the receiving school.

b. An official copy of the record will be forwarded to the receiving school in accordance with current regulations upon request. (The original record is retained at the school.)

N. *College absentee files.* Destroyed at the school after 1 year.

O. *College academic record files (college transcripts).*

1. Permanent file.

2. When a student transfers to another college or university, this file (transcript) is forwarded by mail to officials of the receiving school upon receipt of an authorized request.

3. Original files (transcripts) are retained at the college for 10 years then retired to East Point FARC.

P. *College report card files.* Released to student at the end of the semester or school year, or on transfer of student.

Q. *College teacher class register files.* Retained at the school for 5 years and then destroyed.

R. *College class reporting files.* Destroyed at the school after 1 year.

S. *Credit transfer certificate files.* Destroyed at the school after 1 year.

T. *College school student files.* 1. Retained at the school for 2 years.

2. When a student transfers to another school:

a. A copy of the record may be released to the parents or student (if 18 years of age) for hand-carrying to the receiving school.

b. An official copy of the record will be forwarded to the receiving school upon request pending receipt of authorized request. (The original record is retained at the school.)

U. *Automated files.* Automated files are normally retained for 1 year. However, this may vary as all information is documented in the manual files and the information in automated form may be destroyed earlier or later than 1 year for various internal purposes.

SYSTEM MANAGER AND ADDRESS:

Dr. Beth Stephens, Director, Department of Defense Dependents Schools, 2461 Eisenhower Avenue, Alexandria, Virginia 22331, telephone: (202) 325-0183.

NOTIFICATION PROCEDURE:

Information may be obtained from officials of the school concerned or from the System Manager.

RECORD ACCESS PROCEDURES:

A. Written requests for information on the records system and for instructions concerning personal visits may be forwarded to the principal of the school within 4 years after graduation, transfer, withdrawal, or death of student.

B. The fifth year, the principal should be contacted for elementary records or the System Manager for secondary records.

C. Subsequently, all requests for secondary records may be forwarded to the Department of the Army, HQ DA (DAAG–AMR), Washington, D.C. 20310, except for information from schools in Pamama. These requests should be sent to: Director, DoDDS-Panama, APO Miami 34002.

D. All requests for college records should be sent to the college for the first 10 years, then to the Director, DoDDS-Panama, address above.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b, and OSD Administrative Instruction 81.

RECORD SOURCE CATEGORIES:

Information is obtained from the individuals concerned and their parents/guardians, teachers, and school administrators.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 86–7574 Filed 4–4–86; 8:45 am]
BILLING CODE 3810-01-M

Uniformed Services University of the Health Sciences (USUHS)

Privacy Act of 1974; Amendments to Systems of Records

AGENCY: Uniformed Services University of the Health Sciences (USUHS), DOD.

ACTION: Notice of amendments to systems of records.

SUMMARY: This notice makes several minor administrative amendments to four systems of records maintained by the Uniformed Services University of the Health Sciences (USUHS). The changes to the four systems are set forth below, followed by the system notices as amended in their entireties.

DATES: These amendments shall become effective on May 7, 1986, unless comments are received which result in a contrary determination.

ADDRESS: Send comments to the System Manager identified in the system notices.

FOR FURTHER INFORMATION CONTACT: Norma Cook, Privacy Act Officer, ODASD(A). Room 5C–315, The Pentagon, Washington, D.C. 20301. Telephone: (202) 695–0970.

SUPPLEMENTARY INFORMATION: The Uniformed Services University of the Health Sciences (USUHS) System notices for system of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have appeared in the **Federal Register** on May 29, 1985 (50 FR 22960).

The proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) of the Act which requires the submission of an altered system report.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 1, 1986.

AMENDMENTS

WUSU01

System name:

Uniformed Services University of the Health Sciences (USUHS) Personnel Files (50 FR 22963), May 29, 1985.

Changes:

System location:

Delete entries; substitute therefor: "Personnel record files will be maintained at the USUHS Civilian Personnel Directorate, and Directorate, Military Personnel, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Copies of SF 171's and curriculum vitae's of applicants and employees will be maintained in the Civilian Personnel Directorate by the Dean of the School of Medicine, and by the Department Chairperson, having a need for the information. Limited hardcopy information files are maintained at the USUHS Military Personnel office. A supplemental file consisting of summary data on each civilian employee will be stored in the computer at Bolling Air Force Base (AFB), Washington, D.C. 20332; for military personnel assigned to USUHS; at Walter Reed Army Medical Center (WRAMC) Military Personnel office, National Naval Medical Center (NNMC) Military Personnel office, Andrews Air Force Base (AFB) consolidated base personnel office and at the Public Health Service (PHS) personnel office, Administrative Support Section, Parklawn Building, Rockville, Maryland 20805. Home telephone numbers of key personnel will be provided to other key personnel, and those of students to other students on a need-to-know basis, and only with the express permission of the individual concerned, for an emergency call system. Biographical information on students to be maintained in the Military Personnel office."

Purpose(s):

Between third and fourth words of first line insert "consolidate into one standard system, personnel management on all assigned personnel from all military departments. The information kept will be used". Before last sentence insert "It will also be used for management training and accountability of military personnel assigned to USUHS."

Retrievability:

Delete from fifth and sixth line "Manpower Directorate" substitute therefor: Directorate and Commandant and Director, Military".

Safeguards:

Delete entry; substitute therefor: "The automated system is operated by USUHS Civilian Personnel, Directorate Personel, Military Personnel Directorate (for military files only), Commandant and Assistant Commandant, and only those personnel will be given the password and user identification information needed to access the computer system. Those persons are authorized access to need-to-know files only as determined by the Director of Military Personel and Commandant. While the file is primarily indexed on Social Security Number (SSN), and name, any combination of fields and data within fields can be used to select the individual records. Only the Director, Military Personnel will have the ability to add, change, delete or reproduce a hard copy of any data in the military files."

System manager(s) and address:

Delete entry; substitute therefor: "The Director, Civilian Personnel, will be the custodian for Civilian Personnel files (business address 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799, telephone: (202) 295–3412)). The Director, Military Personnel will be the custodian for Military Personnel files (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799, telephone: (202) 295–3086))."

WUSU03

System name:

Uniformed Services University of the Health Sciences (USUHS) Student Record System (50 FR 22961), May 29, 1985.

Changes:

Storage:

Delete the last ten words of paragraph and substitute therefor; "Office of the Registrar, USUHS."

Safeguards:

Delete entries; substitute therefor: "The computer facility at the USUHS is operated by the Office of the Registrar. The tapes and hard copies of material are secured in government-aproved security containers constructed of four-hour heat-resistant steel material. The physical location of the computer hardware, disks, and printer are located to the extreme rear of the room with access being blocked by a large counter staffed by two office personnel. All access to the computers in the Office of the Registrar is via user identification and sign-on password. Computer software ensures that only properly identified users can access the Privacy Act files on this system. Passwords are changed semiannually, or upon departure of any person knowing the password."

WUSU05

System name:

Uniformed Services University of the Health Sciences (USUHS) Graduate and Continuing Medical Student Records (50 FR 22964), May 29, 1985.

Changes:

Purpose(s):

Between ninth and tenth lines insert "including use for studies of the academic process."

WUSU06

System name:

Uniformed Services University of the Health Sciences (USUHS) Family Practice Medical Records (50 FR 22965), May 29, 1985.

Changes:

Purposes(s):

Third line after "patients" add "and for studies of disease."

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

Delete entry; substitute therefor: "See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices."

WUSU01

SYSTEM NAME:

Uniformed Services University of the Health Sciences (USUHS) Personnel Files.

SYSTEM LOCATION:

Personnel record files will be maintained at the USUHS Civilian Personnel Directorate, and Directorate, Military Personnel, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Copies of SF 171's and curriculum vitae's of applicants and employees will be maintained in the Civilian Personnel Directorate by the Dean of the School of Medicine, and by the Department Chairperson, having a need for the information. Limited hardcopy information files are maintained at the USUHS military personnel office. A supplemental file consisting of summary data on each civilian employee will be stored in the computer at Bolling Air Force Base (AFB), Washington, DC 20332; for military personnel assigned to USUHS; at Walter Reed Army Medical Center (WRAMC) military personnel office, National Naval Medical Center (NNMC) military personnel office, Andrews Air Force Base (AFB) consolidated base personnel office and at the Public Health Service (PHS) personnel office Administrative Support Section, Parklawn Bldg., Rockville, Maryland 20850. Home phone numbers of key personnel will be provided to other key personnel, and those of students to other students on a need-to-know basis, and only with the express permission of the individual concerned, for an emergency call system. Biographical information on students to be maintained in the Military Personnel Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records will be maintained on all personnel assigned to USUHS full-time and part-time.

CATEGORIES OF RECORDS IN THE SYSTEM:

The type of information which will be maintained on employees is as follows: Identity and demographic information (e.g., Social Security Number (SSN), name, sex, address, birth date, minority status, etc.). Academic and experience background data consisting of: (1) Schools attended; (2) Degrees earned; (3) Work experience, awards, etc.; (4) Letters of reference, performance evaluation, etc.; (5) Time and attendance cards; and (6) Biographical data file.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, United States Code, Section 136.

PURPOSE(S):

The system will consolidate into one standard system, personnel management on all assigned personnel from all military departments. The information will be used for documenting the work experience of applicants and USUHS personnel and for notification of key personnel in case of emergency during nonworking hours. It will also be used for management training and accountability of military personnel assigned to USUHS. Biographical data file will be used for providing background information on USUHS students to lecturers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices..

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Material stored in file folders at USUHS, supported by automated copies of pertinent data of each employee's folder which are maintained on magnetic tape and disk at USUHS Civilian Personnel/Manpower Directorate, Bethesda, Maryland 20814–4799.

RETRIEVABILITY:

The system will be indexed by name and Social Security (SSN). Also, any combination of data in the file can be used to select individual data. Only Civilian Personnel and Commandant and Director, Military Directorate personnel will be provided with the password that allows access to the data, and those individuals are authorized access to all data in the file. Records will be available to: the individual concerned; employees of USUHS on a need-to-know basis; other agencies of the Government to satisfy requests for routine reports.

SAFEGUARDS:

The automated system is operated by USUHS Civilian Personnel, Directorate personnel, Military Personnel Directorate (for military files only), Commandant and Assistant Commandant, and only those personnel will be given the password and user identification information needed to

access the computer system. Those persons are authorized access to all fields in the data base. Assistant Commandant will have access to need-to-know files only as determined by the Director of Military Personnel and Commandant. While the file is primarily indexed on Social Security Number (SSN), and name, any combination of fields and data within fields can be used to select the individual records. Only the Director, Military Personnel will have the ability to add, change, delete or reproduce a hard copy of any data in the military files.

RETENTION AND DISPOSAL:

Indefinite files that are retained while the individual is employed and then retired.

SYSTEM MANAGER(S) AND ADDRESS:

The Director, Civilian Personnel, will be the custodian for Civilian Personnel files (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799 telephone: (202) 295–3412. The Director, Military Personnel will be the custodian for Military Personnel files (business address: 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799, telephone: (202) 295–3086.

NOTIFICATION PROCEDURE:

Inquiries regarding the personnel files should be directed to the System Manager.

RECORD ACCESS PROCEDURES:

Information on the procedures for gaining access to and contesting records will be furnished each employee by the Personnel Office upon entry into duty with USUHS.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instruction No. 81.

RECORD SOURCE CATEGORIES:

Information contained in the file is furnished by the employees, supervisors and references supplied by the employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

WUSU03

SYSTEM NAME:

Uniformed Services University of the Health Sciences (USUHS) Student Record System.

SYSTEM LOCATION:

The file will be maintained in the Registrar's Office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Supplemental files consisting of student evaluation forms, grades, and course examinations pertaining to their Department will be maintained in each department by department chairperson as well as in the Registrar's office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records will be maintained on all students who matriculate to the University.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grade reports and instructor evaluations of performance/achievement; transcripts summarizing by course title, grade, and credit hours; records of awards, honors, or distinctions earned by students; and data carried forward from the Applicant File System, which includes records containing personal data, e.g., name, rank, Social Security Number (SSN), undergraduate school, academic degree(s), current addresses, course grades, and grade point average from undergraduate work and other information as furnished by non-Government agencies such as the American Medical College Admission Service which certified all information prior to being submitted to the University.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 92–426, Ch. 104, Section 2114.

PURPOSE(S):

Data is used for recording internships, residencies, types of assignment and other career performance data on USUHS graduates; providing academic data to each student upon request, e.g., transcripts, individual course grades, grade point average, etc.; providing academic data within the Uniformed Services University of the Health Sciences for official use only purposes including use for studies of the academic process and providing data to the respective Surgeon General when the specific and authorized need requires it.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Academic data may be provided to other educational institutions upon the written request of a student. See Uniformed Services University of the Health Sciences (USUHS) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders are stored at USUHS, supported by automated copies of subsets of each student's folder, which are maintained on magnetic tape and disk at the Office of the Registrar, USUHS, Washington, D.C.

RETRIEVABILITY:

The system will be indexed by name and Social Security (SSN). Also, any combination of data can be used to select individual records. Only personnel in the Office of the Registrar will be provided with the password that allows access to the data, and those individuals are authorized access to all data in the file.

SAFEGUARDS:

The computer facility at the USUHS is operated by the Office of the Registrar. The tapes and hard copies of materials are secured in government-approved security containers constructed of four-hour heat-resistant steel material. The physical location of the computer hardware, disks, and printer are located to the extreme rear of the room with access being blocked by a large counter staffed by two office personnel. All access to the computers in the Office of the Registrar is via user identification and sign-on password. Computer software ensures that only properly identified users can access the Privacy Act files on this system. Passwords are changed semi-annually, or upon departure of any person knowing the password.

RETENTION AND DISPOSAL:

Records will be maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

The Registrar, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Telephone: 202–295–3197.

NOTIFICATION PROCEDURE:

Information may be obtained from: USUHS Registrar's Office, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Telephone: 202–295–3197.

RECORD ACCESS PROCEDURES:

Requests to review individual student's records may be made by telephone or visit the Registrar's Office, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Written requests should include name, Social Security Number (SSN) and dates attended.

CONTESTING RECORD PROCEDURES:

The Agency's rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instruction No. 81.

RECORDS SOURCE CATEGORIES:

Information is furnished by instructor personnel, the individual concerned; the National Board of Medical Examiners; and the Applicant File System.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

WUSU05

SYSTEM NAME:

USUHS Graduate and Continuing Medical Student Records.

SYSTEM LOCATION:

Office of the Assistant Dean for Graduate and Continuning Education, Uniformed Services University of the Health Services (USUHS), 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Supplementary files, consisting of student evaluation forms, grades, and course examinations pertaining to their department, are maintained in each USUHS department by departmental chairpersons.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records are maintained on all students who apply for or matriculate in the Graduate Education and Continuing Medical Education programs at the University.

CATEGORIES OF RECORDS IN THE SYSTEM:

Grade reports and instructor evaluations of performance/achievements; educational records listed by course title, grade, and credit hours; records of awards, honors, or distinctions earned by students; and data carried forward form the application, which includes records containing personal data, e.g., name, rank, social security number (SSN), undergraduate school, academic degree, current addresses, course grades, and grade point average from undergraduate work; letters of recommendations; and other information as furnished by nongrovernment agencies such as the Educational Testing Service.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, United States Code, Section 2114.

PURPOSE(S):

The system is used to: Record types of assignment, program participation and other student performance data and participation in continuing education programs; provide academic data to each student upon request (such as, individual course grades and grade point averages); provide academic data within the USUHS for official purposes, including use for studies of the academic process and provide data to the respective Department of Defense component Surgeon Generals when a specific and authorized need exists.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Academic data may be provided to other educational institutions upon the written request of a student. Also see Blanket Routine Uses at the beginning of the USUHS listing of system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders are stored at Uniformed Services University of the Health Services (USUHS). These are supported by automated copies of subsets of each student's folder, which are maintained on magentic tapes and disk at the Office of Computer Operations, USUHS, Bethesda, Maryland 20814–4799.

RETRIEVABILITY:

The system is indexed by name and social security number (SSN). Also, any combination of data in the file can be used to select individual records. Only personnel in the Office of the Assistant Dean for Graduate and Continuing Education, USUHS, with an official need for the data are provided with the password that allows access.

SAFEGUARDS:

The files are maintained in secured file cabinets located in a limited access area of the University. The computer hardware, disks, tapes and other materials are secured in locked cabinets in a controlled and guarded area. Computer access is via controlled dial-in and is password controlled. Passwords are changed semiannually, or upon the departure of any person knowing the password. The automated system is operated by the Office of Computer Operations, USUHS, and only personnel with an official need to know are given the password and user identification information needed to access the computer system. While the file is primarily indexed by social security number (SSN) and name, any combination of fields, and data can be used to select individual records.

RETENTION AND DISPOSAL:

Records on disenrolled and nonselected individuals are maintained for three years. Records on matriculated students are maintained permanently.

SYSTEM MANAGER(S) AND ADDRESS:

The Assistant Dean for Graduate and Continuing Education, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799.

NOTIFICATION PROCEDURE:

Information may be obtained from: Assistant Dean for Graduate and Continuing Education, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Telephone: 202–295–3106.

RECORD ACCESS PROCEDURE:

Requests to review individual students' records should be made in writing to the Office of the Assistant Dean for Graduate and Continuing Education, USUHS, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799. Written requests must include name, social security number and dates of attendance or application.

CONTESTING RECORD PROCEDURES:

The rules for access to records and for contesting contents and appealing initial determinations by the individual concerned are contained in 32 CFR Part 286b and OSD Administrative Instruction Number 81.

RECORD SOURCE CATEGORIES:

Information is furnished by the individual concerned; instructor personnel; the Graduate Records Examination; the application for admission and registration material for continuing medical education courses; the applicable department; the USUHS Graduate Committee; and the Office of the Assistant Dean for Graduate and Continuing Education, USUHS.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

WUSU06

SYSTEM NAME:

USUHS Family Practice Medical Records.

SYSTEM LOCATION:

Student Health Clinic, Uniformed Services University of the Health Sciences (USUHS), 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records will be maintained on medical students, military retirees, military active duty personnel and their dependents.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical charts, results of laboratory tests, physical examinations, patients' medical histories.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 10, United States Code, Sections 133, 1071 through 1087, 2114, 5031, and 8012 and Executive Order 9397.

PURPOSE(S):

Physicians and nurses use the medical charts in the diagnosis and treatment of patients and for studies of disease. Medical charts contain results of laboratory tests, medical examinations, and patients' medical histories. Medical Clerks file, retrieve and keep the records up to date by adding new material when appropriate.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Office of the Secretary of Defense (OSD) Blanket Routine Uses at the head of this Component's published system notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Medical records are stored in folders.

RETRIEVABILITY:

Medical records are filed by Social Security Number.

SAFEGUARDS:

Records are maintained in metal file cabinets which are kept locked when not in use. The cabinets are stored in a controlled area.

RETENTION AND DISPOSAL:

Files are retained until departure of patient; and then are given to the patient.

SYSTEM MANAGER(S) AND ADDRESS:

Chairman, Department of Family Practice, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, Maryland 20814–4799.

NOTIFICATION PROCEDURE:

Records are maintained only on individuals who seek treatment. Contact system manager for notification procedures.

RECORDS ACCESS PROCEDURES:

Information as to exact access procedures may be obtained from the System Manager. The rules for record access are in accordance with Air Force Regulation 168–4, 'Administration of Medical Activities, Patient Administration,' Chapter 12, 'Outpatient Records.'

CONTESTING RECORDS PROCEDURES:

The rules for contesting may be obtained from the System Manager. These rules are in accordance with Air Force Regulation 168–4, Chapter 12.

RECORD SOURCE CATEGORIES:

Patient, doctors, other medical professionals and test results.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None

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BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Request for Expression of Interest for Participation in the DOE Uranium Enrichment Program

AGENCY: Office of Nuclear Energy, DOE.

ACTION: Notice of request for expressions of interest for participation in the Department of Energy's Uranium Enrichment Program.

The Department of Energy (DOE) is seeking expressions of interest from qualified respondents regarding participation in its uranium enrichment program. This program provides the separative work to satify the enriched fuel requirements of most domestic nuclear reactors and many foreign nuclear reactors under long-term contracts. U.S. Government defense requirements for enriched uranium also are provided by the DOE uranium enrichment enterprise.

Objective: Opportunity for Private Participation

The objective of this announcement is to request Statements of Interest from the private sector for the principal purpose of ascertaining the degree of interest and the terms and conditions required for financial and industrial participation in the U.S. DOE uranium enrichment enterprise. Respondents are invited to submit statements addressed to all or part of the current enrichment program, or to other technologies or uranium enrichment organizations not currently a part of the DOE enrichment program.

DOE hopes to obtain sufficient information pertaining to private sector willingness to invest resources in the uranium enrichment enterprise or some facet of its operations or advanced technology development program to permit an evaluation and potential implementation of a private participation initiative. Accordingly, DOE is willing to consider constructive alternatives involving commitment of corporate and financial resources to the current uranium enrichment enterprise, or development and deployment of advanced technology, which will enhance the ability of private industry to assume responsibility for providing commercial enrichment services in the future.

It is DOE's intent to review and analyze all submissions, provide a summary of their contents to DOE Senior Management, and utilizing input contained in the Statements of Interest, consider which, if any, options (including issuance of one or more formal requests for proposals, the responses to which could be used as the basis for making competitive awards) would be the most appropriate and advantageous to the Government. DOE cannot reimburse respondents for any expenses that they may incur in responding to this announcement, nor will DOE incur any operational costs or delays as a consequence of this request for expressions of interest.

Background

The U.S. DOE uranium enrichment enterprise provides an essential nuclear fuel service for domestic and foreign commerical nuclear power reactors and for U.S. defense programs. DOE directs the operation of DOE owned, contractor operated gaseous diffusion enrichment plants with a potential combined capacity of about 27 million separative work units (SWU) per year. These plants are capable of meeting the annual fuel requirements of approximately 200 operating reactors of 1,000 MWe size in addition to satisfying U.S. defense requirements for enriched uranium. Policy formulation, overall management guidance, operations planning, budgeting, programmatic oversight, and marketing are the responsibility of the Office of Uranium Enrichment under the Assistant Secretary for Nuclear Energy. The DOE Oak Ridge Operations Office is responsible for the day-to-day administration of enrichment contracts, sales, and the program management of the enrichment plant operations. The operating contractor at two of the three production sites (Oak Ridge and Paducah) is Martin Marietta Energy Systems, Inc. (MMES). Goodyear

Atomic Corporation operates the Portsmouth facility.

DOE provides enriching services to customers on a "toll enrichment" basis. This is an arrangement whereby uranium supplied by a customer is enriched in uranium-235 content by DOE and then returned to that customer. Prices for enrichment services are mandated by law (i.e., the Atomic Energy Act of 1954, as amended) to be on a basis of recovery of the Government's costs, including capital and interest, operations, and research and development. The current price for separative work is $125 per SWU through September 1986, and $119 per SWU effective October 1, 1986.

Services are provided under contracts which are generally signed with publicly or privately owned power utilities throughout the world. Foreign customers must meet Agreement for Cooperation (bilateral agreement between U.S. Government and a foreign government) and nonproliferation requirements (the Nuclear Nonproliferation Act of 1978) in order to obtain their enriched uranium from the United States. Current annual contract revenues will amount to approximately $1.3 billion in FY 1986 and $1.2 billion in FY 1987. DOE now holds enrichment contracts with reactors totaling about 196,000 MWe, with a remaining lifetime sales value of more than $27 billion. Although considerable foreign competition is now being encountered, U.S. exports of enrichment services are still expected to contribute significantly to the U.S. foreign trade balance. As the world's principal supplier of enriched uranium, the United States intends to maintain or improve its competitive position by operating existing facilities efficiently, aggressively marketing enrichment services, optimizing capacity, and actively pursuing new technologies.

In order to find a more economical way to enrich uranium, new processes are investigated on a continuing basis. Since the early 1960's, a gas centrifuge and a laser enrichment process have been developed in order to enhance the Government's enrichment capabilities. In 1984–1985, DOE conducted an in-depth study of its present and future uranium enrichment capabilities and needs, and concluded that laser technology has the greatest promise for uranium enrichment needs in the 21st century.

In June 1985, The Secretary of Energy announced that Government involvement in centrifuge technology and the Gas Centrifuge Enrichment Plant (GCEP) project would be terminated because of the lack of need for new enrichment capacity, the high cost of completing the GCEP project, projected unattractive production costs from using centrifuge technology, and the higher potential for better costs and performance associated with the Atomic Vapor Laser Isotope Separation (AVLIS) technology. Termination of the project was begun in June 1985 and has been proceeding on schedule with a targeted completion date of July 1988. Significant quantities of classified equipment and materials have been disposed of and termination plans for all associated activities have been developed and are being implemented.

As a consequence of the Secretary of Energy's decision to terminate DOE centrifuge research and development of the GCEP project, in June 1985 the Department also initiated a search for alternative uses and/or users of centrifuges, specialized equipment, and the GCEP facility located on a 300 acre site adjacent to the Portsmouth, Ohio, gaseous diffusion plant (GDP). This search has led to discussions with the Department of Defense (DOD) concerning possible DOD use of the Portsmouth GCEP facility, and discussions with other organizations within DOE concerning possible alternative uses for existing centrifuges. A decision by DOD on its possible use of the facility is expected in mid-April of this year and a decision by other organizations within DOE on alternative centrifuge use is expected soon.

Description of Current Program

Gaseous Diffusion Plants

The Department presently enriches uranium to desired uranium-235 product assay levels in two GDP's located at Portsmouth, Ohio, and Paducah, Kentucky. A third GDP located at Oak Ridge, Tennessee, has been placed in standby pending the development of future demand that would justify its reactivation.

Although it is possible to operate the GDP's as separate facilities, they are operated as an integrated complex to achieve maximum efficiency. The total system is optimized both with respect to the availability of power and natural uranium feed and to the desired concentrations of product and depleted streams.

The two GDP's in the United States and one in France supply more than 95 percent of the world's enriched uranium needs. While other enrichment technologies will play an increasing role worldwide as sources of commercial supply, gaseous diffusion will remain the primary process for enriching uranium for the remainder of this century.

Since electric power requirements comprise 80 percent of the expense involved in operating a GDP, recent cost reduction efforts have been aimed at reducing power costs. Beginning in 1983, production has been shifted to take advantage of the lowest cost sources of power. As a result of these actions, power costs have decreased from $67 to $51 per SWU. These savings have been passed on to the customer in the form of DOE enrichment prices decreasing three times since January 1984.

Other Operational improvements include the use of cheaper unfirm power (off-peak economy energy purchased on an as-available, economically attractive basis) at night, on weekends, seasonally, and whenever low-priced power opportunities occur. While operating the GDP's at low power levels, the unique design and technological features of these plants allow large swings of multihundred megawatt blocks of power to be accommodated easily in 10 minutes or less. During periods when off-peak power is used, the marginal cost of production is as low as $35 per SWU. Thus, the average cost for producing a SWU is reduced.

Current power contracts are due to expire in the early 1990's. In order to minimize costs, DOE will not, in the future, contract for firm power for full plant capacity. The goal of DOE is to satify as much as possible its overall electricity requirements with low-cost off-peak and unfirm power. Annual charges paid to the Tennessee Valley Authority (TVA) for unused electrical demand will be approximately $430 million in FY 1986 and will total at least $1.8 billion through FY 1992. These charges will decrease as firm power under contract to TVA is reduced to zero by 1994.

Technical advancements in the gaseous diffusion process combined with the many years of operating experience in the plants have resulted in a steady progression of improved efficiency in the U.S. diffusion enrichment program. With the completion in 1983 of a $1.5 billion upgrade program, the plants' efficiencies were improved 30 percent and operational life extended at least another 30 years. New, more efficient barrier, compressors with more efficient blading and nozzles, low-loss control valves, and improved diffuser and piping configurations were installed.

Although the diffusion process is a mature technology, DOE maintains a commitment toward making further advancements in areas where significant cost reductions can be made. In 1983, adjustable vane compressors,

which allow changes in compressor performance characteristics during operation, were developed to improve efficiency at low power and to enhance operating flexibility over a wide range of production levels. This innovation has resulted in savings worth $5–10 million per year. Other recent significant cost reduction measures include barrier and motor performance improvements. Also, by changing bearing operation conditions, compressor bearing losses have been significantly reduced. This allows more power to be directed to the diffusion process, thus improving overall cascade operating efficiency. As a result of technical and operating improvements such as these, more than $35 million in production costs alone were saved in FY 1985.

The GDP's have demonstrated an outstanding on-stream availability record of over 99 percent, clearly showing excellent equipment performance and reliability. The individual diffusion plants have been operating at production levels ranging from low (25 percent) to near full capacity. Nevertheless, the operating experience during this period has shown that production reliability did not diminish. Major GDP equipment mean times between failures range from 10 years for compressor shaft seals to more than 250 years for control valves, diffusers, gas coolers, and coolant condensers. The high level of reliability makes the plants very easy to control and monitor with remarkably few operating personnel.

Atomic Vapor Laser Isotope Separation Technologies

DOE is developing and advanced enrichment process, the AVLIS process. This process offers the potential for significantly lower production costs as a result of its reliance on the highly selective laser ionization of uranium-235. It is expected that at the time of initial AVLIS production, the state of the technology will permit production costs of about $70 per SWU, with the potential of continued reduction in cost to approximately half that value.

The AVLIS process is currently being developed for DOE in Government-owned facilities operated by the Lawrence Livermore National Laboratory and MMES. A cadre of over 300 highly skilled technical personnel are currently employed in the AVLIS program.

As presently structured, the AVLIS program consists of three phases: technology development, engineering demonstration, and production demonstration. The program is now nearing completion of the technology development and has begun to enter the engineering demonstration phase. Development to date has featured component operation with near full scale equipment and test of uranium enrichment in one-quarter and one-half scale systems.

The engineering demonstration phase will consist of the design, fabrication, and test of plant scale enrichment equipment. Presently, the construction of the full scale facility is complete, and much of the equipment to be evaluated in this phase is installed. Projections of plant costs that were begun in the technology development phase will continue to be improved.

The production demonstration phase will verify AVLIS plant process reliability, availability, and operating costs, and will consist of routine operation of multiple AVLIS separator and laser units in a plant configuration and plant maintenance procedures.

The Government schedule for AVLIS development and demonstration is intended to support a deployment decision to permit first AVLIS production in the mid- to late-1990's. The engineering demonstration phase is planned for the 1988–1992 time period and extended production demonstrations would be completed 2–4 years later. The timing of a decision to proceed with production demonstration and the initiation of detailed design activities for a production plant will depend upon uranium enrichment market needs and the extent to which the private sector is willing and able to finance and construct AVLIS production plants.

Over the long term, other applications of the AVLIS technology appear to be promising, such as the separation of other than uranium isotopes of commercial interest. Moreover, it is expected that the technology developed to build and operate high powered lasers and to economically vaporize and collect metals will find other industrial applications.

To date, the Government investment in AVLIS development exceeds $400 million. In FY 1986 and FY 1987, DOE expects to spend an additional $135 million. DOE estimates that $400 million will be required beyond FY 1987 to complete the development of the engineering demonstration phase, and roughly an additional $400 million will be required to complete the production demonstration phase, including the operation of a plant module. Because the architecture of the plant is inherently modular, an incremental approach to plant construction is feasible. Current estimates of the cost of constructing a 2–3 million SWU per year AVLIS plant are in the $500 million range, and a 12 million SWU per year AVLIS plant would be in the $1.5 billion range.

Request for Expressions of Interest

DOE is seeking responses from qualified parties describing their desired involvement in the U.S. uranium enrichment program. The Government is willing to take steps to provide access to its GDP's, its AVLIS technology, or to any other facilities or aspects of its uranium enrichment program deemed relevant to private sector participants. This request for expressions of interest is not intended to be a solicitation for proposals. Instead, it is an attempt to obtain information and to identify possible or interested private sector participants qualified to enter into an industrial access program for the purpose of eventually assuming total financial and operational responsibility for current uranium enrichment production facilities and/or advanced uranium enrichment technology development and deployment. Depending on the nature of responses and subsequent evaluations, a formal solicitation for competitive proposals may be published indicating that the Government may be prepared to enter into a mutually beneficial agreement, including but not limited to a cooperative agreement to share technical, managerial, and financial responsibility for uranium enrichment.

There are no preconceived requirements or limitations concerning either the nature or the extent of private involvement in the uranium enrichment program that may be addressed. Although DOE considers that the substantial promises of AVLIS technology could elicit private sector interest, expressions of interest involving all technologies are welcome.

With respect to AVLIS technology, DOE recognizes the need for a strong industrial base to carry AVLIS technology out of the laboratory into commercial operation. In anticipation of possible direct private participation and financial commitment to AVLIS and/or DOE's uranium enrichment program in general, DOE will institute an industrial access program attuned to the nature of responses to this request for expressions of interest. Initial meetings to provide participants with background information will be conducted on an unclassified basis following identification of interested parties responding to this announcement. More detailed classified briefings will follow as security clearances are obtained. Industrial participants will be selected on the basis of their responses to this

and subsequent solicitations. Participants will be required to pay yearly access fees and provide assessment reports.

Statements of Interest

In order to expedite the evaluation of responses to this announcement, Statements of Interest should be limited to a total of fifty 8½" by 11" double-spaced pages. Responses should be structured to address:

1. An explicit statement of what the respondent is interested in, and the terms and conditions attached to the respondent's proposed participation in DOE's uranium enrichment enterprise.

2. A description of the financial ability of the respondent to honor his prospective commitment, including a description of the submitting organization's plans for supplying adequate working capital.

3. Information regarding the management experience of the submitting organization and the experience of each officer or key person in the submitting organization who will be associated with the proposed participation.

4. The type of Government security clearances possessed by the firm and principal staff associated with the responses to this announcement.

5. A general description of the submitting organization's management concept and business plan or plan of operations to be employed in carrying out the proposal involvement, including participation in an industrial access program.

6. A statement of terms and conditions the Government must agree to in order to satisfy financial or operational requirements of the respondent.

7. Any other options, alternatives, etc., which the submitter believes DOE might wish to consider in assessing his options, or for consideration in the evaluation of various alternatives which are available to DOE.

8. The specific period of time during which the submitter would commit to participate in the program.

9. A statement of the estimated time that it would take the submitting organization to prepare a formal proposal under a competitive process should DOE seek same.

10. A brief history of the existing organization, including description of its domestic and foreign ownership.

The limitation of submission length does not include or restrict appendices or other such supplementary material or attachments.

Unclassified Briefing

The Department will provide further details at an unclassified briefing beginning at 9 a.m. on May 6, 1986, at the Germantown address appearing elsewhere in this announcement in order to assist potential respondents to more fully understand the scope and complexity of the U.S. DOE uranium enrichment enterprise.

Qualifications of Respondents

In general, qualified respondents will be expected to have substantial experience in advanced technology programs including the operation and management of large production facilities comparable in size and complexity to the enrichment enterprise. Other qualifications include a substantial financial base appropriate to the size of the proposed undertaking as well as evidence that the proponent is willing and able to consider future financial commitments, U.S ownership or control, and the ability to handle Secret/Restricted Data (if selected).

Proprietary Information

If prospective respondents are providing, as part of their Statement of Interests certain data containing trade secrets or commercial or financial information that is privileged or confidential and which the respondent does not want disclosed to the public or used by the Government for any purpose other than this solicitation, the respondent should place the following notice on the Statement of Interest.

Notice

The data contained in pages —— of this Statement of Interest have been submitted in confidence and contain trade secrets or commercial or financial information that is confidential or privileged, and such data should be used or disclosed only for evaluation purposes, provided that if an agreement is entered into as a result of or in connection with the submission of this Statement of Interest, the Government shall have the right to use or disclose the data herein to the extent provided in such agreement. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source, including the respondent.

Reference to this notice should be placed on each page to which the notice applies.

Number of Copies Required and Marking of Submission

Each submission should be provided in one original and eight copies, and should clearly identify itself as a submission under this announcement by carrying the following legend on its face page.

This submission is provided in response to the DOE Request for Expressions of Interest regarding participation in the uranium enrichment program.

Submission Preparation Costs

The Department is under no obligation to pay for any costs associated with the preparation of Expressions of Interest.

Submission Deadline

The deadline date for receipt of submissions is 5:00 p.m., e.s.t., on May 30, 1986, at the following address: Mr. Donald Booher, Office of Uranium Enrichment, NE-34, U.S. Department of Energy, Washington, DC 20545.

Questions regarding this request should be directed to Mr. Booher at 301-353-4651.

Dated: April 3, 1986.

James W. Vaughan, Jr.,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 86-7898 Filed 4-4-86; 9:34 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[Docket No. ERA-C&E-86-26 OFP Case No. 52748-3482-20, 21, 22-22]

Southwestern Public Service Co.; Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting Southwestern Public Service Co., exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On January 14, 1986, Southwestern Public Service Company (SPS), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant at its existing Jones Station, operated by SPS from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternative fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

SPS requested a permanent peakload exemption under 10 CFR 503.41 for three peaking gas turbines with a maximum capacity of 150 MW each.

Jones Station is located in Lubbock County, Texas, near Lubbock, Texas.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to SPS a permanent peakload powerplant exemption from the prohibitions of FUA for the proposed peaking gas turbines at the aforementioned installation.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on June 6, 1986.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–045, Washington, DC 20585, Telephone (202) 252–6769

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue SW., Room 6A–113, Washington, DC 20585, Telephone (202) 252–6947.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an examption for such use has been granted by ERA. SPS has filed a petition for a permanent peakload powerplant exemption to use natural gas or oil as a primary energy source in its proposed Jones Station facility's simple-cycle combustion turbine installation.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this petition in the **Federal Register** on February 4, 1986, (51 FR 4424), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the SPS petition to the Envionmental Protection Agency for its comments. During the period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed March 21, 1986. No comments were received and no hearing was requested.

SPS certified in its Petition for Exemption that the proposed unit will be operated solely as a peakload powerplant. To be included within the basic definition of "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1500 hours."

SPS has further certified that it will, prior to operating the units under the exemption, secure all applicable environmental permits and approvals pursuant thereto.

As ERA has determined that no alternate fuels are presently available for use in the proposed unit, ERA has waived the requirement of 10 CFR 503.41(a)(2)(ii) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplant of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standards is, or would be, exceeded.

Decision and Order

Accordingly, based upon the entire record of this proceeding, ERA has determined that SPS has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants SPS a permanent exemption for a peakload powerplant to be installed at its facility near Lubbock, Texas, permitting the use of natural gas or oil as a primary energy source in the units.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on March 26, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–7696 Filed 4–4–86; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–86–28; OFP Case No. 52748–9310–20, 21, 22–22]

Southwestern Public Service Co.; Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order granting Southwestern Public Service Co. exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On January 14, 1986, Southwestern Public Service Company (SPS), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant at its existing Maddox Station, operated by SPS from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

SPS requested a permanent peakload exemption under 10 CFR 503.41 for three peaking gas turbines with a maximum capacity of 150 MW each.

Maddox Station is located in Lea County, New Mexico, near Hobbs, New Mexico.

Pursuant to section 212(g) of the Act and 19 CFR 503.41, ERA hereby issues this order granting to SPS a permanent peakload powerplant exemption from the prohibitions of FUA for the proposed peaking gas turbines at the aforementioned installation.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on June 6, 1986.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA–045, Washington, DC 20585, Telephone (202) 252–6769

Steven E. Ferguson, Esq., Office of General Counsel, Department of

Energy, 1000 Independence Avenue SW., Room 6A–113, Washington, DC 20585, Telephone (202) 252–6947.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. SPS has filed a petition for a permanent peakload powerplant exemption to use natural gas or oil as a primary energy source in its proposed Maddox Station facility's simple-cycle combustion turbine installation.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this petition in the **Federal Register** on February 4, 1986, (51 FR 4424), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the SPS petition to the Environmental Protection Agency for its comments. During that period, interested pesons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed March 21, 1986. No comments were received and no hearing was requested.

SPS certified in its Petition for Exemption that the proposed unit will be operated solely as a peakload powerplant. To be included within the basic definition of "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1500 hours."

SPS has further certified that it will, prior to operating the units under the exemption, secure all applicable environmental permits and approvals pursuant thereto.

As ERA had determined that no alternate fuels are presently available for use in the proposed unit, ERA has waived the requirement of 10 CFR 503.41(a)(2)(ii) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplant of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standards is, or would be, exceeded.

Decision and Order

Accordingly, based upon the entire record of this proceeding, ERA has determined that SPS has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants SPS a permanent exemption for a peakload powerplant to be installed at its facility near Hobbs, New Mexico, permitting the use of natural gas or oil as a primary energy source in the units.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register.**

Issued in Washington, DC, on March 26, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–7697 Filed 4–4–86; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA–C&E–86–27; OFP Case No. 52748–2454–20, 21, 22–22]

Southwestern Public Service Co.; Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Order Granting Southwestern Public Service Co. Exemption from the Prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On January 14, 1986, Southwestern Public Service Company (SPS), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant at its existing Cunningham Station, operated by SPS from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

SPS requested a permanent peakload exemption under 10 CFR 503.41 for three peaking gas turbines with a maximum capacity of 150 NW each.

Cunningham Station is located in Lea County, New Mexico, near Hobbs, New Mexico.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to SPS a permanent peakload powerplant exemption from the prohibitions of FUA for the proposed peaking gas turbines at the aforementioned installation.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordance with section 702(a) of FUA, this order and its provisions shall take effect on June 6, 1986.

FOR FURTHER INFORMATION CONTACT:

Myra L. Couch, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–045, Washington, DC 20585, Telephone (202) 252–6769

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A–113, Washington, DC 20585, Telephone (202) 252–6947.

The public file containing a copy of this order and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E–190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. SPS has filed a petition for a permanent peakload powerplant exemption to use natural gas or oil as a primary energy source in its proposed Cunningham Station facility's simple-cycle combustion turbine installation.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d), ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this petition in the **Federal Register** on

February 4, 1986, (51 FR 4424), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of the SPS petition to the Environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed March 21, 1986. No comments were received and no hearing was requested.

SPS certified in its Petition for Exemption that the proposed unit will be operated solely as a peakload powerplant. To be included within the basic definition of "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1500 hours."

SPS has further certified that it will, prior to operating the units under exemption, secure all applicable environmental permits and approvals pursuant thereto.

As ERA has determined that no alternate fuels are presently available for use in the proposed unit, ERA has waived the requirement of 10 CFR 503.41(a)(2)(ii) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplant of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standards is, or would be, exceeded.

Decision and Order

Accordingly, based upon the entire record of this proceeding, ERA has determined that SPS has satified all of the eligibility requirements for the requested exemption as set forth in CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants SPS a permanent exemption for a peakload powerplant to be installed at its facility near Hobbs, New Mexico, permitting the use of natural gas or oil as a primary energy source in the units.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the Federal Register.

Issued in Washington, DC, on March 28, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-7698 Filed 4-4-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER86-375-000 et al.]

Electric Rate and Corporate Regulation Filings; Commonwealth Edison Co. et al.

April 1, 1986.

Take notice that the following filings have been made with the Commission:

1. Commonwealth Edison Company

[Docket No. ER86-375-000]

Take notice that Commonwealth Edison Company on March 27, 1986 tendered for filing a Letter Agreement dated May 8, 1979 between Commonwealth Edison Company (Commonwealth), and Wisconsin Power and Light Company (Wisconsin Power).

The Letter Agreement provides for Commonwealth to supply Limited Term Power to Wisconsin Power in order to provide the Wisconsin Pool with generating capacity and to effect economies of operation among the parties.

Copies of the filing were served upon Wisconsin Power, the Illinois Commerce Commission, Springfield, Illinois, and the Public Service Commission of Wisconsin, Madison, Wisconsin.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Commonwealth Edison Company

[Docket No. ER86-374-000]

Take notice that Commonwealth Edison Company on March 27, 1986 tendered for filing a Letter Agreement dated March 21, 1979 between Commonwealth Edison Company (Commonwealth), and Wisconsin Electric Power Company (Wisconsin Electric).

The Letter Agreement provides for Commonwealth to supply Limited Term Power to Wisconsin Electric in order to provide the Wisconsin Electric with generating capacity and to effect economies of operation among the parties.

Copies of the filing were served upon Wisconsin Electric, the Illinois Commerce Commission, Springfield, Illinois, and the Public Service Commission of Wisconsin, Madison, Wisconsin.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Idaho Power Company

[Docket No. ER86-367-000]

Take notice that on March 24, 1986, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during January 1986, along with cost justification for the rate charged. This filing includes the following supplements:

- Utah Power & Light Company, Supplement No. 50
- Portland General Electric, Supplement No. 43
- Washington Water Power, Supplement No. 36
- Sierra Pacific Power Company, Supplement No. 47
- California Dept. of Water Resources, Supplement No. 4
- Western Area Power Administration, Supplement No. 11
- San Diego Gas & Electric, Supplement No. 32
- City of Burbank, Supplement No. 28
- Southern California Edison, Supplement No. 37
- Pacific Gas & Electric, Supplement No. 18
- City of Glendale, Supplement No. 29
- City of Pasadena, Supplement No. 27
- Los Angeles Dept. of Water & Power, Supplement No. 32

Comment date: April 14, 1986, in accordance with Standard Paragraph H at the end of this notice.

4. Kansas Gas and Electric Company

[Docket No. ER86-373-000]

Take notice that Kansas Gas and Electric Company on March 25, 1986, tendered for filing a proposed change in its FERC Electric Service Tariff No. 93. The proposed Letter of Intent specifies the amount of transmission capacity requirements for four Delivery Points, for the period from June 1, 1986 through May 31, 1987.

The Letter of Intent is necessary because KPL has requested a change in the amount of transmission capacity to be reserved for KPL's use and the Letter of Intent is required by the terms of the service schedule.

Copies of the filing were served upon The Kansas Power and Light Company and the Kansas Corporation Commission.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this document.

5. Maine Public Service Company

[Docket No. ER86-301-000]

Take Notice that Maine Public Service Company ("MPSC"), on March 27, 1986, tendered for filing an initial rate schedule providing for the transmission of electric energy from Fairfield Energy Venture in Fort Fairfield, Maine, a qualifying small power production facility, to The New Brunswick Electric Power Commission ("NB Power"). NB Power will also transmit the electric energy for eventual delivery to Central Maine Power Company.

The initial rate is based on a formula which will track the costs of MPSC's transmission system and will allocate a specific portion of those costs to Fairfield. It is anticipated that this service will produce revenues of $484,000, based on the twelve month period ending December 31, 1985.

Copies of the filing were served on Fairfield Energy Venture, the Maine Publish Utilities Commission and the Maine Public Advocate.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Oxbow Geothermal Corporation

[Docket No. EL86-30-000]

On March 24, 1986, Oxbow Geothermal Corporation ("Oxbow"), whose address is 333 Elm Street, Dedham, Massachusetts 02026, filed with the Federal Energy Regulatory Commission ("Commission") its Petition for Declaratory Order Granting Waivers of Commission Regulations Under The Federal Power Act, pursuant to Commission Rule 207(a)(2).

Oxbow has acquired three geothermal small power projects, each of which was certified as a qualifying small power production facility under their prior ownership, *TGS Associates, Dixie Central, Small Power Production and Cogeneration Facility*, Docket No. QF84-463-001, 30 FERC Para. 62,072 (January 18, 1985), *TGS Associates, Spring Creek Small Power Production and Cogeneration Facility*, Docket No. QF84-462-001, 30 FERC Para. 62,071 (January 18, 1985), and *Sun Geothermal Company, Dixie Valley, Small Power Production and Cogeneration Facility*, Docket No. QF84-256-000, 28 FERC Para. 62,006 (July 3, 1984). Oxbow has filed three applications with the Commission for recertification of these products as qualifying small power production facilities. Docket No. QF86-649, QF86-650, and QF86-651. Oxbow proposes to build, own and operate an approximately 210 mile, 230 kv transmission line solely to transmit electricity from these facilities in Dixie Valley, Nevada, to Southern California Edison's ("SCE") substation in Bishop, California, pursuant to power purchase contracts Oxbow has with SCE. Oxbow will not charge SCE for use of the transmission line; rather, under the power purchase contracts, SCE will pay Oxbow for the power on the basis of SCE's avoided costs. Since the price Oxbow will receive will be based completely on SCE's avoided costs, and not on the facilities' cost of service, there will be no rate for the Commission to regulate.

Accordingly, Oxbow has requested issuance by the Commission of a declaratory order waiving the rate regulatory, accounting and reporting regulations under the Federal Power Act with respect to its transmission line. Oxbow also seeks waivers for the transmission line which will: Allow it to file only the minimum information necessary to satisfy the statutory requirements on property disposition; authorize otherwise proscribed interlocking directorates upon the filing of an abbreviated application describing the interlocks; dispense with the full filing requirements regarding the issuance of securities and the assumption of liability, to require only notice and approval of the Commission prior to undertaking such action. Oxbow has further requested that the Commission include in its order a declaration that for purposes of Para. 292.206, Oxbow's ownership of the subject transmission line and the attendant potential status as an electric utility, resulting entirely from such transmission line ownership, will not adversely affect the exemptions that the associated Oxbow qualifying facilities are entitled to under PURPA.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Pennsylvania Power & Light Company

[Docket No. ER86-377-000]

Take notice that Pennsylvania Power & Light Company (PP&L) tendered for filing on March 27, 1986, as a Supplement to its Rate Schedule FERC No. 84 an executed agreement dated as of February 28, 1986 between PP&L and Jersey Central Power & Light Company (JC). The agreement reduces the rate of return on common equity in the formula rate from 15.5% to 14.5%. A Certificate of Concurrence executed by JC accompanied PP&L's filing.

Copies of PP&L's filing have been served upon JC and the Pennsylvania Public Utility Commission and the New Jersey Board of Public Utilities.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. San Diego Gas & Electric Company

[Docket No. ER86-376-000]

Take notice that on March 27, 1986 San Diego Gas & Electric Company ("SDG&E") tendered for filing rate schedule changes of the following agreements between San Diego Gas & Electric Company and Southern California Edison Company (Edison):

1. Short Term Firm Transmission Service Agreement (FPC 58).
2. Interruptible Transmission Service Agreement (FPC 59).
3. Firm Transmission Service Agreement (FPC 60).

Under the terms of the agreements, SDG&E will make available to Edison firm and interruptible transmission service between points near the U.S.-Mexico border and San Onofre.

SDG&E has requested an effective date of January 1, 1986 and therefore, SDG&E is requesting a waiver of the prior notice requirements.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this document.

9. Tucson Electric Power Company

[Docket No. ER86-371-000]

Take notice that Tucson Electric Power Company ("Tucson") on March 27, 1986, tendered for filing a Short Term Energy Agreement between Tucson and Texas-New Mexico Power Company ("TNP"). The primary purpose of this Agreement is to provide the terms and conditions relating to the sale by Tucson and the purchase by TNP of energy between April 1, 1986 and midnight, March 31, 1987. Tucson states that copies of the filing were served upon TNP.

Comment date: April 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211

and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7642 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 9140-000 et al.]

Charles F. Heimerdinger et al.; Availability of Environmental Assessment and Finding of No Significant Impact

March 31, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No., project name, and State	Water body	Nearest town	Applicant
Exemptions			
9140-000: Elizabethtown Hydro, New York	The Branch Stream	Elizabethtown	Charles F. Heimerdinger.
9397-000: Kirk/Page Hydrogeneration Facility, California.	South Bay Aqueduct	Campbell	Santa Clara Valley Water District.
9421-000: Gardner Brook, Maine	Gardner Brook	Andover	Dale R. Davis.
Licensees			
8971-001: Lincoln Bypass, Idaho	Big Wood River	Shoshone	Big Wood Canal Company.
9044-000: Bigg's Creek, Washington	Bigg's Creek	Yacolt	Fredrick Earl Pickering.
9300-000: Appleton Trust, Massachusetts	Hamilton Canal	Lowell	Appleton Trust.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7644 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP84-658-003 et al.]

ANR Pipeline Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP84-658-003]

March 26, 1986.

Take notice that on March 17, 1986, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP84-658-003 a petition to amend the Commission's Order issued on December 10, 1984, in Docke No. CP84-658-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

It is stated that on December 10, 1984, the Commission issued a certificate of public convenience and necessity authorizing ANR to transport up to 4,000 Mcf of natural gas per day for Southern Natural Gas Company (Southern) from Locust Ridge Gas Company (Locust Ridge) in Tensas Parish, Louisiana, to Southern in St. Mary Parish, Louisiana.

ANR states that on January 22, 1986, ANR and Southern executed an amendment to the transportation agreement, dated September 12, 1983, and that ANR requests modification of the Commission's order to authorize an increase in the daily contract demand. ANR states that the amendment provides for ANR to take receipt of up to an additional 2,750 Mcf of natural gas per day, or such other volumes as the parties may agree on an interruptible basis, from Locust Ridge at an interconnection in Tensas Parish, Louisiana and deliver equivalent volumes to Southern at its Shadyside compressor station in St. Mary Parish, Louisiana.

Comment date: April 17, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice

2. Southern Natural Gas Company; South Georgia Natural Gas Company

[Docket No. CP86-366-000]

March 31, 1986.

Take notice that on March 7, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, and South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792 (Applicants), filed jointly in Docket No. CP86-366-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Floridin Company (Floridin) and for permission and approval to abandon such service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to transport on an interruptible basis up to 5 billion Btu of natural gas per day for a term of one year from the date of any order issued herein. It is stated that the subject gas is purchased by Floridin from SNG Trading Inc. (SNG) and that South Georgia has agreed to act as agent for Floridin. It is explained that pursuant to an agreement dated February 20, 1986, between Southern and South Georgia, South Georgia would cause the gas to be delivered to Southern at existing delivery points in Breton Sound, offshore Louisiana; St. Mary Parish, Louisiana; and St. Bernard Parish, Louisiana. It is stated that Southern would redeliver the gas to South Georgia at an existing point of interconnection between Applicants in Lee County, Alabama, less 3.25 percent of the volume transported for fuel use.

Pursuant to the February 17, 1986, agreement between South Georgia and Floridin, it is indicated that South Georgia would redeliver the gas to Floridin at the Floridin meter station at mile post 15.043 on South Georgia's Line

No. 19 in Gadsden County, Florida, less 0.5 percent of the transported volume for fuel loss.

If is stated that the Southern agreement provides that South Georgia would pay Southern each month for performing the transportation service rendered thereunder the following transportation rate:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to South Georgia do not exceed the daily contract demand of South Georgia, the transportation rate would be 39.9 cents per million Btu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to South Georgia exceed the daily contract demand of South Georgia, the transportation rate for the excess volumes would be 84.9 cents per million Btu.

It is stated that Floridin has agreed to pay South Georgia each month a transportation rate of 49.88 cents for each million Btu of gas redelivered by South Georgia. The agreements also provide for collection of the GRI surcharge of 1.35 cents per Mcf or any such other GRI funding unit or surcharge as hereafter prescribed, it is stated.

Applicants also request flexible authority to provide transportation from additional delivery points in the event Floridin obtains alternative sources of supply of natural gas. It is indicated that the additional transportation service would be to the same redelivery points, the same recipient, and within the maximum daily transportation volume of gas as stated in the application. Applicants state that they would file a report providing certain information with regard to the addition of any delivery points.

Comment date: April 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Techstaff Transmission Company

[Docket No. CP86-394-000]

March 31, 1986.

Take notice that on March 19, 1986, Techstaff Transmission Company (Techstaff), 811 Dallas, Suite 707, Houston, Texas 79002, filed in Docket No. CP86-394-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construciton and operation of facilities and the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Techstaff proposes to construct and operate about 8 miles of 12-inch pipeline and related facilities extending from ANR Pipeline Company's (ANR) transmission facilities in Porter County, Indiana to Bethlehem Steel Corporation's (Bethlehem) plant located at Burns Harbor, Indiana. The estimated cost of the proposed facilities is $9,630,850, it is stated.

Techstaff further proposes to transport up to 76,000 Mcf of natural gas per day through the proposed facilities for Bethlehem. It is stated that Techstaff would render the service for a primary term of 5 years. The gas to be transported would be purchased by Bethlehem from suppliers in Kansas, Oklahoma, Texas and Louisiana, it is explained. It is further explained that ANR has filed an application in Docket No. CP84-386-000 proposing the transportation of Bethlehem's gas for redelivery to Techstaff in Porter County, Indiana.

Techstaff states that Bethlehem has agreed to reimburse Techstaff the cost of constructing the proposed facilities. It is further stated that Techstaff proposes that it be reimbursed its construction costs at a rate of 40.0 cents per Mcf of gas transported, or the payment of $1,550,000 during each successive three-month period, whichever is greater, until such time that all construction costs are recouped. In addition to the reimbursement of construction costs, Bethlehem would pay Techstaff a monthly transportation fee of about $35,250, it is explained.

Comment date: April 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Trunkline Gas Company

[Docket No. CP86-377-000]

March 31, 1986.

Take notice that on March 12, 1986, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP86-377-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Champlin Petroleum Company (Champlin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 3,500 Mcf of natural gas per day for Champlin on an interruptible basis. It is stated that the gas would be produced by Champlin in Ship Shoal Block 165, offshore Lousiana, and received by Applicant at an interconnection with Applicant's facilities to be constructed in Ship Shoal Block 162, offshore Louisiana. Applicant proposes to deliver the gas to an existing interconnection with Columbia Gulf Transmission Company (Columbia Gulf) in St. Mary Parish, Louisiana. It is stated that in Docket No. CP85-323-000 Columbia Gulf filed to transport the gas to Texas Gas Transmission Corporation (Texas Gas) in Acadia Parish, Louisiana, for the account of Champlin, for Texas Gas' system supply.

Applicant proposes to charge Champlin a transportation rate of 3.95 cents per Mcf of gas for the proposed transportation.

Comment date: April 21, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7643 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-5716-030, et al.]

Mobil Oil Corp., et al.; Applications for Certificates, Abandonments of Service and Petitions To Amend Certificates[1]

March 31, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 17, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft³	Pressure base
G-5716-030, D, Mar. 24, 1986	Mobil Oil Corporation, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046-0957.	Northern Natural Gas Company, Hugoton Field, Stevens and Finney Counties, Kansas.	[1]	
G-7642-014, D, Mar. 26, 1986	....do	Northern Natural Gas Company Hugoton Field, Stevens County, Kansas.	[1]	
G-7643-007, D, Mar. 24, 1986	....do	....do	[1]	
G-10143-003, D, Mar. 24, 1986	ARCO Oil & Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Tennessee Gas Pipeline Company, West Delta and Grand Isle, Offshore Louisiana.	[2]	
G-11742-017, D	Mobil Oil Corporation	Northwest Central Pipeline Corporation, Hugoton Field, Haskell and Kearny Counties, Kansas.	[1]	
CI69-958-001, D, Mar. 10, 1986	ARCO Oil & Gas Company, Division of Atlantic Richfield Company.	Southern Natural Gas Company, Bayou Bouillon, St. Martin Parish, Louisiana.	[2]	
CI75-128-001, D, Mar. 11, 1986	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Trunkline Gas Company, N/2 South Marsh Island Block 261, Offshore Louisiana.	[3]	
CI75-761-000, D, Mar. 11, 1986	....do	....do	[3]	
CI83-28-001, D, Mar. 19, 1986	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Tennessee Gas Pipeline Company, South Timbalier Blocks 29 and 38 Field, Offshore Louisiana.	[4]	
CI86-256-000, F, Mar. 12, 1986	Amoco Production Company (Succ. in interest to W. A. Moncrief, Jr.) 1670 Broadway, Room 1754, Denver, Colorado 80292.	Northwest Pipeline Corporation, Certain acreage in San Juan County, New Mexico.	[5]	
CI86-262-000 (G-3895), B, Mar. 13, 1986	Phillips Oil Company, 336 HS&L Bldg., Bartlesville, Okla. 74004.	Texas Eastern Transmission Corporation, West Arnecksville Field, Dewitt County, Texas.	[6]	
CI86-264-000, B	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Texas Eastern Transmission Corporation, North Beeville Field, Bee County, Texas.	[7]	
CI86-268-000, A, Mar. 17, 1986	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Tennessee Gas Pipeline Company, E. Cameron Block 33, Offshore Louisiana.	[8]	
CI86-269-000, A, Mar. 17, 1986	Exxon Corporation, P.O. Box 2180, Houston, Texas 77252-2180.	Columbia Gas Transmission Corporation, Grand Isle Block 16, Offshore Louisiana.	[9]	
CI86-271-000, B, Mar. 14, 1986	Tenneco Oil Company for Houston Oil & Minerals Corporation, P.O. Box 2511, Houston, Texas 77001.	Tennessee Gas Pipeline Company, Lease OCS-G-2303, Offshore Louisiana.	[10]	
CI86-273-000, (CI81-314-000), B, Mar. 17, 1986	Marathon Oil Company, P.O. Box 3128, Houston, Texas 77253.	Natural Gas Pipeline Company of America, Eugene Island Block 345, Offshore Louisiana.	[11]	
CI86-274-000, (CI77-873), B, Mar. 17, 1986	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla. 74102.	Panhandle Eastern Pipe Line Company, Texas County, Oklahoma.	[12]	
CI86-275-000, B, Mar. 18, 1986	Crystal Oil Company, P.O. Box 21101, Shreveport, La. 71120.	Texas Gas Transmission Corporation, Minden Field, Webster Parish, Louisiana.	[13]	
CI86-277-000 (CI79-913), B, Mar. 20, 1986	Cities Service Oil and Gas Corp.	Arkansas Louisiana Gas Company, Chickasha Field, Grady County, Oklahoma.	[14]	
CI86-280-000 (CI77-534), B, Mar. 21, 1986	Union Exploration Partners, Ltd., P.O. Box 7600, Los Angeles, Calif. 90051.	Texas Eastern Transmission Corporation, Block 64 Field, Vermilion Area, Offshore Louisiana.	[15]	
CI86-284-000 (G-2855), B, Mar. 21, 1986	Union Texas Petroleum Corporation, P.O. Box 2120, Houston, Texas 77252-2120.	Transwestern Pipeline Company, Atoka Field, Eddy County, New Mexico.	[16]	
CI86-285-000, B, Mar. 24, 1986	Kaiser Energy, Inc., P.O. Box 8, Ravenswood, W.VA. 25186.	Columbia Gas Transmission Corporation, Elk-Poca Field, Kenna Quad, Jackson County, West Virginia.	[17]	
CI86-286-000, B, Mar. 24, 1986	Oleum Incorporated, LTV Center, Suite 1500, 2001 Ross Avenue, Dallas, Texas 75201.	Transcontinental Gas Pipe Line Corp., Bancker Field, Vermilion Parish, Louisiana.	[18]	
CI86-287-000, B, Mar. 24, 1986	....do	Transcontinental Gas Pipe Line Corp., Theall Field, Vermilion Parish, Louisiana.	[19]	
CI86-288-000 (CI78-822), B, Mar. 24, 1986	The Superior Oil Company, Nine Greenway Plaza, Suite 2700, Houston, Texas 77046.	Transwestern Pipeline Company, Horseshoe Bend Field, Eddy County, New Mexico.	[20]	
CI86-289-000, B, Mar. 25, 1986	Petro-Energy Exploration, Inc., Route 4, Box 15-A, 5220 North 81 Bypass, Enid, Okla. 73701.	Panhandle Eastern Pipe Line Company, Section 12, Township 25 North 14 West, Northwest Oakdale Field, Woods County, Oklahoma.	[21]	

[1] To release gas for irrigation fuel.
[2] ARCO no longer owns an interest in subject acreage to be released.
[3] Partial Assignment of interest.
[4] Federal lease OCS-G-2626 (South Timbalier Block 38) was terminated when the suspension of production was cancelled by the Minerals Management Service.
[5] By an instrument dated 5-30-84, Moncrief assigned to Amoco the interest committed by him to the 1985 contract. The effective date of the assignment was 6-1-84.
[6] The gas production from the leases subject to this sale had dropped below the commercial quantity required by the Railroad Commission to retain the lease. Ownership has reverted back to the landowners.
[7] Kessler-Collier Gas Unit Well #1 was plugged and abandoned in 1959. The contract has been cancelled due to cessation of gas production.
[8] Applicant is filing under contract dated 2-26-86.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

[9] Applicant is filing under contract dated 2-12-86.
[10] Reservoir has been depleted of all economically recoverable reserves from the wells; A-1, A-2 and A-3.
[11] Gas reserves were depleted and the wells were plugged and abandoned. The lease was terminated and released to the lessor.
[12] The Webb "D" #1 gas well committed under the subject gas well gas contract was converted to an oil well on 10-14-80. There has been no gas production from the subject acreage since that date.
[13] Well is incapable of producing gas in paying quantities from its current perforations.
[14] The only producing well on the McCaughlry Gas Unit was plugged in November, 1980. Lease is held by oil production from shallower depths then committed under the contract.
[15] Gas reserves were depleted. Wells plugged and abandoned and the Platform removed. The lease expired on 1-25-85.
[16] Contract expired on 1-1-85. All wells dedicated thereto have been plugged and abandoned.
[17] Purchasers determined the purchase of gas supplies from the 3 wells and associated leases is greater than the price for which it can purchase gas along its pipeline network and is therefore willing to release the gas production of 3 wells and associated leases (approximately 399 acres) from the Gas Purchase Contract.
[18] The reserves attributable to the referenced field have been depleted, the gas production ceased in February, 1968, and the wells have been plugged and abandoned. The contract expired of its own term in 1978.
[19] The reserves attributable to the referenced field have been depleted, the gas production ceased in April, 1977, and the wells have been plugged and abandoned. The contract was terminated effective 2-25-86.
[20] The interest on one well was assigned and one well was plugged and abandoned.
[21] Uneconomical.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-7646 Filed 4-4-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. CS86-38-000 et al.]

Texona Associates Limited, et al.; Applications for "Small Producer" Certificates [1]

March 31, 1986.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said applications should on or before April 16, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No.	Date filed	Applicant
CS86-38-000	3-10-86	Texona Associates Limited, 9400 N. Central Expressway, L.B. 222, Dallas, Texas 75231.
CS86-39-000	3-10-86	Lexey C. Lambert, 100 N. Stone Ave., Suite 1002, Tucson, Arizona 85701-1517.
CS86-40-000	3-13-86	Ray Richey & Company, Inc., 724 N. Jim Wright Freeway, Fort Worth, Texas 76108.
CS86-41-000	3-24-86	Altair Energy Corp., 1111 First Place, Tyler, Texas 75702.
CS86-42-000	3-17-86	Spess Oil Company, Inc., 220 North Broadway, Cleveland, Oklahoma 74020.
CS86-43-000	3-17-86	Arkoma Production Company, 5000 Rogers Avenue, Suite 810, Fort Smith, Arkansas 72903.
CS86-46-000	3-21-86	Ambuit Oil Company, Inc., P.O. Box 755, Hobbs, New Mexico 88241.
CS86-47-000	3-21-86	SKZ Inc., P.O. Box 670407, Houston, Texas 77267-0407.
CS86-48-000	3-24-86	John W. McGowan, P.O. Box 55809, Jackson, Mississippi 39216-1809.

[FR Doc. 86-7647 Filed 4-4-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. QF86-592-000 et al.]

The Proctor and Gamble Co. et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph F at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. The Proctor and Gamble Company

[Docket No. QF86-592-000]

March 27, 1986.

On March 10, 1986, The Procter and Gamble Company (Applicant), of P.O. Box 599, Cincinnati, Ohio 45201, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 13.5 MW small power production facility is located at the Applicant's Long Beach plant in Long Beach, California. The primary energy source is biomass in the form of wood waste.

2. California Energy Company, Inc.

[Docket No. QF86-590-000]

April 1, 1986.

On March 10, 1986, California Energy Company, Inc. (Applicant), of 3333 Mendocino Avenue, Suite 100, Santa Rosa, California 95401, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The geothermal small power production facility will be located on the Naval Weapons Center of the United States Navy at China Lake, near Ridgecrest, California. The facility will consist of up to three turbine generating units. The maximum net electric power production capacity of the facility will be 79.5 megawatts. The primary energy source will be geothermal fluids.

3. California Energy Company, Inc.

[Docket No. QF86-591-000]

April 1, 1986.

On March 10, 1986, California Energy Company, Inc. (Applicant), of 3333 Mendocino Avenue, Suite 100, Santa Rosa, California 95401, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The geothermal small power production facility will be located on the Naval Weapons Center of the United States Navy at China Lake, near Ridgecrest, California. The facility will consist of up to three turbine generating units. The maximum net electric power production capacity of the facility will

be 79.5 megawatts. The primary energy source will be geothermal fluids.

4. Chevron U.S.A. Inc.

[Docket No. QF86-602-000]

April 1, 1986.

On March 13, 1986, Chevron U.S.A. Inc. (Applicant), of P.O. Box 1392, Bakersfield, California 93302, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Bakersfield, California. The facility will consist of two combustion turbine generating units with two waste heat recovery steam generators. Steam produced by the facility will be used for tertiary petroleum production. The electric power production capacity of the facility will be 44 MW. The primary energy source will be natural gas. The installation of the facility will begin in the first quarter of 1987.

5. Stone & Webster Development Corporation

[Docket No. QF86-603-000]

April 1, 1986.

On March 12, 1986, Stone & Webster Development Corporation (Applicant), of P.O. Box 2325, Boston, Massachusetts 02107, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Erving Paper Mills, in Erving, Massachusetts 03144. The facility will consist of a coal-fired circulating fluidized bed boiler and an extraction condensing steam turbine-generator. The electric power production capacity of the facility will be 30 MW. The thermal output will be used in the paper mill for space heating and process uses. Installation of the facility is scheduled to begin in June, 1987.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7645 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No TA86-11-20-000 & 001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 2, 1986

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on March 28, 1986 tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1:

Thirteenth Revised Sheet No. 201
Fourth Revised Sheet No. 205
Seventh Revised Sheet No. 241

Algonquin Gas states that such tariff sheets are being filed pursuant to the provisions of its FERC Gas Tariff, Second Revised Volume No. 1 to reflect concurrently in its rates lower purchased gas cost to be charged by its pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), as set forth in Texas Eastern's March 13, 1986 filing, proposed to be effective April 1, 1986.

Algonquin Gas proposes the effective date of the above tariff sheets to be April 1, 1986 to coincide with the proposed effective date of Texas Eastern's rate change.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.W., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 9, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7650 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-48-000, 001]

ANR Pipeline Co.; PGA Rate Change Filing

April 1, 1986.

Take notice that on March 27, 1986, ANR Pipeline Company ("ANR"), pursuant to section 15 of the General Terms and Conditions of its F.E.R.C. Gas Tariff, Original Volume No. 1, tendered for filing with the Federal Energy Regulatory Commission ("Commission") the following tariff sheets:

Fifth Revised Tariff Sheet No. 18
First Revised Tariff Sheet No. 78
Original Tariff Sheet No. 78A
Third Revised Tariff Sheet No. 19

Fifth revised Tariff Sheet No. 18 reflects a 15.76¢ per dekatherm ("dth") decrease in the gas cost component of the commodity rate of ANR's CD-1 and MC-1 Rate Schedules, a decrease of $0.216 in the monthly demand rate of CD-1 and MC-1 Rate Schedules and a decrease in ANR's one-part rates applicable to Rate Schedules SGS-1 and LVS-1 of 18.32¢ and 16.80¢ respectively, per dth.

ANR states that the change in rates set forth above is a result of the following factors which are outlined below:

A. Factors resulting in cost reductions

1. Commodity Costs

a. Substantial reductions in the cost of Canadian gas that has been achieved through the renegotiation of gas purchase contracts.

b. Reductions in the cost of gas from domestic producers by reduction in the market-out price where permitted by contract and through renegotiation of a number of gas purchase contracts.

c. A reduction for the combination of two surcharges associated with decreases in the carrying charges on ANR's take-or-pay balances and charges associated with one-time payments and other reimbursement arrangements negotiated with suppliers in lieu of take-of-pay payments. (See Article IX, B of the Stipulation and Agreement at *ANR Pipeline Company*, Docket Nos. RP82-80, *et. al.*).

d. A reduction resulting from a one-time adjustment for out-of-balance concurrent exchanges to bring Account 191 into appropriate balance as of January 31, 1986, in accordance with

Ordering Paragraph (E) of the Commission's Order issued February 19, 1986 in Docket Nos. TA86-1-48-000, TA86-1-48-002 and TA86-1-48-004.

2. Demand Costs—Reductions in the demand charges for Canadian gas that have been achieved as a result of renegotiated gas purchase contracts.

B. Factors resulting in offsetting cost increases.

1. Commodity Costs

a. Producer price increases for regulated supply sources as authorized by the Natural Gas Policy Act of 1978.

b. An increase in the surcharge for deferred gas costs from a negative 2.37¢ per dth to a positive 6.32¢ per dth.

2. Demand Costs—Increases in demand charges in effect for Texas Gas Transmission Corporation and Northern Natural Gas Company.

ANR requests waiver of section 15 of its F.E.R.C. Gas Tariff and of the thirty (30) day notice requirement of § 154.38(d)(4)(iv)(a) of the Commission's Regulations to place these rates into effect on April 1, 1986, one month earlier than its normal PGA effective date of May 1. ANR also requests waiver of section 154 of the Commission's Regulations to incorporate into its rates the reduced gas costs of Great Lakes Gas Transmission Company ("Great Lakes") subject to Commission acceptance of Great Lakes' Fifty Seventh Revised Sheet No. 57, as filed in Docket No. TA86-5-51-000.

First Revised Tariff Sheet No. 78 and Original Tariff Sheet No. 78A are proposed to conform ANR's tariff language to implement the methodology adopted by the Commission for treatment of concurrent exchange imbalances. ANR states that these tariff sheets were originally filed on March 19, 1986 and are being resubmitted unchanged, except that ANR now proposes an effective date of February 1, 1986.

Third Revised Tariff Sheet No. 19 reflects that since there were zero MSAC's reported by ANR's customers, there is no PGA reduction.

ANR states that copies of the filing were served upon all of its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 8, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7651 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-555-006]

ANR Production Co., Application for Extension of Limited Term Abandonment and Limited Term Sales Authority

March 31, 1986.

Take notice that on March 21, 1986, ANR Production Company (ANR) of 5075 Westheimer, Suite 1100, Galleria Towers West, Houston, Texas 77056, filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations under the NGA for temporary extension of its limited term abandonment and limited term blanket certificate sales authority (LTA) granted by the Commission in Docket No. CI84-555-000. The extension is requested for the period from April 1, 1986 until March 31, 1987. ANR also requests that the Commission consider this application on an expedited basis so that the requested extension can be granted prior to March 31, 1986, the date on which ANR's LTA is currently scheduled to expire. This application is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protests with reference to said application should on or before April 16, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a peition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Dashell,

Acting Secretary.

[FR Doc. 86-7652 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI84-556-007]

Cenergy Exploration Co.; Application for Extension of Limited Term Abandonment and Limited Term Sales Authority

March 31, 1986.

Take notice that on March 20, 1986, Cenergy Exploration Company (Cenergy) of 10210 N. Central Expressway, Suite 500, Dallas, Texas 75231, filed an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA) and Part 157 of the Commission's Regulations under the NGA for temporary extension of its limited term abandonment and limited term blanket certificate sales authority (LTA) granted by the Commission in Docket No. CI84-556-000. The extension is requested for the period from April 1, 1986 until March 31, 1987. Cenergy also requests that the Commission consider this application on an expedited basis so that the requested extension can be granted prior to March 31, 1986, the date on which Cenergy's LTA is currently scheduled to expire. This application is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 16, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7653 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-277-000]

Central and South West Services, Inc.; Order Accepting for Filing and Suspending Rates, Granting Intervention, Denying in Part and Granting in Part Waiver of Notice Requirements, and Establishing Hearing Procedures

Issued: April 1, 1986.

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

Central and South West Services, Inc. (CSWS), on behalf of the Central and South West (CSW) operating companies,[1] filed on January 31, 1986, (1) a revised Internal Transmission Loss Procedure (Internal Loss Procedure), which establishes a method to compensate for transmission losses resulting from energy transfers among the CSW operating companies, and (2) a Transaction Cost Compensation Procedure (Transaction Cost Procedure), establishing a method for allocating, among the four CSW operating companies, transmission service facilities and loss charges billed by non-CSW entities in connection with transactions which occur pursuant to the CSW System Operating Agreement (System Agreement).[2]

CSWS requests waiver of the notice requirements to permit effective dates of February 1, 1986, for its revised Internal Loss Procedure, to coincide with the commencement of its automated Energy Management System, and December 14, 1984, for its proposed Transaction Cost Procedure, the date on which the System Agreement became operational.

Background

Prior to December 14, 1984, coordinated operation of the four CSW companies was not possible because there was no direct interconnection between the CSW loads that were part of their Southwest Power Pool (SPP) load control area and the CSW loads that were part of the Electric Reliability Council of Texas (ERCOT).[3]

CSWS filed an agreement providing for the coordination of construction and operation of jointly-owned facilities; unit sales to assist companies to meet capacity reserve levels; emergency energy; economy energy; off-system sales and purchases; and central load dispatching. The System Agreement became effective on December 14, 1984, when the first of two DC Intertie facilities between the CSW load areas became operational.

Prior to the installation of a computerized central dispatch program, referred to as the Energy Management System (EMS), power and energy transfers under the System Agreement were performed on an hourly basis using a system where energy was predispatched by the CSW control center on the basis of operating company load estimates for that hour. In this phase of operations, no off-system purchases and sales were scheduled by the CSW control center on behalf of the CSW system. Rather, these transactions were scheduled by the operating companies on a stand-alone basis.

CSWS filed an amendment to the System Agreement which implemented an Interim Loss Compensation Procedure (Interim LCP) for intrasystem losses related to transactions among the system members. The Interim LCP was amended in a settlement agreement approved on February 26, 1986, in Docket No. ER84-412-000, and it was agreed that the Interim LCP was intended for use only until the installation of the EMS. Under the Interim LCP, only those CSW operating companies providing a transmission path transversing their service territory (*i.e.*, where the seller and purchaser were separated by the intervening transmitter) were compensated for losses. Given the configuration of the CSW system, these transmission paths are confined to WTU and PSO. Accordingly, under the Interim LCP, only WTU and PSO have received loss compensation for system transactions.

In order to reflect the CSW system operations as of February 1, 1986, the date the EMS became operational, CSWS now proposes to revise the Internal Loss Procedure and implement a Transaction Cost Procedure.

Internal Loss Procedure

The proposed Internal Loss Procedure performs basically the same function as the Interim LCP, but is expanded to include intrasystem losses associated with off-system purchases made on a system basis. Also, under the Internal Loss Procedure, all CSW operating companies are eligible for loss compensation resulting from system transactions.

Transaction Cost Procedure

The proposed Transaction Cost Procedure is intended to allocate to the operating companies transmission charges paid to non-CSW ERCOT utilities (ERCOT Third Parties) as a result of transactions among the system members. While ERCOT charges may be associated with transactions benefitting any CSW operating company, the charges are assessed by ERCOT only against the two CSW operating companies located in ERCOT, CPL and WTU. These charges arise (1) whenever CSW intrasystem transactions affect the systems of other ERCOT utilities (Third Party charges), and (2) whenever CSW transactions affect Houston Light & Power Company's (HLP) and Texas Utilities Electric Company's (TUEC) system due to energy transmitted over the DC Intertie. Third Party charges in (1) above are incurred pursuant to non-jurisdictional agreements encompassing ERCOT operations, and the DC Intertie charges in (2) above are incurred pursuant to transmission tariffs presently being investgated in Docket Nos. ER82-545-000, *et al.*

Under the Interim LCP, the charges incurred under (1) above are paid equally by the operating companies buying and selling economy energy at the time the losses were incurred. The Interim LCP, however, makes no provision to compensate WTU or CPL for the charges described in (2) above. Under the Transaction Cost Procedure, both types of charges would be shared by all four operating companies on the basis of their share of monthly Participation Energy.

Interventions

Notice of CSWS's filing was published in the **Federal Register**,[4] with comments due on or before February 21, 1986. On February 21, 1986, Northeast Texas Electric Cooperative (NTEC), on behalf of itself and its member cooperatives filed a motion to intervene, requesting a hearing. NTEC alleges that the Internal Loss Procedure and Transaction Cost Procedure reflect major deviations from the present Interim LCP with respect to methodology and shift the allocation of costs among CSW members for those CSW companies within ERCOT (WTU and CPL) to those CSW companies within SPP (PSO and SWEPCO). NTEC contends that a "fast-track" procedural schedule is inappropriate in this case

[1] CSW is a registered public utility holding company which owns the common stock of four operating public utility companies: Central Power and Light Company (CPL), West Texas Utilities Company (WTU), Southwestern Electric Power Company (SWEPCO), and Public Service Company of Oklahoma (PSO).

[2] *See* Attachment for rate schedule designations.

[3] SWEPCO and PSO as well as the Northern division of WTU were connected to SPP. The Southern division of WTU and CPL were connected to ERCOT. No interconnections operated between SPP and ERCOT, making ERCOT companies non-jurisdictional under the Federal Power Act.

[4] 51 FR 5,765 (1986).

due to the filing's highly technical and complex nature.

On March 6, 1986, NTEC filed a supplement to its motion to intervene. NTEC argues that the proposed procedures improperly allocate costs, and the Internal Loss Procedure lacks sufficient specifics. In addition, NTEC asks that the Commission summarily dispose of the proposed retroactive application of the Transaction Cost Procedure and, further, that the Commission suspend the procedures for at least one day.

On February 26, 1986, the South Texas Electric Cooperative, Inc., and the Medina Electric Cooperative, Inc. (Cooperatives) filed a joint motion to intervene out of time. The Cooperatives do not request suspension or hearing, but do request to participate in these proceedings.

CSWS, on March 10, 1986, filed an answer to NTEC's motion to intervene, indicating that it does not oppose NTEC's intervention. In addition, CSWS states that the EMS became operational on February 1, 1986, and specifically requests that the Commission permit the Internal Loss Procedure to become effective as of that date.

On March 21, 1986, CSWS filed an answer to NTEC's supplemental pleading. CSWS opposes NTEC's request that the Transaction Cost Procedure be suspended, asserting that the allegations contained in NTEC's motion are incorrect. In addition, CSWS denies that its requested December 14, 1984 effective date is unlawful or would result in a retroactive flow-through of charges to NTEC.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely, unopposed motion to intervene by NTEC on behalf of itself and its member cooperatives serves to make them parties to this proceeding. Given their stated interests, the early stage of this proceeding, and the apparent absence of any undue delay or prejudice, we find that good cause exists to grant the Cooperatives' untimely motion to intervene.

Our review of CSWS's submittal and the pleadings indicates that the proposed Internal Loss Procedure and Transaction Cost Procedure have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept CSWS's submittal for filing and suspend it as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶61,189 (1982), we explained that, where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not yield substantially excessive revenues, we would generally impose a nominal suspension. Here, our examination suggests that the proposals may not result in substantially excess revenues. We shall therefore suspend the filings for a nominal period.

As noted, CSWS requests waiver of the notice requirements to allow the Internal Loss Procedure to become effective on February 1, 1986, the date the EMS became effective. This proposed date is consistent with settlement provisions requiring review and revision on the Interim LCP upon implementation of the EMS. Further, no party objects to CSWS's proposed effective date. Accordingly, we shall suspend the Internal Loss Procedure to become effective on February 1, 1986, subject to refund. We shall also grant a waiver of the notice requirements to accomplish this result.

CSWS has further requested waiver of the notice requirements to permit the Transaction Cost Procedure to become effective as of December 14, 1984, the date on which the System Agreement became effective. In support of the requested effective date for the Transaction Cost Procedure, CSWS states that, while the Interim LCP now in place allocated among the operating companies (albeit on a different basis than that included in the Transaction Cost Procedure) a portion of the ERCOT Third Party charges, it did not include a provision whereby CPL and WTU are compensated by PSO and SWEPCO for any portion of the ERCOT DC Intertie charges. Since PSO and SWEPCO are said to have benefitted since December 14, 1984, from system transactions which resulted in the incurrence of ERCOT DC Intertie charges, CSWS states that it is appropriate to implement the Transaction Cost Procedure as of December 14, 1984.

We shall deny the company's request for waiver insofar as it proposes an effective date for the Transaction Cost Procedure of December 14, 1984. The costs of ERCOT Third Party Charges other than DC Intertie charges were allocated among the CSW utilities pursuant to the Interim LCP filed in Docket No. ER85–412–000, which proceedings were the subject of a settlement agreement approved by the Commission on February 26, 1986. These costs would be treated in a different manner under the proposed Transaction Cost Procedure. Thus, under CSWS's proposal, for the period December 14, 1984–February 1, 1986, there would, in essence, be two, partially duplicative filed rates in effect (the Interim LCP and the Transaction Cost Procedure). CSWS apparently proposes to bill under the Transaction Cost Procedure only to the extent that it produces different results from the Interim LCP. This, however, would result in billing of something other than the filed rates. We are not prepared to accept these procedures. Further, CSWS has not justified its failure to make a more timely filing to correct the perceived problems with the cost recovery mechanism in the Interim LCP. Finally, NTEC, a wholesale customer of SWEPCO served under a formula rate, has objected to the requested effective date.[5] In these circumstances, we do not find good cause to permit the Transaction Cost Procedure to become effective on December 14, 1984. However, in order to allow the Transaction Cost Procedure to become effective concurrently with the Internal Loss Procedure, we shall grant waiver of the notice requirements and suspend it to become effective on February 1, 1986, subject to refund.

Finally, we shall leave the decision whether to institute reconsideration procedures and/or an expedited procedural schedule to the Chief Administrative Law Judge, who is charged with making such determinations.

The Commission Orders

(A) The joint motion to intervene filed by the Cooperatives is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) Waiver of the notice requirements to permit the Transaction Cost Procedure and the Internal Loss Procedure to become effective as of February 1, 1986, is hereby granted.

(C) CSWS's Transaction Cost Procedure and Internal Loss Procedure are hereby accepted for filing and suspended, to become effective, subject to refund, on February 1, 1986.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the

[5] In its March 21 pleading, CSWS states that granting its requested effective date for the Transaction Cost Procedure will not result in retroactive pass-through of charges to NTEC; rather, such charges will allegedly be booked as current expenses. While unclear, it appears that the level of charges collected by SWEPCO under its formula rates will nonetheless by higher than if CSWS's request for waiver were denied.

Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the Internal Loss Procedure and the Transaction Cost Procedure.

(E) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a prehearing conference in this proceeding within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. The presiding judge is authorized to establish procedural dates, including the submission of a case-in-chief by CSWS, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(F) Subdocket 000 in Docket No. ER86-277 is terminated. Docket No. ER86-277-001 is assigned to the evidentiary hearing ordered herein.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Lois D. Cashell,

Acting Secretary.

Attachment—Central and South West Services, Inc. Rate Schedule Designations

Docket No. ER86-277-000

Items (1) through (10) constitute the redesignation of: Central Power & Light Company Rate Schedule FERC No. 68; Public Service Company of Oklahoma Rate Schedule FERC No. 228; Southwestern Electric Power Company Rate Schedule FERC No. 87; West Texas Utilities Company Rate Schedule FERC No. 47.

This redesignation is intended to reflect Ordering Paragraph (A) of the Commission's December 13, 1984, order in Docket No. ER84-31-000 (25 FERC ¶ 61,381) which granted CSW permission, pursuant to Section 35.1 of the Regulations, to file the Operating Agreement as a representative of the CSW Companies.

Central and South West Services, Inc.

Designation and Description

(1) Rate Schedule FERC No. 1—Coordinated Operations Agreement
(2) Supplement No. 1 to Rate Schedule FERC No. 1—Schedule A—Joint Units
(3) Supplement No. 2 to Rate Schedule FERC No. 1—Schedule B—Non-Joint Units
(4) Supplement No. 3 to Rate Schedule FERC No. 1—Schedule C—Capacity Commitment Charge
(5) Supplement No. 4 to Rate Schedule FERC No. 1—Schedule D—Intertransmission Facilities
(6) Supplement No. 5 to Rate Schedule FERC No. 1—Schedule E—Pool Energy
(7) Supplement No. 6 to Rate Schedule FERC No. 1—Schedule F—Economy Energy
(8) Supplement No. 7 to Rate Schedule FERC No. 1—Schedule G—Off-System
(9) Supplement No. 8 to Rate Schedule FERC No. 1—Schedule H—Central Control
(10) Supplement No. 9 to Rate Schedule FERC No. 1—Interim Loss Compensation Procedures
(11) Supplement No. 10 to Rate Schedule FERC No. 1 (Supersedes Supplement No. 9)—Amended Interim Loss Compensation Policy
(12) Supplement No. 11 to Rate Schedule FERC No. 1 (Supersedes Supplement No. 10)—Internal Transmission Loss Procedure
(13) Supplement No. 12 to Rate Schedule FERC No. 1—Transaction Cost Procedure

[FR Doc. 86-7654 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CI84-117-001 and CI85-52-000]

Champlin Petroleum Co.; Application

March 31, 1986.

Take notice that on March 21, 1986, Champlin Petroleum Company (Applicant) of Four Allen Center, Suite 1500, 1400 Smith Street, Houston, Texas 77002, pursuant to 18 CFR 157.23 and 154.92, et seq., filed an application to amend the Certificate of Public Convenience and Necessity in Docket No. CI84-117-000 to reflect the addition of a new delivery point and to add the interest of Applicant which is now covered by a Certificate of Public Convenience and Necessity issued in Docket No. CI85-52-000; to terminate the certificate issued in Docket No. CI85-52-000; and to cancel Applicant's related FERC Gas Rate Schedule No. 169. The certificates specified herein authorize the sale of Applicant's interest in gas produced from Matagorda Island OCS Block 623 to Amoco Gas Company, a Hinshaw pipeline.

Any person desiring to be heard or to make any protest with reference to said applications should on or before April 16, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7655 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA82-1-21-022]

Columbia Gas Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 1, 1986.

Take notice that Columbia Gas Transmission Corporation (Columbia) on March 27, 1986, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective as follows:

March 1, 1986

One hundred and sixth Revised Sheet No. 16
Forty-second Revised Sheet No. 64

April 1, 1986

One hundred and seventh Revised Sheet No. 16
Forty-third Revised Sheet No. 64

Columbia's states that the tariff sheets designated as One hundred and sixth Revised Sheet No. 16 and Forty-second Revised Sheet No. 64, proposed to be effective March 1, 1986, are being filed to comply with Article II of the Stipulation and Agreement (Stipulation) in Docket Nos. TA82-1-21-001, *et al.* Such article provides that Columbia shall reflect during the Settlement Period the demand and commodity rate impacts resulting from changes in its pipeline suppliers' rate designs.

On February 5, 1986, Texas Gas Transmission Corporation (Texas Gas) filed revised rates in compliance with the Commission's "Order Approving Contested Offer of Settlement Subject to Modification" issued January 22, 1986 in Docket Nos. RP85-141, *et al.* Such filing reflects, among other things, Texas Gas' implementation of a modified fixed variable rate design. Columbia states that it is making this filing to reflect Texas Gas' change in rate design.

Columbia further states that the tariff sheets designated as One hundred and seventh Revised Sheet No. 16 and Forty-third Revised Sheet No. 64, proposed to be effective April 1, 1986, are being filed to adjust its February 28, 1986 filing in Docket Nos. TA82-1-21-001, *et al.*, to appropriately reflect the above-referenced rate impacts resulting from Texas Gas' change in rate design.

Copies of the filing were served upon the Company's jurisdictional customers, interested state commissions and all

parties in Docket Nos. TA82-1-21-001, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 8, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7656 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-3-21-002]

Columbia Gas Transmission Corp., Proposed Changes in FERC Gas Tariff

April 1, 1986.

Take notice that Columbia Gas Transmission Corporation (Columbia) on March 27, 1986, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective on March 1, 1986:

Substitute One hundred and fourth Revised Sheet No. 16
Substitute Eighth Revised Sheet No. 16B
Substitute Fortieth Revised Sheet No. 64

Columbia states that the foregoing tariff sheets are being filed to comply with Ordering Paragraphs (B) and (C) of the Commission's Order issued February 28, 1986. Ordering Paragraph (B) directed Columbia to file reduced rates to reflect the removal of commodity costs from the demand deferred account. Ordering Paragraph (C) directed Columbia to track any downward revisions in its pipeline suppliers' rates to be effective on March 1, 1986. In addition, Columbia states that the instant filing reflects the impact of a reduction in its contractual entitlements with Tennessee Gas Pipeline Company.

The instant filing reflecting these revisions results in (1) a revised decrease in the Current Demand Purchased Gas Cost of $38,405,418, which is a further reduction of $10,101,939 to that filed for on January 29, 1986, (2) a revised Demand Purchased Gas Surcharge applicable to Rate Schedule SGES in the amount of $17,023, which is $2,842 less than that filed for on January 29, 1986 and (3) a reduction of $2,667,465 in the Unrecovered Demand Purchased Gas Costs including related carrying charges.

Copies of the filing were served upon the Company's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 8, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7657 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. FA83-4-001]

Duke Power Co., Order To Show Cause and Instituting Proceedings Under Part 41 of the Commission's Regulations

Issued: April 1, 1986.

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

On September 18, 1985, the Chief Accountant issued a letter order which noted that Duke Power Company disagreed with one item in a Staff audit report prepared following an audit of the Company's books and records. The disagreement relates to the Company's accounting and wholesale fuel adjustment clause (FAC) treatment for completed nuclear fuel assemblies awaiting insertion in Oconee Units Nos. 1 and 2.[1]

On July 10, 1985, the Company responded to the letter order stating that it consents to the disposition of the above issues in accordance with the shortened procedures provided for under § 41.3 of the Commission's regulations under the Federal Power Act.[2] Accordingly, the Commission hereby institutes proceedings under Part 41 of its regulations to determine the appropriate accounting treatment of the above item.

Additionally, resolution of this accounting item may have rate implications requiring refunds under sections 205 and 206 of the Federal Power Act. For this reason, the Commission orders Duke Power Company, as part of its initial brief in this proceeding: (1) To show cause why it should not be required to make refunds of any amounts found to have been improperly collected due to an inappropriate accounting treatment of this item, and (2) to propose an allocation of refunds among customers in the event that they are ultimately ordered pursuant to the treatment previously specified by the Commission staff.

Any interested person seeking to participate in this docket shall file a motion to intervene under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) no later than 15 days after the date of publication of this order in the **Federal Register.**

The following procedural schedule is established:

(1) Duke Power Company, an interested person and the Commission's staff shall file initial briefs in response to this order on the accounting and refund issues no later than 45 days after the date of publication of this notice in the **Federal Register.**

(2) Reply briefs shall be due no later than 20 days thereafter.

All briefs must be filed with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

The Commission Orders

(A) Proceedings under Part 41 of the Commission's regulations are hereby instituted with regard to the Contested Accounting Matter as described in the attachment to this order.

(B) Duke Power Company is ordered, as part of its initial brief in this proceeding: (1) To show cause why it should not be required to make refunds of any amounts found to have been improperly collected due to an inappropriate accounting treatment for completed nuclear fuel assemblies in storage and (2) to propose an allocation of refunds among customers in the event that refunds are ultimately ordered pursuant to the treatment previously specified by the Commission staff.

(C) The procedural schedule set forth in this order is adopted.

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[1] See Contested Accounting Matter on the attached schedule.

[2] 18 CFR Part 41.

(D) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Lois D. Cashell,

Acting Secretary.

Attachment A—Duke Power Company Contested Accounting Matter Accounting for Completed Nuclear Fuel Assemblies in Storage

During the audit period, 1979 thru 1982, the Company had Babcock and Wilcox Company store completed nuclear fuel assemblies awaiting insertion into Oconee units No. 1 and No. 2. The completed assembies (reloads) and the period of storage were as follows:

	Storage period
Oconee Unit No. 2—Reload No. 7.	July 23, 1979 to January 23, 1980.
Oconee Unit No. 2—Reload No. 8.	April 15 1981 to October 1, 1981.
Oconee Unit No. 1—Reload No. 9.	January 15, 1981 to June 4, 1981.

The Company recorded the costs applicable to the completed assemblies awaiting insertion,including $127,587 of storage fees, in Account 120.1, Nuclear fuel in process of refinement, conversion, enrichment and fabrication, and constinued to acure allowance for funds used during construction (AFUDC) thereon. The cost of the completed assemblies remained in Account 120.1 until they were delivered to the Company. At the delivery date, the applicable costs of the completed assemblies were transferred to Account 120.2, Nuclear fuel materials and assemblies—Stock account. When inserted into the reactor, the applicable costs were transferred to Account 120.3, nuclear fuel assemblies in reactor. The Company ceased accruing AFUDC on the completed assemblies at the time of delivery and transfer from Account 120.1 Account 120.2. The delivery dates and dates placed in the reactor were as follows:

	Date delivered	Date placed in reactor
Oconee Unit No. 2—Reload No. 7.	January, 1980	June, 1980.
Oconee Unit No. 2—Reload No. 8.	October, 1981	May, 1982.
Oconee Unit No. 1—Reload No. 9.	June, 1981	December, 1981.

The Company's inclusion of completed nuclear fuel assemblies ready for service and related storage charges in Account 120.1 was inappropriate. Account 120.1 includes only the original cost to the utility of nuclear fuel materials in process of refinement, conversion, enrichment and fabrication into nuclear fuel assemblies and components.

The Uniform System of Accounts requires that: (1) The cost of completed nuclear fuel assemblies, whether stored on-site or at an off-site location, are to be recorded in Account 120.2, (2) Storage charges applicable to completed nuclear fuel assemblies are to be recorded in Account 525, Rents, and (3) AFUDC is to be capitalized only when nuclear materials are in the process of refinement, conversion, enrichment and fabrication and included in Account 120.1.

These nuclear fuel assemblies have been burned and removed from the reator and the Company has recovered the related costs (fuel, AFUDC and storage) as part of its wholesale fuel adjustment clause billings.

The staff recommended that the Company:

(1) establish procedures to assure that (a) nuclear fuel assemblies in the process of the refinement, conversion, enrichment and fabrication are transferred at the date of completion from Account 120.1 to Account 120.2, (b) AFUDC is not capitalized on completed assemblies, and (c) operating and maintenance expenditures applicable to completed nuclear fuel assemblies are accounted for in accordance with the requirements of the Uniform System of Accounts.

(2) make the appropriate entries to remove from its nuclear fuel accounts excessive AFUDC and storage costs capitalized on completed fuel assemblies.

(3) recalculate fuel adjustment clause billings to affected wholesale customers eliminating AFUDC and storage costs related to all completed nuclear fuel assemblies held in storage since 1979 and make appropriate refunds, including interest, on all amounts improperly collected from the wholesale customers.

[FR Doc. 86-7658 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-782-001]

EnTrade Corp.; Petition for Extension of Certificate of Public Convenience and Necessity and Limited-Term Abandonment Authority and for Expedited Consideration

March 31, 1986.

Take notice that on March 25, 1986, EnTrade Corporation (EnTrade), pursuant to sections 4 and 7 of the Natural Gas Act, Part 157 and § 2.77 of the regulations of the Commission, and Rule 207 of the Commission's Rules of Practice and Procedure, filed a petition for an extension of the term of the certificate of public convenience and necessity and limited-term abandonment authority issued in the above-captioned proceeding to March 31, 1987, all as more fully set forth in the petition which is on file with the Commission and open for public inspection.

EnTrade states that absent the extension of this authority, referred to as limited-term abandonments (LTAs), significant quantities of NGA gas, *e.g.*, NGPA § 102(d) gas, will be shut-in, cash flow for continued exploration and development will decrease, and consumers will be deprived of access to market-sensitive, competitively-priced volumes. EnTrade requests expedited consideration of its petition.

Any person desiring to be heard or to make any protests with reference to said Petition should on or before April 17, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. 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.

Under the procedures herein provided for, unless otherwise advised, it will be unnecessary for petitioner to appear or be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7660 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-282-000]

Fina Oil and Chemical Co.; Petrofina Delaware; Inc., Fina Oil & Gas, Inc., Fina Exploration Inc.; Application

March 31, 1986

Take notice that on March 24, 1986, Fina Oil and Chemical Company, Petrofina Delaware, Incorporated, Fina Oil & Gas, Inc., and Fina Exploration, Inc. (collectively, "Fina"), 8350 N. Central Expwy., #1866, Dallas, Texas 75221 filed an Application requesting that the Commission issue an order that grants Fina all necessary authorizations: (1) For the two-year abandonment of the sale to Transcontinental Gas Pipe Line

Corporation ("Transco") of gas from certain OCS reserves listed on Exhibit "A" to the application and produced by Fina, subject to Transco's right to recall any quantity thereof from time to time for system-supply purchases; (2) for identical abandonment of gas from the reserves listed on Exhibit "A" and produced by Fina's working-interest co-owners, to the extent those co-owners agree to the abandonment and authorize Fina to sell their gas to alternate purchasers; (3) for the sale of all temporarily-abandoned gas to new purchasers in interstate commerce for resale for periods up to two years; and (4) for pre-granted abandonment of any such sales following final deliveries or at the end of the term of abandonment, whichever comes earlier. Fina requests these authorizations for a two-year period beginning on the date the Commission grants the authorizations requested herein. Fina further requests the Commission to consolidate this application with Docket No. CI86–218–000 and Docket No. CI86–210–000 and to set the consolidated dockets for hearing, consistent with the identical request by Fina in its complaint and protest in those dockets filed on the same date. if the Commission declines to consolidate the dockets and to set them for hearing, Fina requests the Commission to consider this Application on an expedited basis in accordance with Order No. 436, and pursuant to the abandonment standards enunciated in Opinion Nos. 245 and 245–A.

Fina states that the authorizations requested in its Application will further competition in natural gas markets and will thereby result in significant benefits to the overall public interest. Fina reports that it is experiencing substantially reduced takes from these blocks without payment under its long-term contracts with Transco.

Any person desiring to be heard or to make any protests with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86–7661 Filed 4–4–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86–273–000]

Kansas City Power & Light Co.; Order Accepting for Filing and Suspending Rates, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures

Issued: April 1, 1986

Before Commisioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On January 31, 1986, Kansas City Power & Light Company (KCPL) tendered for filing a proposed increase in rates for firm power service to 15 full and partial requirements customers.[1] The proposed rates would increase jurisdictional revenues by approximately $1.0 million (16%), based upon the twelve month test period ending September 30, 1985.[2] KCPL requests an effective date of April 1, 1986.

Notice of KCPL's filing was published in the **Federal Register**,[3] with comments due on or before February 21, 1986. On February 14, 1986, the Kansas and Missouri wholesale customers (Municipals) [4] filed a motion to intervene, but withheld substantive comment on KCPL's filing pending submittal of a settlement in principle which has apparently been reached between KCPL and the Municipals. A timely motion to intervene was also filed by the Kansas Electric Power Cooperative, Inc. (KEPCO) and its two member systems served by KCPL, Coffey County Rural Electric Cooperatiive Association, Inc., and United Electric Cooperative. KEPCO requests a five month suspension for KCPL's proposed rate increase and raises several cost of service issues in support of its request.[5] Additionally, KEPCO alleges price squeeze.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely, unopposed motions to intervene serve to make the Municipals and KEPCO parties to this proceeding.

Our review of KCPL's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that the proposed rates may not yield substantially excessive revenues. Accordingly, we shall suspend the proposed rates for one day from sixth days after filing,[6] to become effective on April 3, 1986, subject to refund.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by KEPCO.

The Commission orders:

(A) KCPL's proposed rates are hereby accepted for filing, and are suspended for one day from sixty days after filing, to become effective, subject to refund, on April 3, 1986.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of KCPL's rates.

(C) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

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[1] *See* Attachment for affected customers and rate schedule designations.

[2] KCPL has tendered its filing pursuant to the Period I cost of service requirements of § 35.13 of the Commission's regulations.

[3] 51 *FR.* 5,766 (1986).

[4] The Cities of Garnett, Gardner, Pomona, Ottawa, and Osawatomie, Kansas, and the Cities of Higginsville, Slater, Salisbury, and Marshall, Missouri.

[5] These cost of service issues include: (1) synchronization of production plant costs with billing determinants; (2) revenue credits; (3) prudence of costs associated with the Wolf Creek Nuclear Generating Station; (4) failure to allocate fixed costs to curtailable loads; and (5) rate of return.

[6] KCPL's April 1, 1986 requested effective date falls one day short of the required 60-day notice period.

(D) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after the service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(E) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in section 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(F) Subdocket 000 in Docket No. ER86–273 is terminated. The evidentiary proceeding ordered herein is assigned subdocket 001.

(G) The Secretary shall promptly publish this order in the **Federal Register.**

Lois D. Cashell,

Acting Secretary.

KANSAS CITY POWER AND LIGHT COMPANY DOCKET NO. ER86–273–000 RATE SCHEDULE DESIGNATIONS

Designation	Other party	Description
(1) Supplement No. 30 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 27).	Marshall, Missouri.	Schedule D–MPA–19 Firm Power.
(2) Supplement No. 31 to Rate Schedule FPC No. 83 (Supersedes Supplement No. 28).	....do....	Schedule D–MPA–20 Optional Power.
(3) Supplement No. 20 to Rate Schedule FPC No. 74 (Supersedes Supplement No. 18).	Missouri Public Service.	Schedule WFP–17P Firm Power.
(4) Supplement No. 21 to Rate Schedule FPC No. 74 (Supersedes Supplement No. 19).	....do....	Schedule WFP–18P Optional Power.
(5) Supplement No. 15 to Rate Schedule FPC No. 79 (Supersedes Supplement No. 13).	Gardner, Kansas.	Schedule WFP–17M Firm Power.
(6) Supplement No. 16 to Rate Schedule FPC No. 79 (Supersedes Supplement No. 14).	....do....	Schedule WFP–18M Optional Power.
(7) Supplement No. 11 to Rate Schedule FERC No. 91 (Supersedes Supplement No. 9).	Higginsville, Missouri.	Schedule MWFP–11 Firm Power.
(8) Supplement No. 12 to Rate Schedule FERC No. 91 (Supersedes Supplement No. 10).	....do....	Schedule MWFP–12 Optional Power.
(9) Supplement No. 16 to Rate Schedule FERC No. 82 (Supersedes Supplement No. 14).	Pomona, Kansas.	Schedule WFP–17M Firm Power.
(10) Supplement No. 17 to Rate Schedule FPC No. 82 (Supersedes Supplement No. 15).	....do....	Schedule WFP–18M Optional Power.
(11) Supplement No. 19 to Rate Schedule FPC No. 76 (Supersedes Supplement No. 17).	Prescott, Kansas.	Schedule WFP–17M Firm Power.
(12) Supplement No. 20 to Rate Schedule FPC No. 76 (Supersedes Supplement No. 18).	....do....	Schedule WFP–18M Optional Power.
(13) Supplement No. 8 to Rate Schedule FERC No. 100 (Supersedes Supplement No. 3).	Salisbury, Missouri.	Schedule C–MPA–2 Firm Power.
(14) Supplement No. 9 to Rate Schedule FERC No. 100 (Supersedes Supplement No. 4).	....do....	Schedule C–MPA–3 Optional Power.
(15) Supplement No. 7 to Rate Schedule FERC No. 98 (Supersedes Supplement No. 5).	Slater, Missouri.	Schedule WFP–17M Firm Power.
(16) Supplement No. 7 to Rate Schedule FERC No. 98 (Supersedes Supplement No. 5).	....do....	Schedule WFP–18M Optional Power.
(17) Supplement No. 29 to Rate Schedule FERC No. 85 (Supersedes Supplement No. 26).	Bladwin City, Kansas.	Schedule C–MPA–16 Firm Power.
(18) Supplement No. 30 to Rate Schedule FERC No. 85 (Supersedes Supplement No. 27).	....do....	Schedule C–MPA–17 Optional Power.
(19) Supplement No. 28 to Rate Schedule FERC No. 86 (Supersedes Supplement No. 25).	Carrollton, Missouri.	Schedule C–MPA–16 Firm Power.
(20) Supplement No. 29 to Rate Schedule FERC No. 86 (Supersedes Supplement No. 26).	....do....	Schedule C–MPA–17 Optional Power.
(21) Supplement No. 33 to Rate Schedule FPC No. 78 (Supersedes Supplement No. 30).	Garnett, Kansas.	Schedule C–MPA–16 Firm Power.
(22) Supplement No. 34 to Rate Schedule FPC No. 78 (Supersedes Supplement No. 31).	....do....	Schedule C–MPA–17 Optional Power.
(23) Supplement No. 33 to Rate Schedule FPC No. 77 (Supersedes Supplement No. 29).	Osawatomie, Kansas.	Schedule C–MPA–16 Firm Power.
(24) Supplement No. 34 to Rate Schedule FPC No. 77 (Supersedes Supplement No. 30).	....do....	Schedule C–MPA–17 Optional Power.
(25) Supplement No. 27 to Rate Schedule FERC No. 90 (Supersedes Supplement No. 24).	Ottawa, Kansas.	Schedule C–MPA–16 Firm Power.
(26) Supplement No. 28 to Rate Schedule FERC No. 90 (Supersedes Supplement No. 25).	....do....	Schedule C–MPA–17 Optional Power.
(27) Supplement No. 21 to Rate Schedule FPC No. 69 (Supersedes Supplement No. 20).	KEPCO—Coffey County.	Schedule CFP–18 Firm Power.
(29) Supplement No. 17 to Rate Schedule FPC No. 84 (Supersedes Supplement No. 16).	KEPCO—United Electric.	Schedule CFP–18 Firm Power.

[FR Doc. 86–7662 Filed 4–4–86; 8:45 am]

BILLING CODE 6717–01

[Docket No. RO86–13–000]

Merit Petroleum, Inc.; Filing of Petition for Review

March 31, 1986.

Take notice that Merit Petroleum, Inc. on March 21, 1986, filed a Petition for Review under 42 U.S.C. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene; however, any such person wishing to be a participant must file a notice of participation on or before April 15, 1986, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before April 15, 1986, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H–025, 1000 Independence Avenue, SW., Washington, DC 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol St., NE., Washington, DC 20426.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86–7663 Filed 4–4–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA86–3–25–003]

Mississippi River Transmission Corp; Rate Change Filing

April 1, 1986.

Take notice that on March 27, 1986 Mississippi River Transmission Corporation ("Mississippi") tendered for filing the following tariff sheets to its

FERC Gas Tariff, Second Revised Volume No. 1:

	Proposed effective date
Substitute Fourteenth Revised Sheet No. 4	March 1, 1986.
Third Revised Sheet No. 54	July 1, 1985.

Mississippi states that Substitute Fourteenth Revised Sheet No. 4 is being filed pursuant to a Commission order dated February 28, 1986 in the captioned dockets which accepted Mississippi's purchased gas cost adjustment filing subject to refund and conditions which required Mississippi to file revised rates and tariff language reflecting adoption of the Commission's methodology regarding out-of-balance concurrent exchange transactions, and to track any revisions in pipeline supplier rates from those contained in Mississippi's initial January 30, 1986 filing in Docket Nos. TA86-3-25-000 and 001.

Third Revised Sheet No. 54 reflects revised language to clarify that carrying charges on balances contained in Account No. 191 shall be determined on cash basis exclusive of amounts related to out-of-balance concurrent exchange transactions.

Mississippi states that copies of its filing have been served on all jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with §§ 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 8, 1986. Protests will be considered by the commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the commission and are avilable for public inspection.

Lois D. Cashell

Acting Secretary.

[FR Doc. 86-7664 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC86-6-000

Mississippi River Transmission Corp.; Tariff Filing

April 1, 1986.

Take notice that on March 14, 1986, Mississippi River Transmission Corporation (Mississippi), 9900 Clayton Road, St. Louis, Missouri 63124, filed in Docket No. TC86-6-000 pursuant to § 281.204(b)(2) of the Commission's Regulations the following revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1, to become effective April 15, 1986:

Sixth Revised Sheet No. 75
Fifth Revised Sheet No. 76
Sixth Revised Sheet No. 78
Fifth Revised Sheet No. 79

The instant filing reflects changes in Mississippi's index of entitlements with respect to essential agricultural use (Stop 10) requirements and in high priority (Step 11) requirements to be effective during the period beginning April 15, 1986, through October 31, 1986, pursuant to paragraph 8.2(a)(i) of Mississippi's curtailment plan.

Any person desiring to be heard or to make any protest with reference to said tariff sheet filings should on or before April 10, 1986, file with the Federal Energy Regulatory Commission, 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 385.214 or 385.211). 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.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7665 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-62-000]

Northwest Pipeline Corp.; Tariff Revisions

April 1, 1986

Take notice that on March 28, 1986, Northwest Pipeline Corporation ("Northwest") submitted for filing, to be a part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

First Revised Sheet No. 128-A
Third Revised Sheet No. 132
Original Sheet No. 132-A
Original Sheet No. 132-B

Northwest states the purpose of the filing is to establish a new section 16.11 to its PGA provision to permit it to revise its rates on an interim basis between regular semi-annual PGA filings. The new provision would allow Northwest to rapidly track changes in the cost of purchased gas, which it is currently prevented from doing by the rigidity of the traditional PGA language, and pass these rate changes along to its customers.

Northwest has requested an effective date of April 28, 1986 for all tendered tariff sheets.

A copy of this filing has been served on all jurisdictional customers and affected state regulatory commissions.

Any persons desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E. Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 8, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7666 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8592-001]

Quartz Valley Hydro Limited; Surrender of Preliminary Permit

April 2, 1986.

Take notice that Quartz Valley Hydro Limited, Permittee for the Quartz Valley Hydroelectric Project, FERC No. 8592, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8592 was issued on February 19, 1985, and would have expired on July 31, 1986. The project would have been located on Canyon Creek, in Siskiyou County, California.

The Permittee filed the request on February 24, 1986, and the preliminary permit for Project No. 8592 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided

for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7648 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7871-001]

Ross Associates; Surrender of Preliminary Permit

April 3, 1986.

Take notice that Ross Associates, permittee for the Paint Creek Project No. 7871, has requested that the preliminary permit be terminated. The preliminary permit for Project No. 7871 was issued on July 30, 1984, and would have expired on June 30, 1986. The project would have been located on Paint Creek, in Ross and Highland Counties, Ohio.

The permittee filed the request on March 17, 1986, and the preliminary permit for Project No. 7871 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7649 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-61-000]

Texas Eastern Transmission Corp.; Proposed Changes in FERC Gas Tariff

April 1, 1986.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on *March 26,* 1986 tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following sheets:

Substitute Seventy-sixth Revised Sheet No. 14
Substitute Seventy-sixth Revised Sheet No. 14A
Substitute Seventy-sixth Revised Sheet No. 14B
Substitute Seventy-sixth Revised Sheet No. 14C
Substitute Seventy-sixth Revised Sheet No. 14D

These tariff sheets are being filed in compliance with Article VI of the Joint Offer of Settlement filed in Docket No. CP84-429-001 on May 2, 1985 as approved by Commission Order dated August 15, 1985. The above sheets will supersede those tariff sheets (Seventy-sixth Revised Sheet Nos. 14, 14A, 14B, 14C and 14D) filed November 27, 1985, in Docket No. CP84-429-012 and made effective December 31, 1985 by Commission Order dated December 9, 1985.

Pursuant to Article VI (Rates) of the Joint Offer of Settlement, Texas Eastern is required to file amended rates within ninety (90) days after the facilities to render the Contract Adjustment service are constructed and placed in service. Such filing is to reflect amended rates based on actual costs in the event the actual costs of facilities and other costs incurred to render the firm sales and transportation services vary from the estimates set forth in Exhibit 7 of said Joint Offer of Settlement. Further, in accordance with such Article, Texas Eastern will surcharge the effected customers for the difference in rates occasioned by this filing and those rates initially charged.

In addition, upon approval by the Commission of this instant filing, Texas Eastern will file the amended Contract Adjustment Demand rate on all appropriate tariff sheets filed and made effective subsequent to December 31, 1985.

The proposed effective date of the above tariff sheets is December 31, 1985 the effective date allowed by the Commission in its order dated December 9, 1985 for the initial rates.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before *4-8-86.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7667 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7217-002]

Valsetz Power Co.; Surrender of Exemption

April 2, 1986.

Take notice that Valsetz Power Company, exemptee for the Valsetz Power Project No. 7217 has requested that its exemption be terminated because the project's economic analysis indicates construction and operation of the project is not feasible at this time. The exemption for Project No. 7217 was issued March 20, 1984. The project would have been located on the South Fork of the Siletz River and Valsetz Lake in Polk County, Oregon. The exemptee has stated that no ground disturbing activity has taken place; therefore, no conditions are needed concerning the restoration of lands.

The exemptee filed the request on February 10, 1986, and the exemption for Project No. 7217 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 exemption shall remain in effect through the first business day following that day. New applications involving these project sites to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86-7668 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-2-35-000,001]

West Texas Gas, Inc., Rate Change Pursuant to Purchased Gas Cost Adjustment Provision

April 1, 1986.

Take notice that on March 26, 1986, West Texas Gas, Inc. (WTG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheet:

Fifth Revised Sheet No. 3a

Fifth Revised Sheet No. 3a is being filed by WTG in order to effectuate an out-of-cycle purchased gas adjustment (PGA) to be effective on March 26, 1986. The implementation of this PGA will result in a rate reduction to its customers served under Rate Schedules GS-1, IS-1, and I-1.

Copies of the filing were served upon the WTG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 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 *April 8, 1986.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 85-7669 Filed 4-4-86; 8:45 am]

BILLING CODE 6717-01 ■

Western Area Power Administration

Record of Decision for Phase B of the Tucson Aqueduct, a Feature of the Central Arizona Project

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Record of Decision to Construct Electrical Transmission Facilities for Phase B of the Tucson Aqueduct, Central Arizona Project, Pima County, Arizona.

Decision

The decision has been made to construct, operate, and maintain transmission facilities required to provide electrical power to water pumps for Phase B of the Bureau of Reclamation's (Bureau) Tucson Aqueduct Project in Arizona. The Western Area Power Administration (Western) will design, construct, and operate the transmission lines that supply the pumping plants and the new substations; the Bureau will own the transmission lines.

Approximately 33 miles of overhead 115-kV transmission line will be constructed to deliver electrical power to the water pumps. A small substation will be constructed at the site where the northern end of the transmission line will be connected with Western's existing Saguaro-Tucson Transmission Line; a larger substation will be required at the southern end of the transmission line to connect with Western's Tucson-Apache line. Electrical power will be obtained through Federal entitlement to a portion of the power generated by the Navajo Generating Station at Page, Arizona. Delivery of power to the new transmission line will be via existing, interconnected transmission facilities.

Background

The Bureau filed a final environmental impact statement (EIS) (INT FES 85-29) on the Tucson Aqueduct Phase B on August 14, 1985. The Department of Energy, Western Area Power Administration, acted as a cooperating agency in the preparation of the EIS and provided the descriptions of the transmission line systems and impacts and transmission system studies necessary for the EIS. The Department of Energy adopted the Bureau's EIS on December 13, 1985, and Western has used it in making its decision.

The Bureau considered five alternative routes for the aqueduct in the EIS, along with the alternative of "no Federal action." For each route considered by the Bureau, Western considered alternative transmission line routes. The "no Federal action" considered by the Bureau included "no action" by Western.

The Bureau issued a Record of Decision on September 24, 1985, that selects the West Side Plan as the agency intended action. Under this alternative, water from the terminus of Phase A of the Tucson Aqueduct would be fed into a 47.4 mile-long aqueduct that includes 28 miles of concrete-lined canal and 19.4 miles of concrete pipeline and is located primarily on the west side of the Tucson Montains. Details on the West Side Plan may be found in the EIS. In making its decision, the Bureau rejected the no Federal action alternative because it would not serve the water users of the area. The other four construction alternatives were considered as reasonable alternatives, and have similar kinds of environmental impacts that vary in degree of severity depending on the resource being considered.

The aqueduct alternative would have a beneficial effect on area water resources and would lessen the dependence on ground water mining. The selection of the Bureau's proposed action was based on an evaluation of various planning considerations and environmental impact analysis. The considerations and impacts that showed significant differences between routes were important to the selection of the proposed action. Means to minimize the differences among the alternatives were evaluated. It was determined that differences among the alternatives could be minimized through mitigation and final engineering designs. Each of the alternatives could satisfy the project objectives without consideration of cost. Construction and operating costs were then used to select between the alternatives. The West Side Plan has the lowest cost and was identified as the Bureau's proposed action. A more detailed description of the basis for the Bureau's decision can be found in their Record of Decision.

Western's decision, therefore, is based on the Bureau's decision to build the West Side Plan.

Description of Alternatives

Western considered alternative overhead transmission line routes, the no action alternative, and alternatives to an overhead transmission line. A description of the alternatives follows:

1. No Action: Under this alternative a locally implemented aqueduct system could be constructed from the terminus of Phase A of the Tucson Aqueduct to a water treatment plant located near Tucson. Three pumping plants would be required but the City of Tucson would negotiate with the local electrical power company to supply power to the pumps. This alternative was considered with the Bureau's no action alternative for comparative purposes and was, therefore, not further considered in the Western decision.

2. Underground Power Transmission System: At the request of the public, Western considered the environmental and technical feasibility of placing the transmission line underground. With the exception of visual impacts, which are greater for the overhead alternative, environmental impacts associated with undergrounding are not significantly less severe than those for the overhead alternative. After consideration of the technical complications, problems with accessibility for repairs or emergencies, relative environmental impacts, and costs, an underground HV system was rejected as an alternative to the overhead system.

3. Alternative Transmission Route: This route is the same as the preferred alternative except that it leaves the water delivery system near Sanders Road and follows the road to Brawley pumping plant, where it rejoins the canal alignment. A 1-mile-long tap line would be constructed to Sandario pumping plant; a small substation would be required at this location. From Brawley pumping plant the line parallels the canal to the Black Mountain plant.

4. Preferred Alterantive: Western's proposed facilities include 33 miles of 115-kV overhead transmission line. The line will supply power to six pumping plants with a total electrical capacity of about 53 megawatts. Operation of these plants will have a total average annual energy requirement of about 174 gigawatt hours. The transmission line right-of-way will be located adjacent to

that of the aqueduct. Deviations from the route of the aqueduct have been included when such design will reduce visual impacts and when cost and engineering constraints require such deviations. The line will begin at a tap on Western's existing Saguaro-Tucson 115-kV line. At the tap location a small (about 1 acre) substation will be constructed. The line will terminate at a new substation site approximately 2 acres in area located near Western's Tucson-Apache 115-kV Transmission Line.

Basis of Decision

Western's no action alternative was rejected because, although it was considered in conjunction with the Bureau's no action alternative, it was not considered a reasonable alternative by Western. The Bureau needs electrical power to operate the water pumps, which are an essential element of the Tucson Aqueduct Project. Western has decided to construct a transmission line that parallels the West Side water delivery system. The Bureau and Western agreed that the transmission lines would be routed along the aqueduct right-of-way whenever possible to keep project impacts localized and to minimize the transmission line impacts. A discussion of transmission line impacts is included in the EIS.

Environmental Commitments

Construction Considerations

Western will be responsible for construction of the transmission line. The Bureau will be responsible for all other construction activities, including acquisition of rights-of-way and implementing project-wide monitoring programs. The following commitments for environmental protection pertain to Western's construction of transmission lines and associated facilities for the proposed action. These mitigation requirements were obtained from the draft and final EIS.

The environmental and safety concerns associated with the construction activities would be stipulated in the specifications prepared for each contract issued for this project. The specifications outline the proposed construction activity and the methods to be used to insure safety and alleviate the environmental impacts associated with construction. The specifications prepared by Western serve as the basis for the contractor's bid and the document by which Western would oversee construction activities. Each construction contract would include specifications outlining the measures to be used to insure public and worker safety and protect the environmental concerns specific to the construction activity covered by the contract. In addition, Western instructions to contractors will outline methods and procedures to insure safety and preserve the environment during construction.

1. Construction and Public Safety

Safety conditions would be monitored by Western to avoid situations that could result in accidents involving construction workers, visitors, or travelers in the area. Signs, flagmen, barricades, and other safety devices would be used to warn of potential hazards. Safety specifications would be written in accordance with applicable State and Federal laws.

2. Dust Control and Air Pollution

Construction specifications would require the contractor to carry out proper and efficient measures to comply with local air pollution regulations or to reduce dust nuisances. The contractor would be responsible for preventing any nuisance to persons or damage to crops, orchards, cultivated fields, and dwellings from dust originating from his operations. Special precautions would be taken to insure that construction-related dust does not become a nuisance to recreational users or adversely affect the natural and scenic values.

Dust from construction activities would be controlled by maintaining proper soil moisture. The contractor would establish watering programs to maintain the proper moisture level but, during periods of high winds, dust could become a problem. Speed limits would be enforced to reduce dust problems. Vehicles and equipment that show excessive emissions of exhaust gases would not be operated until corrective repairs or adjustments are made. Combustible materials are needed in construction would be burned only with the concurrence of local pollution and fire authorities.

3. Noise Abatement

The Bureau will maintain a construction noise monitoring program to insure normal noise levels do not exceed 75 decibels at hight or 80 decibels during the day as measured from points considered to be sound sensitive, such as residential areas.

4. Water Pollution Abatement

Specifications would require the contractor to prevent construction-related pollution of underground aquifers, surface washes, and rivers. Specifications would require the contractor to comply with applicable Federal and State laws and regulations concerning control and abatement of water pollution.

5. Waste Material Disposal

The contractor will be required to remove all unused construction materials and other rubbish from the work area after construction. The contractor will be required to dispose of solid waste or hazardous waste in accordance with Federal and State laws and regulations. After construction, storage yards will be returned as nearly as practicable to their preconstruction appearance. This will include removal of all surplus buildings and equipment, lumber, refuse, fencing, and all other items not at the site prior to construction. The area will be seeded with native plants species to replace vegetation.

Any excess excavated soil around transmission line structures will be spread and blended with existing soil around the structure.

6. Erosion Control

All excavated slopes will be benched, terraced, or corrugated to prevent erosion and to aid revegetation after construction. Deep cut slopes would be benched or terraced and protected from cross drainage by diking. To prevent erosion of the cut slope, surface drain would be used at the toe of each bench or terrace.

7. Landscape Preservation

Prior to canal excavation and construction, right-of-way fences will be erected and vegetation clearing limits will be delineated in the construction specifications. Construction activities would be confined to these delineated areas within the right-of-way to reduce vegetation clearing and visual impact. The construction of new maintenance roads for the transmission line would be minimized by use of the canal operation and maintenance roads along most of the transmission line route, and by the use of existing roads where possible. Where the transmission line deviates from the aqueduct alignment, the contractor will be required to restrict his activities to the transmission line right-of-way.

Construction specifications will specify designated use areas for contractor construction yards and other needed construction areas. The use areas would be selected based in part on their visibility from sensitive areas and other environmental considerations. Establishment of other construction use areas would require specific approval of the contracting officer.

Fill material would be obtained from the aqueduct prism or from borrow areas adjacent to the aqueduct. Following preconstruction investigations the contracting officer will designate where material shall be obtained. Additional areas will be used only with approval of the contracting officer. Before being abandoned, the sites of borrow pits would be brought to stable slopes, scarified and left in a condition that would facilitate revegetation through seeding or natural succession.

8. Water Supplies

Contractors would be responsible for obtaining water for their construction activities. Water would be obtained in accordance with State laws.

9. Major and Minor Water Courses

Periodic flows in the ephemeral water courses crossed during construction would be diverted around construction sites if necessary. All intercepted floodflows would not be diminished or diverted to adjacent properties.

10. Existing Services and Facilities

Where facilities such as water, sewer, telephone, or gas lines would be crossed, the manner and location of the crossing would be determined through negotiations between the Bureau of Western and owner of the facility.

Biological Resources

1. Vegetation

Mitigation for destroyed habitat would consist of revegetation of all construction disturbed areas not required for operation and maintenance of the transmission line.

Western will supervise the clearing of transmission line rights-of-way to insure environmental protection measures are carried out. To enhance esthetics and control erosion, as much low growth vegetation will be preserved within the right-of-way as possible. Vegetation clearing will be minimized as much as is practicable. Advance notice will be given to the Arizona Commission of Agriculture and Horticulture in accordance with the Arizona Native Plant Law regarding disposition of protected native plants which must be removed.

If borrow areas are selected along the Santa Cruz River, they will be confined to the river bed and will not impact adjacent bankline riparian habitat.

2. Wildlife

Construction disturbance would be minimized from January 1 to June 1 within one-half mile of Harris Hawk nests. No haul roads, equipment yards or other related impacts would be permitted off of the right-of-way in these areas.

Contractor crews will be prohibited from collecting or unnecessarily disturbing desert tortoise or Gils monsters during construction.

All transmission line structures will be of a design that will prevent electrocution of raptors. If adverse effects on raptors are discovered after energizing the line, appropriate spacing or insulator modifications will be made on the problem structures.

Cultural Resources

A project-wide plan, including transmission line construction, is being developed by the Bureau in consultation with the State Historic Preservation Officer, the Keeper of the National Register of Historic Places, and the Advisory Council on Historic Preservation to mitigate the adverse effects due ot construction of the transmission line on significant cultural resources. Western will comply with the provisions of the plan.

If evidence of previously unrecorded cultural resources is discovered during construction, activities in the vicinity of the discovery will cease until an assessment of significance is made and appropriate mitigation measures, if necessary, are undertaken. Western's contractors will be instructed to contact the Bureau's construction supervisor so that the appropriate State office is notified of the discovery.

Visual Resources

Western's transmission line could diverge from the aqueduct alignment in some areas in order to avoid the adverse visual impact associated with a circuitous line that follows each curve of the aqueduct. The length of the divergence will depend on the relative impact to the environment compared with the impacts associated with the alternative of following the aqueduct, and the final engineering and design specifications. The line will be constructed as close to the aqueduct as practical and will follow a more direct route than the aqueduct in order to reduce adverse visual impacts in sensitive areas, returning to the aqueduct as soon as practical.

Western will use nonspecular conductors along the entire length of the transmission line in order to reduce visual impacts.

The mitigation measures that have been adopted are self-executing through standard operating procedures, construction contract specifications, and existing environmental protection procedures instituted through the Western Manual. The Bureau will establish a project monitoring program that will be designed to make sure that the adopted mitigation measures and environmental commitments are successfully accomplished.

Issued at Golden, Colorado, February 7, 1986.

William H. Clagett,

Administrator.

[FR Doc. 86-7695 Filed 4-4-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[A-6-FRL-2998-3]

Approvals and Extensions of PSD Permits

Notice is hereby given that the Environmental Protection Agency (EPA), Region 6, has issued Prevention of Significant Deterioration (PSD) permits to the following:

1. PSD-TX-194M-1—Texas Cement Company: Portland Cement Plant located on FM Road 2770, approximately one mile south of Buda, Hays County, Texas. PSD-TX-194M-1 modifies PSD-TX-194 to authorize the installation of an alkali bypass in the kiln/preheater system. This modified permit was issued on October 11, 1985.

2 PSD-TX-119M-3—Amoco Oil Company: Petroleum refinery located at 2401 Fifth Avenue South, Texas City, Galveston County, Texas: PSD-TX-119M-3 modifies PSD-TX-119M-2 to authorize the increase of the throughput of Ultraformer No. 3 by replacing the existing pumps with larger pumps and increasing the firing rate of Heater 306B. This modified permit was issued on November 27, 1985.

3. PSD-TX-647—Bishop Cogeneration Project: This permit, issued on December 9, 1985, authorizes the construction of a gas fired cogeneration facility to be located on State Highway 428, approximately 1.5 miles southwest of Bishop, Nueces County, Texas.

4. PSD-TX-494M-2—Mid Plains Pipeline Company: Natural gas processing plant located on FM Road 399, approximately 10 miles northwest of Post, Garza County, Texas. PSD-TX-494M-2 modifies PSD-TX-494M-1 to authorize an increase of the throughput and the installation of two additional compressors and one generator. This modified permit was issued on December 10, 1985.

5. PSD-TX-640—Champion International Corporation: This permit, issued on December 11, 1985, authorizes the construction of six gas fired cogeneration units at the existing paper

mill located at 11611 Fifth Street, Sheldon, Harris County, Texas.

6. PSD–TX–664—Union Texas Petroleum Corporation: This permit, issued on December 11, 1985, authorizes the construction of a cryogenic unit and the installation of two 2000 hp engines at the existing Benedum Gas Processing Plant located on Ranch Road 1555, approximately 12 miles northeast of Rankin, Upton County, Texas.

7. PSD–TX–865—Mid Plains Pipeline Company, Incorporated: This permit issued on December 11, 1985, authorizes the construction of a natural gas processing plant to be located on FM Road 669, approximately 2.5 miles south of Post, Garza County, Texas.

These permits have been issued under EPA's Prevention of Significant Air Quality Deterioration Regulations at 40 CFR 52.21, as amended August 7, 1980. The time period established by the Consolidated Permit Regulations at 40 CFR 124.19 for petitioning the Administrator to review any condition of the permit decisions has expired. Such a petition to the Administrator is, under 5 U.S.C 704, a prerequisite to the seeking of judicial review of the final agency action. No petitions for review of these permits have been filed with the Administrator.

Notice is hereby given that the Environmental Protection Agency (EPA), Region 6, has extended the expiration date of the following Prevention of Significant Deterioration (PSD) permit:

1. PSD–TX–471—Kirby Forest Industries: This permit, issued on June 24, 1983, authorized the construction of a pulp and paper mill to be located approximately 1.5 miles west of Bon Wier, Newton County, Texas. The company has postponed the start of construction due to adverse economic conditions. The extension was granted on November 6, 1985, to a new expiration date of December 24, 1986.

The PSD regulation at 40 CFR 52.21(r)(2) states that the Administrator may extend the 18-month period in which construction must commence if the company shows that an extension is justified.

A notice of EPA's proposed action to extend this PSD permit was published in a newspaper in the affected area of the facility.

Documents relevant to the above actions are available for public inspection during normal business hours at the Air, Pesticides and Toxics Division, U.S. Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Donna Ascenzi at (214) 767–1594.

Under section 307(b)(1) of the Clean Air Act, judicial review of the approval of these actions is available, if at all, only by the filing of a petition for review in the United States Fifth Circuit Court of Appeals within 60 days of (date of publication of notice). Under section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

This notice will have no effect on the National Ambient Air Quality Standards.

The Office of Management and Budget has exempted this information notice from the requirements of Section 3 of Executive Order 12291.

Dated: March 30, 1986.

Allyn M. Davis,

Acting Regional Administrator, Region 6.

[FR Doc. 86–7628 Filed 4–4–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L. Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 024–004166–002.

Title: Port of Oakland Terminal Agreement.

Parties:

Port of Oakland (Port)
Pasha Properties, Inc. (Pasha)

Synopsis: The proposed amendment would modify the agreement to permit the Port to assign the management of certain marine terminal facilities in the Port's Outer Harbor Terminal Area to Pasha. It would also extend the time to and including the 15th day of May, 1986 in which the parties may reach agreement as to the adjusted compensation to apply from and after the 1st day of February, 1986.

Agreements No.: 204–010064–010.

Title: U.S. Gulf/Colombia Equal Access Agreement.

Parties:

Coordinated Caribbean Transport CTMT, Inc.
Flota Mercante Grancolombiana, S.A.
Lykes Bros. Steamship Co., Inc.
New York Navigation Company, Inc.
O S & L of Louisiana, Inc.

Synopsis: the proposed amendment would admit O S & L of Louisiana, Inc. as a party to the agreement. The parties have requested a shortened review period.

Agreement No.: 202–010776–007

Title: Asia North America Eastbound Rate Agreement

Parties:

American President Lines, Ltd.
Barber Blue Sea
Hanjin Container Lines, Ltd.
Hyundai Merchant Marine Co., Ltd.
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
A.P. Moller-Maersk Line
Mitsui O.S.K. Lines, Ltd.
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha Line
Orient Overseas Container Line, Inc.
Sea-Land Service, Inc.
Showa Line, Ltd.
United States Lines, Inc.
Yamashita-Shinnihon Steamship Co., Ltd.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would modify the independent action provisions of the agreement to establish that the Agreement Executive shall schedule meetings of the agreement within the Period for taking independent action for consideration of the proposed rate or service item and provide that the party proposing the independent action is not required to attend such meetings.

Agreement No.: 217–010908

Title: Zim Israel Navigation Co. Ltd./Hong Kong Islands Line America S.A. Space Charter and Sailing Agreement

Parties:

Zim Israel Navigation Co. Ltd. (Zim)
Hong Kong Islands Line America S.A. (HKIL)

Synopsis: the proposed agreement would permit Zim to charter vessel space to HKIL for the carriage of cargo in the trade with eastbound service from Osaka/Kobe and Yokohama/Tokyo to Long Beach, California and westbound service from Long Beach, California to Yokohama/Tokyo, Osaka/Kobe, Kaohsiung and Hong Kong.

By Order of the Federal Maritime Commission.

Dated: April 2, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-7577 Filed 4-4-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Mellon Bank Corp., et al; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 28, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon Bank Corporation,* Pittsburgh, Pennsylvania; to acquire Mellon Bank (MD), Bethesda, Maryland, a *de novo* bank that will be formed through the purchase of certain assets and assumption of certain liabilities of Community Savings and Loan, Inc., Bethesda, Maryland. In connection with this application Mellon Financial Corporation (MD), Bethesda, Maryland, will become a bank holding company by acquiring Mellon Bank (MD). The comment period on this application ends April 23, 1986.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Hamel Bancorp, Inc.* Hamel, Illinois; to become a bank holding company by acquiring at least 80 percent of the voting shares of Hamel State Bank, Hamel, Illinois.

C. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Nichols Hills Bancorporation, Inc.,* Oklahoma City, Oklahoma; to become a bank holding company by acquiring 100 percent of the voting shares of Nichols Hills Bank and Trust Company, Oklahoma City, Oklahoma.

Board of Governors of the Federal Reserve System, April 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-7572 Filed 4-4-86; 8:45 am]

BILLING CODE 6210-01-M

Met Financial Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 28, 1986.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President), 101 Market Street, San Francisco, California 94105:

1. *Met Financial Corporation,* Oakland, California; to become a bank holding company by the conversion of its existing wholly owned subsidiary, Metropolitan Thrift and Loan Association, Oakland, California, to a national bank under the name Metropolitan National Bank.

Met Financial Corporation has also applied to continue to engage in mortgage banking activities, including underwriting, brokering, and servicing real estate loans, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-7573 Filed 4-4-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney

General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0769—Jostens, Inc.'s proposed acquisition of voting securities of Prescription Learning Corp.	Mar. 14, 1986.
(2) 86-0688—Hadson Petroleum Company's proposed acquisition of voting securities of Llano, Inc., Llano CO_2, Inc.; Minerals Inc. and NMESCO Fuels, Inc. (InterNorth, Inc., UPE).	Mar. 17, 1986.
(3) 86-0711—Ralph J. Roberts' proposed acquisition of voting securities of Citizens Cable Communications, Inc.	Do.
(4) 86-0713—Universal Foods Corporation's proposed acquisition of voting securities of H. Kohnstamm & Company, Inc.	Do.
(5) 86-0723—Louisiana State Rice Milling Company, Inc.'s proposed acquisition of voting securities of Riviana Foods, Inc., Riviana Restaurant Corporation and Riviana's Carlisle, AR rice drying and milling operations, (Colgate Palmolive Company, UPE).	Do.
(6) 86-0736—Southwestern General Corporation's, (Michael R. Krupp, UPE) proposed acquisition of voting securities of Armco Atlantic, Inc., (Armco, Inc., UPE).	Do.
(7) 86-0745—Third Gould Limited Partnership's proposed acquisition of voting securities of IGI Holdings, Inc., (USLICO Corporation, UPE).	Do.
(8) 86-0755—Allied Products Corporation's proposed acquisition of assets of Lilliston Corporation.	Do.
(9) 86-0761—Thomas F. Pyle's proposed acquisition of voting securities of Rayovac Corporation.	Do.
(10) 86-0770—Intermark, Inc.'s proposed acquisition of voting securities of Triton Group, Ltd.	Do.
(11) 86-0784—Time Incorporated's proposed acquisition of voting securities of Burke Marketing Services, Inc.	Do.
(12) 86-0706—Bastian Industries, Inc.'s proposed acquisition of voting securities of Struthers-Dunn, Inc., (John Struthers-Dunn, Jr., (UPE).	Mar. 18, 1986.
(13) 86-0726—Westinghouse Electric Corporation's proposed acquisition of voting securities of GenCorp, Inc., (GHT-102, Inc., UPE).	Do.
(14) 86-0753—Vernon W. Hill, II's proposed acquisition of assets of Ponderosa, Inc.	Do.
(15) 86-0754—Steven M. Lewis' proposed acquisition of assets of Ponderosa, Inc.	Do.
(16) 86-0756—Super Valu Stores, Inc.'s proposed acquisition of voting securities of Food Giant, Inc., (Etablissements Delhaize Freres et cie "Le Lion" S.A., UPE).	Do.
(17) 86-0693—Pittco Associates, a partnership's proposed acquisition of voting securities of Affiliated Foods, Inc.	Mar. 19, 1986.
(18) 86-0752—Alan Bond's proposed acquisition of voting securities of Thorn EMI Screen Entertainment Division, (Thorn EMI plc., UPE).	Do.
(19) 86-0764—United Biscuits (Holdings) PLC's proposed acquisition of voting securities of Imperial Group Public Limited Company.	Do.
(20) 86-0767—The Fulcrum II Limited Partnership's proposed acquisition of voting securities of Rival Manufacturing Company.	Do.
(21) 86-0775—Schwarz-Monheim Industriebeteiligungeges mbH's proposed acquisition of assets of Kremers-Urban Company and William H. Rorer, Inc., (Rorer Group, Inc., UPE).	Do.
(22) 86-0783—Gulf & Western Industries, Inc.'s proposed acquisition of assets of Management Control Systems, (Sterling Software, Inc., UPE).	Do.
(23) 86-0732—The Home Group, Inc.'s proposed acquisition of assets of Insurance Premium Finance Division and Imperial Premium Finance, Inc., (Imperial Bancorp, UPE).	Mar. 20, 1986.
(24) 86-0672—Melvin Simon & Associates, Inc.'s proposed acquisition of assets of Pine State Knitware Division, (Ing. C. Olivetti & C.S.p.A., UPE).	Mar. 21, 1986.
(25) 86-0701—Anheuser-Busch Companies, Inc.'s proposed acquisition of voting securities of Metal Box Can Inc., (Metal Box p.l.c., UPE).	Do.
(26) 86-0766—The Rank Organisation PLC's proposed acquisition of voting securities of Granada Group plc.	Do.
(27) 86-0786—Walton Monroe Mills, Inc.'s proposed acquisition of voting securities of Avondale Mills.	Do.
(28) 86-0787—John Hancock Mutual Life Insurance Company's proposed acquisition of voting securities of The Sutro Group.	Do.
(29) 86-0788—Celanese Corporation's proposed acquisition of voting securities of Endotronics, Inc.	Do.
(30) 86-0795—Abbott Laboratories' proposed acquisition of voting securities of Boston Scientific Corportion.	Do.
(31) 86-0816—Cummins Engine Company, Inc.'s proposed acquisition of assets of Cummins Sales & Service, Inc., (Kendavis Holding Company, UPE).	Do.
(32) 86-0824—A B Electrolux' proposed acquisition of voting securities of White Consolidated Industries, Inc.	Do.
(33) 86-0825—Conseco, Inc.'s proposed acquisition of voting securities of Lincoln Income Life Insurance Company.	Do.
(34) 86-0828—Avon Products, Inc.'s proposed acquisition of voting securities of Abraham D. Goaman, (The Mediplex Group, UPE).	Do.
(35) 86-0686—GB-Inno-BM S.A.'s proposed acquisition of voting securities of Scotty's Inc.	Mar. 24, 1986.
(36) 86-0721—Allianz Aktiengesellschaft's proposed acquisition of voting securities of Cornhill Insurance PLC, (BTR plc, UPE).	Do.
(37) 86-0743—Mobile Communications Corporation of America's proposed acquisition of voting securities of American Cellular Telephone Corporation, (FMI Financial Corporation, UPE).	Do.
(38) 86-0772—Orient Leasing Co., Ltd.'s proposed acquisition of voting securities of United States Leasing International, Inc.	Do.
(39) 86-0785—Care Enterprises' proposed acquisition of voting securities of C-V American Corp.	Do.
(40) 86-0712—Daniel J. Sullivan's proposed acquisition of assets of Bangborn Company, (The British Petroleum Company, UPE).	Mar. 26, 1986.
(41) 86-0797—Georgia-Pacific Corporation's proposed acquisition of assets of United States Steel.	Do.
(42) 86-0796—Gardan State Newspapers, Inc.'s proposed acquisition of assets of The News Printing Company and Hudson Dispatch, (Joe Lewis Allbritton, UPE).	Do.
(43) 86-0821—Grand Metropolitan Public Limited Company's proposed acquisition of assets of Star Liquor Imports, Inc., (Abraham Rosenburg, UPE).	Do.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-7558 Filed 4-4-86; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0632—Unifi, Inc.'s proposed acquisition of assets of Macfield Texturing, Inc.	Feb. 28, 1986.
(2) 86-0645—MAC Inc.'s proposed acquisition of voting securities of Cineplex Odeon Corporation.	Do.
(3) 86-0657—Cineplex Odeon Corporation's proposed acquisition of voting securities MCA Inc.	Do.
(4) 86-0647—The Mutual Life Assurance Company of Canada's proposed acquisition of voting securities of Western States Life Insurance Company.	Do.
(5) 86-0619—Roxboro Investments (1976) Ltd.'s proposed acquisition of voting securities of Hartmarx Corporation.	Mar. 3, 1986.
(6) 86-0692—Eugene S. Rosenfeld's proposed acquisition of assets of Anden Corp., (James B. Klingbeil, UPE).	Do.
(7) 86-0705—The Circle K Corporation's proposed acquisition of assets of Stop N Go Markets of Texas, Inc., Stop N Go Markets of Georgia, Inc., (National Convenience Stores Inc., UPE).	Do.
(8) 86-0660—New York Life Insurance Company's proposed acqdisition of voting securities of Paine Webber Mortgage Acceptance Corporation I, (Paine Webber Group Inc. (UPE).	Mar. 4, 1986.
(9) 86-0694—Charles W. Durham's proposed acquisition of assets of CAC's Brantex Mills Division, (Chromalloy American Corporation, UPE).	Do.
(10) 86-0696—Baker Perkins PLC's proposed acquisition of voting securities of Sterling Extruder Corporation.	Do.

Transaction	Waiting period terminated effective
(11) 86-0684—Berkshire Hathaway, Inc.'s proposed acquisition of voting securities of NHP, Inc.	Mar. 5, 1986.
(12) 86-0707—Pallas Group, S.A.'s proposed acquisition of voting securities of American Service Corporation.	Do.
(13) 86-0708—Pallas Group, S.A.'s proposed acquisition of voting securities of American Service Corporation.	Do.
(14) 86-0709—Vantona Viyella plc's proposed acquisition of voting securities of Coats Patons plc.	Do.
(15) 86-0689—Oppenheimer & Co., L.P.'s proposed acquisition of voting securities of New Holdings, Inc., (Mercantile House Holdings, Inc., UPE).	Mar. 6, 1986.
(16) 86-0697—TLC Associates' proposed acquisition of voting securities of GATX Corporation.	Mar. 10, 1986.
(17) 86-0698—Carrefour S.A.'s proposed acquisition of voting securities of Costco Wholesale Corporation.	Do.
(18) 86-0722—Thermo Electron Corporation's proposed acquisition of assets of Allied Analytical Systems Division of Allied Health & Scientific Products Company, (Allied Signal, Inc., UPE).	Do.
(19) 86-0744—General Electric Company's proposed acquisition of assets of North American Car Corporation, (Tiger International, Inc., UPE).	Do.
(20) 86-0746—Werner K. Rey's proposed acquisition of voting securities of Pittsburgh Testing Laboratory.	Do.
(21) 86-0675—American Home Products Corporation's proposed acquisition of voting securities of California Biotechnology, Inc.	Mar. 11, 1986.
(22) 86-0687—Martin Marietta Corporation proposed acquisition of voting securities of Weaver Construction Company.	Do.
(23) 86-0696—WNS, Inc.'s proposed acquisition of assets of Wallpapers To Go, Inc., (General Mills, Inc., UPE).	Do.
(24) 86-0719—Combined International Corporation's proposed acquisition of voting securities of The Life Insurance Company of Virginia, (Peter Kiewitt Sons, Inc., UPE).	Do.
(25) 86-0727—Harnischfeger Corporation's proposed acquisition of voting securities of Beloit Corporation.	Do.
(26) 86-0674—The Goodyear Tire & Rubber Company's proposed acquisition of voting securities of Brad Ragan, Inc.	Mar. 12, 1986.
(27) 86-0700—Lafer Amster & Co., a partnership's proposed acquisition of voting securities of Graphic Scanning Corp.	Do.
(28) 86-0725—Jardine Matheson Holdings Limited's proposed acquisition of voting securities of Emett and Chandler Companies, Inc.	Do.
(29) 86-0739—Fujitsu Limited's proposed acquisition of assets of Burroughs Corporation.	Do.
(30) 86-0747—Solvay & Cie S.A.'s proposed acquisition of voting securities of Reid-Rowell, Inc.	Do.
(31) 86-0748—Solvay & Cie S.A.'s proposed acquisition of voting securities of Reid-Rowell, Inc.	Do.
(32) 86-0683—The Singer Company's proposed acquisition of assets of The Dalmo-Victor Division and voting securities of EM Systems, Inc..	Mar. 13, 1986.
(33) 86-0742—Sidney Kimmel's proposed acquisition of voting securities of Craddock-Terry Shoe Corporation.	Mar. 14, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.
Emily H. Rock,
Secretary.
[FR Doc. 86-7559 Filed 4-4-86; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Radiopharmaceutical Drugs Advisory Committee; Renewal

Correction

In FR Doc. 86-5857, appearing on page 9265 in the issue of Tuesday, March 18, 1986, make the following corrections:

1. In the second column, first line, the third word should read "Radiopharmaceutical"; and

2. Also in the second column, in the second line of the **DATE** caption, the date should read "February 28, 1988".

BILLING CODE 1505-01-M

[Docket No. 86D-0094]

Action Levels for Kepone in Fish, Shellfish, and Crabmeat

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it is retaining the action levels for the pesticide Kepone in fish, shellfish, and crabmeat at the current levels until further notice. The Environmental Protection Agency (EPA) recently reevaluated the action levels that FDA established to deal with the Kepone contamination of the James River in Virginia. Based on EPA's review and recommendation, FDA is reaffirming the current action levels for Kepone as established in Compliance Policy Guide 7120.23, Attachment I.

ADDRESS: Written comments and requests for single copies of the Compliance Policy Guide 7120.23, Attachment I, should be submitted to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Elizabeth J. Campbell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0175.

SUPPLEMENTARY INFORMATION: In accordance with EPA's policy statement published in the **Federal Register** of September 29, 1982 (47 FR 42956), EPA reevaluated FDA's current action levels for Kepone as set forth in Compliance Policy Guide 7120.23, Attachment I. FDA established these Kepone action levels of 0.3 part per million (ppm) for fish, 0.3 ppm for shellfish, and 0.4 ppm for crabmeat in 1976 to deal with the Kepone contamination of the James River in Virginia. The agency based these action levels on recommendations from EPA.

EPA reevaluated the action levels, takng into account recent data on Kepone levels in fish, shellfish, and crabs from the James River. EPA found that there has not been a significant decrease in Kepone levels in fin fish. Although average Kepone residues have been declining since 1980 in crabs and oysters, as recently as 1983, individual crab samples were found to contain residues that ranged as high as 0.4 ppm.

EPA believes that longer term sampling is necessary to demonstrate any trends in Kepone residues, and that the appearance of a downward trend should be regarded conservatively because Kepone is an extremely stable compound with a long half-life. For these reasons, EPA recommended that FDA retain the current action levels for Kepone in fish, shellfish, and crabs. FDA accepts EPA's recommendation.

Thus, FDA is announcing that the action levels for Kepone contained in the current Compliance Policy Guide 7120.23, Attachment I, of 0.3 ppm for fish, 0.3 ppm for shellfish, and 0.4 ppm for crabs will remain in effect until further notice. FDA will reassess these action levels as new data become available.

Copies of EPA's recommendation, a memorandum to all FDA Regional and District Offices announcing this decision, and the current FDA Compliance Policy Guide 7120.23, Attachment I, are on file in the Dockets Management Branch. Requests for single copies of the FDA Compliance Policy Guide should refer to the docket number found in brackets in the heading of this document and should be submitted to the Dockets Management Branch (address above).

Interested persons may submit written comments, data, and information regarding these action levels to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office

above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 1986.

Maurice D. Kinslow,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-7564 Filed 4-4-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86E-0082]

Determination of Regulatory Review Period for Purposes of Patent Extension; Omnipaque

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Omnipaque and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

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

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Omnipaque, an injectable form of iohexol which is indicated for intrathecal administration in adults including myelography (lumbar and thoracic) and in contrast enhancement for computerized tomography. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Omnipaque from Nycomed AS and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated March 7, 1986, advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period and that its active ingredient, iohexol, represented the first permitted commercial marketing or use of that active ingredient. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Omnipaque is 1,585 days. Of this time, 553 days occurred during the testing phase of the regulatory review period, while 1,032 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* August 26, 1981. The applicant claims that the notice of claimed investigational exemption (IND) was submitted on July 24, 1981. However, FDA did not receive the IND application until July 27, 1981. Therefore, under 21 CFR 312.1 the IND became effective on August 26, 1981.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 1, 1983. The applicant claims that the new drug application for the drug (NDA 18-956) was initially submitted on February 28, 1983, yet FDA did not receive the application until March 1, 1983.

3. *The date the application was approved:* December 26, 1985. FDA has verified that NDA 18-956 was approved on December 26, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 684 days of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 6, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 6, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 86-7561 Filed 4-4-86; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Circulatory System Devices Panel

Date, time and place. April 21, 1:15 p.m., Conference Rm. G, 5600 Fishers Lane, Rockville, MD 20857.

Type of meeting and contact person. This meeting will take the form of a conference telephone call. A speaker

phone will be provided in the conference room to allow public participation in the open session of the meeting. Open public hearing, 1:15 p.m. to 1:30 p.m., open committee discussion, 1:30 p.m. to conclusion; Dr. Keith Lusted, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7594.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 14, 1986, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the name and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss information contained in a premarket approval application (PMA) for a cardiac pacemaker, a PMA for a transesophageal pacemaker, a PMA for a prosthetic heart valve, and a PMA for a percutaneous transluminal coronary angioplasty (PTCA) catheter. The PMA's were previously reviewed by the Panel on February 7, 1986, at which time a quorum of the voting members were not present.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not is also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Room 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under sections 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: April 1, 1985.

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–7562 Filed 4–4–86; 8:45 am]

BILLING CODE 4160–01–M

Advisory Committee Meeting

Correction

In FR Doc. 86–5298, appearing on page 8560, in the issue of Wednesday, March 12, 1986, make the following corrections:

In the second column, first complete paragraph, eleventh line, after "meeting", insert "involved". On the next line, before "announced", insert "There are no closed portions for the meetings".

BILLING CODE 1505–01–M

Health Resources and Services Administration

Maternal and Child Health Research Grants Review Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of June 1986.

Name: Maternal and Child Health Research Grants Review Committee.

Date and Time: June 18–20, 1986 9:00 a.m.—5:00 p.m.

Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on Wednesday, June 18, 1985 at 9:00 a.m. to 10:00 a.m.

Closed for remainder of meeting.

Purpose: The Committee is charged with the review of all research grant applications in the program areas of maternal and child health administered by the Bureau of Health Care Delivery and Assistance.

Agenda

The open portion of the meeting will cover opening remarks by the Director, Division of Maternal and Child Health, who will report on program issues, Congressional activities and other topics of interest to the field of maternal and child health. The meeting will be closed to the public on June 18, 1986, from 10:00 a.m. for the remainder of the meeting for the review of research grant applications. The closing is in accordance with the Provision set forth in section 552(c)(6), Title 5 U.S.C. and the Determination by the Acting Administrator, Health Resource and Services Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings or other relevant information should write to or contact GONTRAN LAMBERTY, Dr. P.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6–17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone: (301) 443–2190.

Agenda items are subject to change as priorities dictate.

Dated: April 1, 1986.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 86-7560 Filed 4-4-86; 8:45 am]

BILLING CODE 4160-15-M

Office of Human Development Services

Federal Council on the Aging; Meeting

Agency holding the meeting: Federal Council on the Aging.

Time and Date: Meeting begins at 9:00 AM and ends at 5:00 PM on Wednesday, May 28, 1986 and begins at 9:00 AM and ends at 3:00 PM on Thursday, May 29, 1986.

Place: Department of Health and Human Services, HHS North Building, 330 Independence Avenue, SW., Washington, DC 20201, OIG Conference Room, 5542 (Fifth Floor).

Status: Meeting is open to the public.

Contact persons: Pete Conroy, Room 4243, HHS North Building, 245-2451.

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (PL 93029, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health and Human Services, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committeee Act (PL 92-453, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting on May 28 and 29, 1986 from 9:00 AM-5:00 PM and from 9:00 AM-3:00 PM respectively in Room 5542 in the Health & Human Services North Building, 330 Independence Avenue, SW., Washiangton, DC 20201.

The agenda will include: Swearing in three new congressionally appointed members of the Council—Mary J. Majors, Iowa; Tessa Macauley, Florida; and Jon B. Hunter, West Virginia. An update on Long-Term Care Insurance by representatives of companies and organizations involved in this field; a presentation on the financaing of elderly housing by the representatives of nonprofit Retirement Elderly Housing Trust; a presentation on new technologies and environmental housing design for senior Americans by the National Association & Home Builders Foundation representative; and update on the National Institute on Aging by Dr. T. Franklin Williams, Director; a discussion of the Joint Training and Partnership Act by representatives from the National Governors Association and Department of Labor; in additon, a substantial amount of time will be devoted to FCoA committee meetings prioritizing subject areas of interest for 1986.

Dated: April 2, 1986.

Ingrid Azvedo,

Chairperson, Federal Council on the Aging.

[FR Doc. 86-7672 Filed 4-4-86; 8:45 am]

BILLING CODE 4130-01-M

Public Health Service

National Toxicology Program (NTP); Notice of Modifications in the Levels of Evidence of Carcinogenicity Used To Describe Evaluative Conclusions for NTP Long-Term Toxicology and Carcinogenesis Studies

In June 1983, the National Toxicology Program (NTP) began using five categories of interpretative conclusions in their Toxicology and Carcinogenesis Studies Technical Report Series. The use of these categories or levels was implemented in order to differentiate better and evaluate the "strength of evidence" of the experimental findings in its studies and to replace the restrictive classifications in common use that a chemical "was" or "was not" carcinogenic under the conditions of the particular study.

The levels of evidence were formulated with the underlying need to allow scientific flexibility and to promote better understanding among the Program Staff and the NTP Board of Scientific Counselors Technical Reports Review Subcommittee (Peer Review Subcommittee) and those who subsequently must rely on these findings.

The levels of evidence have been included in the Note to the Reader section located on page 2 of each Technical Report. Since their adoption (from June 1983 through March 1986), they have been used to evaluate 53 toxicology and carcinogenesis studies representing 202 separate experiments. There was a consensus among the Subcommittee members that the levels of evidence of carcinogenicity as used for the Technical Reports were an advancement.

The Subcommittee, members of the Board of Scientific Counselors, and members of the Board's *Ad Hoc* Panel on Chemical Carcinogenesis Testing and Evaluation have consistently urged continued use of these categories, with minor adjustments made where necessary to reflect their concerns as well as advances in knowledge. On October 30, 1985, the Board in public session reviewed a proposal suggesting incorporation of certain changes. The major addition proposed for the levels of evidence centered on a more explanatory narrative in the Note to the Reader that would assist Subcommittee members who review the Technical Reports as well as promote further understanding for those who use these Reports. Following review and discussion of a revised proposal by the Subcommittee on December 9, 1985, a revised Note to the Reader section along with explanatory and background information was placed in the **Federal Register** (51 FR 2579-2582, January 17, 1986) and comments requested within 45 days.

In response to the **Federal Register** announcement, 39 written comments were received and reviewed by Program Staff and members of the Board and Peer Review Subcommittee. Proposed modifications were discussed at length by the Board in public session on March 25, 1986, with adequate time allowed for public comment. As a result, several changes were recommended by the Board and accepted by the Program. The following revised Note to the Reader, not titled Explanation of Levels of Evidence, reflects these changes and will appear in all future Toxicology and Carcinogenesis Studies Technical Reports evaluated by the Peer Review Subcommittee. The section will appear immediately after the Abstract section of the Report. The last three paragraphs of the previous Note to the Reader will continue to appear on page two under that title.

Explanation of Levels of Evidence

These studies are designed and conducted to characterize and evaluate the toxicologic potential, including carcinogenic activity, of selected chemicals in laboratory animals (usually two species, rats and mice). Chemicals selected for NTP toxicology and carcinogenesis studies are chosen primarily on the basis of human exposure, level of production, and chemical structure. Selection per se is not an indicator of a chemical's carcinogenic potential.

Negative results, in which the laboratory animals do not have a greater incidence of neoplasia than control animals, do not necessarily mean that a chemical is not a carcinogen, inasmuch as the experiments are conducted under a limited set of conditions. Positive results demonstrate that a chemical is carcinogenic for laboratory animals under the conditions of the study and indicate that exposure to the chemical has the potential for hazard to humans.

The NTP Program describes the results of individual experiments on a chemical agent and notes the strength of the evidence for conclusions regarding each study. Other organizations, such as the International Agency for Research on Cancer, assign a strength of evidence for conclusions based on an examination of all available evidence including: animal studies such as those conducted by the NTP; epidemiological studies; and estimates of exposure. Thus, the actual determination of risk to humans from chemicals found to be carcinogenic in laboratory animals requires a wider analysis that extends beyond the purview of these studies.

Five categories of evidence of carcinogenic activity are used in the Technical Report series to summarize the strength of the evidence observed in each experiment:

—Two categories for positive results ("Clear Evidence" and "Some Evidence"),
—One category for uncertain findings ("Equivocal Evidence"),
—One category for no observable effects ("No Evidence"),
—And one category for experiments that because of major flaws cannot be evaluated ("Inadequate Study").

These categories of interpretative conclusions were first adopted in June 1983 and then revised in March 1986 for use in the Technical Report series to incorporate more specifically the concept of actual weight of evidence of carcinogenic activity, as well as to emphasize consistency. For each separate experiment (male rats, female rats, male mice, female mice), one of the following quintet is selected to describe the findings. These categories refer to the strength of the experimental evidence and not to either potency or mechanism.

• Clear Evidence of Carcinogenic Activity is demonstrated by studies that are interpreted as showing a dose-related (i) increase of malignant neoplasms, (ii) increase of a combination of malignant and benign neoplasms, or (iii) marked increase of benign neoplasms if there is an indication from this or other studies of the ability of such tumors to progress to malignancy.

• Some Evidence of Carcinogenic Activity is demonstrated by studies that are interpreted as showing a chemically related increased incidence of neoplasms (malignant, benign, or combined) in which the strength of the response is less than that required for clear evidence.

• Equivocal Evidence of Carcinogenic Activity is demonstrated by studies that are interpreted as showing a marginal increase of neoplasms that may be chemically related.

• No Evidence of Carcinogenic Activity is demonstrated by studies that are interpreted as showing no chemically related increases in malignant or benign neoplasms.

• Inadequate Study of Carcinogenic Activity is demonstrated by studies that because a major qualitative or quantitative limitations cannot be interpreted as valid for showing either the presence or absence of a carcinogenic effect.

While selecting a conclusion statement for a particular experiment, consideration must be given to key factors that would extend the actual boundary of an individual category of evidence. This should allow for incorporation of scientific experience and current understanding of long-term carcinogenesis studies in laboratory animals, especially for those evaluations that may be on the borderline between two adjacent levels. These considerations should include:

• The adequacy of the experimental design and conduct;
• Occurrence of common versus uncommon neoplasia;
• Progression (or lack thereof) from benign to malignant neoplasia as well as from preneoplastic to neoplastic lesions;
• Some benign neoplasms have the capacity to regress but others (of the same morphologic type) progress. At present it is impossible to identify the difference. Therefore, where progression is known to be a possibility the most prudent course is to assume that benign neoplasms of those types have the potential to become malignant;
• Combining benign and malignant tumor incidences known or thought to represent stages of progression in the same organ or tissue;
• Latency in tumor induction;
• Multiplicity in site-specific neoplasia;
• Metastases;
• Supporting information from proliferative lesions (hyperplasia) in the same site of neoplasia or in other experiments (same lesion in another sex or species);
• The presence or absence of dose-response relationships;
• The statistical significance of the observed tumor increase;
• The concurrent control tumor incidence as well as the historical control rate and variability for a specific neoplasm;
• Survival-adjusted analyses and false positive or false negative concerns;
• Structural activity correlations; and
• In some cases genetic toxicology.

These factors together with the definitions as written should be used as composite guidelines for selecting one of the five categories.

Additionally, the following concepts (as patterned from the International Agency for Research on Cancer Monographs) have been adopted by the NTP to give further clarification of these issues:

The term chemical carcinogenesis generally means the induction by chemicals of neoplasms not usually observed, the induction by chemicals of more neoplasms than are generally found, or the earlier induction by chemicals of neoplasms that are commonly found. Different mechanisms may be involved in these situations. Etymologically, the term carcinogenesis means induction of cancer, that is, of malignant neoplasms ; however, the commonly accepted meaning is the induction of various typesof neoplasms or of a combination of malignant and benign neoplasms. In the Technical Reports, the words tumor and neoplasms are used interchangeably.

Comments on the revised levels of evidence and Explanation of Levels of Evidence section will be welcomed at any time. Please communicate your comments to Dr. Larry G. Hart, Office of the Director, National Toxicology Program, P.O. Box 12233, Research Triangle Park, North Carolina 27709. We would anticipate reviewing the usefulness of the revised levels of evidence in two to three years.

Dated: April 3, 1986.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 86-7811 Filed 4-4-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. D-86-816; FR-2225]

Orders of Succession for General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner and Subordinate Officials in the Office of Housing

AGENCY: Department of Housing and Urban Development (HUD); Office of the Assistant Secretary for Housing—Federal Housing Commissioner.

ACTION: Order of Succession.

SUMMARY: This Order of Succession revises the designation of officials authorized to serve as Acting General

Deputy Assistant Secretary for Housing—Acting Deputy Federal Housing Commissioner.

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Harold L. Miller, Management Analysis and Services Division, Office of Management, HUD, 451 7th Street SW., Washington, DC 20410, (202) 755–8694. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Order of Succession as Acting General Deputy Assistant Secretary for Housing—Acting General Deputy Federal Housing Commissioner (1) deletes positions eliminated in a reorganization of the Office of Housing, (2) revises the Order of Succession, and (3) revises the authority of heads of organizational units of the Office of Housing to designate an individual to act in his/her absence so that it conforms more closely to the authority delegated by the Secretary of Housing and Urban Development on 3/16/71.

Accordingly, the General Deputy Assistant Secretary designates as follows:

(a) During any period when neither the Assistant Secretary for Housing—Federal Housing Commissioner nor the General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner is available to perform their duties, the officials appointed to the following positions shall serve as Acting General Deputy Assistant Secretary for Housing—Acting Deputy Federal Housing Commissioner, in the following order:

(1) Deputy Assistant Secretary for Multifamily Housing.

(2) Deputy Assistant Secretary for Policy, Financial Management and Administration.

(3) Deputy Assistant Secretary for Single Family Housing.

(b) Each head of an organizational unit of the Office of Housing is authorized to designate an employee under his/her jurisdiction to act for him/her during the absence of the head of the unit.

Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d); Delegation of Authority published on March 16, 1971, at 36 FR 5004, and concurrent delegation of authority published on August 4, 1976 at 41 FR 32635.

Dated: April 1, 1986.

Silvio J. DeBartolomeis,

Acting General Deputy Assistant Secretary for Housing—Acting Deputy Federal Housing Commissioner.

[FR Doc. 86–7599 Filed 4–4–86; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the President's Commission on Americans Outdoors (Commission) will be held Wednesday, April 23, 1986, starting at 9:00 am, in the Empire Room of Floyd State Office Building, 205 Butler Street, SE; Atlanta, Georgia 30334.

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

This meeting is opened to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and he may be contacted at the President's Commission, on Americans Outdoors, P.O. Box 18547, 1111–20th Street NW., Washington, DC 20036–8547, (202) 634–7310.

Dated: April 1, 1986.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 86–7604 Filed 4–4–86; 8:45 am]

BILLING CODE 4310–70–M

Bureau of Land Management

Realty Action; Exchange of Public and Private Lands in Riverside County, CA

Correction

In FR 86–4434 appearing on page 7340 in the issue of Monday, March 3, 1986, make the following correction: In the first column, the line now reading "T. 36, R. 5E.," should read "T. 3S, R. 5E.,".

BILLING CODE 1505–01–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–32 (Sub-34X)]

Boston and Maine Corporation—Abandonment Exemption—in Rockingham County, NH; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon 4.93 miles of the Manchester to Lawrence Branch, between milepost 16.0 and milepost 20.93 in Rockingham County, NH.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.—Abandonment-Goshen*, 360 I.C.C. 91 (1979).

The exemption will be effective [30 days from service of this decision] (unless stayed pending reconsideration). Petitions to stay must be filed by [10 days after service], and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by [20 days after service] with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: John E. O'Keefe, Boston and Maine Corporation, Iron Horse Park, North Billerica, MA 01862–1685.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned on environmental or public use conditions.

Decided: April 2, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86–7750 Filed 4–4–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 85–48]

Mary B. Jones, M. D. Nicholas, GA; Hearing

Notice is hereby given that on September 4, 1985, the Drug Enforcement Administration, Department of Justice,

issued to Mary B. Jones, M. D., an Order To Show Cause as to why the Drug Enforcement Administration should not revoke her DEA Certificate of Registration, AJ2362008, and deny her pending application for renewal of that registration, executed on December 1, 1984, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held, commencing at 10:00 a.m. on Wednesday, April 23, 1986, in the National Labor Relations Board Hearing Room, Room 745, 1375 K Street NW., Washington, D.C.

Dated: March 31, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-7608 Filed 4-4-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 86-6]

Leon Earl Waters, Jr., d/b/a Park and King Pharmacy, Jacksonville, FL; Hearing

Notice is hereby given that on December 11, 1985, the Drug Enforcement Administration, Department of Justice, issued to Leon Earl Waters, Jr., d/b/a/ Park and King Pharmacy, an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AP1160453, and deny any pending application for renewal of the registration as a retail pharmacy under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held, commencing at 1:00 p.m., on Thursday, April 17, 1986, in the U.S. Tax Court Courtroom, Room 137, U.S. Post Office and Courthouse, 311 West Monroe Street, Jacksonville, Florida.

Dated: March 31, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-7609 Filed 4-4-86; 8:45 am]

BILLING CODE 4410-09-M

Stepan Chemical Co.; Application for Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in Schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importartion of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on January 24, 1986, Stepan Chemical Company, Natural Products Department, 100 West Hunter Avenue, Maywood, New Jersey 07607, made application to the Drug Enforcement Administration to be registered as an importer of coca leaves (9040), a basic class controlled substance in Schedule II.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefore, and any existing bulk manufacturer registered therefore, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than May 7, 1986.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: March 31, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control Drug Enforcement Administration.

[FR Doc. 86-7610 Filed 4-4-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-86-43-C]

Consol Pennsylvania Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consol Pennsylvania Coal Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1101-8(a) (water sprinkler systems; arrangement of sprinklers to its Bailey Mine (I.D. No. 36-07230) located in Green County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that at least one sprinkler be installed above each electrical control.

2. Petitioner has a combination belt starter box which is not located in the belt entry. Petitioner states that the placement of a sprinkler directly over an energized combination belt starter box containing high, medium and low voltage increases the potential for electrical shock.

3. As an alternate method, petitioner proposes that:

a. All combination belt starter boxes will be properly ventilated with the intake air coursed directly into the return air course;

b. The boxes will not be located in the belt entries but will be located in adjacent entries with the area well rock dusted and at least two feet from any combustible materials;

c. The boxes will be enclosed in substantially constructed fireproof steel housings;

d. All combination belt starter boxes will be provided with at least one portable dry chemical fire extinguisher and dry rock dust;

e. Each box will be provided with under current, over current and short circuit protection to insure the integrity of the electrical components; and

f. Each box will be inspected during the pre-shift examination prior to the entry of persons into the area. The boxes also will be inspected weekly by a qualified person to assure safe operating conditions.

4.For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 27, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7579 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-33-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment, maintenance) to its Arkwright No. 1 Mine (I.D. No. 46-01452), its Pursglove No. 15 Mine (I.D. No. 46-01454), its Humphrey No. 7 Mine (I.D. No. 46-01453), its Osage No. 3 Mine (I.D. No. 46-01455), its Blacksville No. 1 Mine (I.D. No. 46-01867), and its Blacksville No. 2 Mine (I.D. No. 46-01968) all located in Monongalia County, West Virginia, its Loveridge No. 22 Mine (I.D. No. 46-01433) located in Marion County, West Virginia, and its Robinson Run No. 95 Mine (I.D. No. 46-01318) located in Harrison County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7580 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-37-C]

Consolidation Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Consolidation Coal Company, Consol Plaza, Pittsburgh, Pennsylvania 15241 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Franklin No. 125 Mine (I.D. No. 33-00963) located in Harrison County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that due to the ventilation scheme employed for the longwall panels, compliance with the standard would be extremely difficult.

3. As an alternate method, petitioner proposes that:

a. The electrical installation will be totally enclosed in fire-proof structures, composed of concrete block walls with metal mandoors and incombustible roof and floor (utilizing a fire-proof mine sealant);

b. An automatic dry chemical fire supression device activated by heat sensors will be installed in the installation;

c. No combustible material will be stored within the enclosure;

d. A warning light, integrated with the fire supression device, will be installed in a location adjacent to the mine haulage or a location readily observed by persons working nearby. Persons working in this area will be instructed as to the purpose of the light and course of action to follow if activated; and

e. Fire-fighting equipment will be provided on the outside of the fire-proof structure.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 25, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7581 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-23-C]

Eastern Associated Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Eastern Associated Coal Corporation, One PPG Place, Pittsburgh, Pennsylvania 15222 has filed a petition to modify the application of 30 CFR 75.1105 (housing of undergound transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Kopperston Mine (I.D. No. 46-01537) located in Wyoming County, West Virginia. The petition is filed

under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner states that due to the fact that all of the 1-Left Sub-Mains will be put on intake to enable sufficient and effective ventilation of inby areas, ventilating these transformers to a return airway will not be possible.

3. As an alternate method, petitioner proposes to install dry chemical fire supression devices on the booster drive transformers in 1 Left Sub-Mains, in addition to the existing fire extinguishing devices and materials.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7582 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-39-C]

Enduro Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Enduro Coal Company, 109 Broad Bottom Road, Pikeville, Kentucky 41501 has filed a petition to modify the application of 30 CFR 75.1710 (cabs and canopies) to its Emmylou Mine (I.D. No. 15-13133) located in Pike County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that cabs or canopies be installed on the mine's electric face equipment.

2. The Emmylou mine is in the No. 2 Elkhorn seam and ranges from 38 to approximately 50 inches in height, with consistent ascending and descending grades.

3. Petitioner states that canopies could strike and dislodge roof support. The canopies would also limit the equipment operator's visibility and restrict the operator's seating position, increasing the chances of an accident.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7583 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-15-C]

F. & S. Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

F. and S. Coal Company, 840 Mahonoy Street, Treverton, Pennsylvania 17881 has filed a petition to modify the application of 30 CFR 75.301 (air quality, quantity and velocity) to its No. 1 Slope (I.D. No. 36-07702) located in Northumberland County, Pennsylvania. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that the minimum quantity of air reaching the last open crosscut in any pair or set of rooms be 9,000 cubic feet a minute, and the minimum quantity of air reaching the intake end of a pillar line be 9,000 cubic feet a minute. The minimum quantity of air in any coal mine reaching each working face must be 3,000 cubic feet a minute.

2. Air sample analysis history reveals that harmful quantities of methane are nonexistent in the mine, which also has no history of an ignition, explosion, mine fire or harmful quantities of carbon dioxide and other noxious or poisonous gases.

3. Mine dust sampling programs have revealed extremely low concentrations of respirable dust.

4. Extremely high velocities in small cross sectional areas of airways and manways required in friable Anthracite veins for control purposes, particularly in steeply pitching mines, present a very dangerous flying object hazard to the miners and cause extremely uncomfortable damp and cold conditions in the mine.

5. As an alternate method, petitioner proposes that:

a. The minimum quantity of air reaching each working face be 1,500 cubic feet per minute;

b. The minimum quantity of air reaching the last open crosscut in any pair or set of developing entries be 5,000 cubic feet per minute; and

c. The minimum quantity of air reaching the intake end of a pillar line be 5,000 cubic feet per minute, and/or whatever additional quantity of air that may be required in any of these areas to maintain a safe and healthful mine atmosphere.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address

Dated: March 25, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7584 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-40-C]

Island Creek Corp.; Petition for Modification of Application of Mandatory Safety Standard

Island Creek Corporation, 2355 Harrodsburg Road, P.O. Box 11430, Lexington, Kentucky 40575 has filed a petition to modify the application of 30 CFR 75.1107-8 (fire suppression devices, extinguishant supply system) to its VP-3 Mine (I.D. No. 44-01520) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the

Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that fire suppression systems using water or liquid chemical to protect attended equipment be maintained at a pressure consistent with the pipe, fittings, valves, and nozzles used in the system.

2. Petitioner states that it is not possible to keep the water lines pressurized during the winter months because they tend to freeze creating a hazard to the miners located at the bottom of the intake air shaft.

3. As an alternate method, petitioner proposes that an electric solenoid switch be installed in the water line servicing the fire suppression system and heat sensors be installed over the drive. Upon sensor activation, the solenoid switch would open allowing the pipes to be filled with water for fighting fire. Fire extinguishers would be installed every 200 feet along the belt. The dust on the belts would be controlled by a conflow valve in an area inby these drives where it can be maintained without freezing, thus wetting the coal before it reaches the final discharge point.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7585 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-31-C]

Kanawha Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Kanawha Coal Company, Rt 1, Box 420, Ashford, West Virginia 25009 has filed a petition to modify the application of 30 CFR 75.1403-8 (b) (track haulage roads) to its Madison No. 2 Mine (I.D. No. 46-02844) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that track haulage roads should have a continuous clearance on one side of at least 24 inches from the farthest projection of normal traffic.

2. Petitioner states that there are seven locations along the main line track haulage entry where they cannot provide 24 inches of clearance due to roof supports.

3. As an alternative method, petitioner proposed to provide those areas with reflective caution signs to warn miners traveling into the areas with track mounted vehicles that close clearance and close head room exist.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7586 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-32-C]

Kanawha Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Kanawha Coal Company, RT 1, Box 420, Ashford, West Virginia 25009 has filed a petition to modify the application of 30 CFR 75.1403-5(g) (belt conveyors) to its Madison No. 2 Mine (I.D. No. 46-02844) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a clear travelway at least 24 inches wide be provided on both sides of all belt conveyors.

2. Petitioner states that there are twenty-one locations along the first five belt conveyors where the travelways are restricted on one side or both due to roof supports where adverse roof conditions exist.

3. As an alternative method, petitioner states that the belt conveyors can be traveled in their entirety and are provided with stop and start controls, crossovers, and exists where necessary to facilitate miners traveling and performing work on the belt conveyors.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7587 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-21-C]

Kitt Energy Corp.; Petition for Modification of Application of Mandatory Safety Standard

Kitt Energy Corporation, 455 Race Track Road P.O. Box 500, Meadow Lands, Pennsylvania 15347 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its Kitt No. 1 Mine (I.D. No. 46-04168) located in Barbour County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. Petitioner proposes to use a spring-loaded lock-down device in lieu of a padlock to secure battery plugs to prevent unintentional loosening. The device will prevent the threaded lock ring on a plug from turning, which will prevent it from becoming loose unintentionally.

3. The lock device consists of a bracket which holds a sliding pin assembly so the pin can slide into a hole on the battery plug lock ring. The sliding

pin is spring-loaded so it maintains constant pressure to keep the pin engaged in the lock ring. A "tee" handle on one end of the pin would give a place to hold the pin while pulling on it to unlock the plug.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7588 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-14-C]

Miami Coal Co., Inc.; Petition for Modification of Application of Mandatory Safety Standard

Miami Coal Company, Inc., P.O. Box 7569 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment; maintenance) to its No. 15 Mine (I.D. No. 46-06984) located in Harrison County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally lossening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidental loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breading battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 25, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7589 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-17-C]

The NACCO Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

The NACCO Mining Company, Powhatan Point, Ohio 43942 has filed a petition to modify the application of 30 CFR 75.503 (permissible electric face equipment, maintenance) to its Powhatan No. 6 Mine (I.D. No. 33-01159) located in Belmont County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the use of a locked padlock to secure battery plugs to machine-mounted battery receptacles on permissible, mobile battery-powered machines.

2. As an alternate method, petitioner proposes to use a spring-loaded locking device in lieu of padlocks. The spring-loaded device will be designed, installed and used to prevent the threaded rings that secure the battery plugs to the battery receptacles from unintentionally loosening and will be attached to prevent accidental loss. In addition, the fabricated metal brackets will be securely attached to the battery receptacles to prevent accidential loss of the brackets.

3. Petitioner states that the spring-loaded metal locking devices will be easier to maintain than padlocks because there are no keys to be lost and dirt cannot get into the workings as with a padlock.

4. Operators of permissible, mobile, battery-powered machines affected by this modification will be trained in the proper use of the locking device, the hazards of breaking battery-plug connections under load, and the hazards of breaking battery-plug connections in areas of the mine where electric equipment is required to be permissible.

5. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7590 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

[Docket No. M-86-16-C]

BethEnergy Mines Inc.; Petition for Modification of Application of Mandatory Safety Standard

BethEnergy Mines Inc., 7012 MacCorkle Avenue SE., Charleston, West Virginia 25304 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 131 Mine (I.D. No. 46-01268) located in Boone County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. Petitioner states that the airway is unsafe to travel due to roof deterioration.

3. As an alternate method, petitioner proposes to establish monitoring stations. The primary (intake) and secondary (track and/or belt) escapeways located in the headgate entry will be reviewed with all personnel working on the longwall. Each person will be familiarized with the location and procedures for escape from such section.

4. In further support of this request, petitioner states that:

a. Six self-contained self-rescuers will be stored at the tailgate and at the midpoint of the longwall face;

b. The longwall tailgate entry will be examined from both ends on each preshift examination, and the results will be recorded in the fireboss book; and

c. Methane or other harmful, noxious or poisonous gases will not be permitted to accumulate in the return air course in excess of the legal limits. An increase of 0.5 percent of methane above the last previous reading will cause an immediate investigation of the affected air course.

5. A map showing direction of air flow in the return will be posted at the outby measuring station.

6. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Requests for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7578 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-1-M]

United Salt Corp.; Petition for Modification of Application of Mandatory Safety Standard

United Salt Corporation, 2000 West Loop South, Houston, Texas 77027 has filed a petition to modify the application of 30 CFR 57.4760 (shaft mines) to its Hockley Mine (I.D. No. 41-02478) located in Harris County, Texas. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that shaft mines be provided with control doors to control the spread of fire, smoke, and toxic gases underground in the event of a fire.

2. Petitioner proposes an alternative method which involves a three-part response in the event of a fire in the mine as follows:

a. The main fan will immediately shut off in the event of a fire to minimize the intrusion of smoke and other products of combustion into or throughout the mine;

b. An alarm will sound, warning all miners inside the mine to proceed to the refuge room which is within 10 minutes from any point inside the mine;

c. A second fan on the surface, connected to the escape shaft, will be activated to reverse ventilation in the refuge room and escape shaft and to positive-pressure ventilate the escape shaft and refuge room in the event of a mine fire.

3. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 25, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7592 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-25-C]

Vantage Mining Co.; Petition for Modification of Application of Mandatory Safety Standard

Vantage Mining Company, P.O. Box 429, Lyburn, West Virginia 25632 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Mark Mine (I.D. NO. 46-01939) located in Mingo County, West Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirements that return aircourses be examined in their entirety on a weekly basis.

2. Petitioner states that in the Northeast Mains, a set of seven entries are impassable due to roof falls.

3. As an alternate method, petitioner proposes to establish two evaluation points.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 25, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7593 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-24-C]

Whitaker Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Whitaker Coal Corporation, P.O. Box 5001, Hazard, Kentucky 41701 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its No. 46 Mine (I.D. No. 15-12726) located in Letcher County, Kentucky. the petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that return air courses be examined in their entirety on a weekly basis.

2. Petitioner states that due to hazardous roof conditions and numerous roof falls in the return airways the area is unsafe to travel.

3. As an alternate method, petitioner proposes to make weekly ventilation checks outby the working section in the return airway and where the return air reaches the drift opening.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 7, 1986. Copies of the petition are available for inspection at that address.

Dated: March 26, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-7591 Filed 4-4-86; 8:45 am]

BILLING CODE 4510-43-M

NUCLEAR REGULATORY COMMISSION

Dairyland Power Cooperative; Denial of Amendment to Provisional Operating License

[Docket No. 50-409]

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Dairyland Power Cooperative (the licensee) for an amendment to Provisional Operating License No. DPR-45, issued to Dairyland Power Cooperative for operation of the La Crosse Boiling Water Reactor, located in Vernon County, Wisconsin.

The amendment, as proposed by the licensee in the application dated October 29, 1982, would change the Technical Specifications to eliminate Type B leak tests for certain components. Notice of consideration of issuance of this amendment was published in the **Federal Register** on October 26, 1983 (48 FR 49584). All other items requested in this application have been completed by previous licensing actions.

The licensee was notified of the Commission's denial of the proposed Technical Specification changes by letter dated March 31, 1986.

By May 5, 1986 the licensee may demand a hearing with respect to the denial described above and any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for a hearing or 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, 1717 H Street NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Roy P. Lessy, Jr., O.S. Heistand; Morgan, Lewis & Bockius, 1800 M Street NW., Washington, DC 20036, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated October 29, 1982, and (2) the Commission's letter and Safety Evaluation dated March 31, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin. A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of BWR Licensing.

Dated at Bethesda, Maryland, this 31st day of March 1986.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate #1, Division of BWR Licensing.

[FR Doc. 86-7673 Filed 4-4-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co. (McGuire Nuclear Station, Units 1 and 2); Exemption Providing for Containment Penetration Testing Using Glycol

I

Duke Power Company (the licensee) is the holder of Facility Operating License No. NPF-9 and Facility Operating License No. NPF-17, which authorize the operation of the McGuire Nuclear Station, Units 1 and 2 (the facility) at steady state reactor power levels not in excess of 3411 megawatts thermal. The facility consists of pressurized water reactors located in Mecklenburg County, North Carolina.

II

Section III C.2(a) of Appendix J to 10 CFR Part 50 which addresses the test pressure to be used in the performance of local leak rate tests for systems and components penetrating primary containment pressure boundary provides: "Valves, unless pressurized with fluid (e.g., water, nitrogen) from a seal system, shall be pressurized *with air or nitrogen* at a pressure of Pa" (emphasis added). Section II.H of 10 CFR part 50, Appendix J, defines "Type C Tests" as tests intended to measure containment isolation valve leakage rates. These valves help maintain the leak-tight integrity of the containment at design basis accident conditions.

III

By letters dated September 24, 1985, and February 14, 1986, the licensee requested an exemption from the requirements of Section III C.2(a) of Appendix J to 10 CFR 50, to provide for the use of glycol instead of air or nitrogen as the testing medium for the leakage rate testing of certain containment isolation valves in the Ice Condenser Refrigeration System. The requested exemption is for penetrations M-372 and M-373. The local leakage rate test (Type C test) would be performed without draining the glycol mixture from the seats of the diaphragm valves in these penetrations.

The design of the reactor containment building at McGuire includes an ice condenser to suppress the peak accident pressure. The ice condenser is refrigerated by recirculating a 50% – 50% mixture of ethylene glycol and water through a series of air handling units located inside the containment building and chiller units located in the auxiliary building. The licensee notes that draining, testing, and refilling the system typically requires 24 to 36 hours of downtime for the ice condenser refrigeration system. This extended downtime potentially diminishes the amount of ice in the baskets. The licensee also notes that draining the glycol consumes a significant number of manhours and creates toxic waste (glycol) which has to be disposed.

As an alternative to draining approximately 200 gallons of glycol as is necessary to perform this test in accordance with Appendix J, the licensee has proposed to test three diaphragm valves (NF-228A, NF-233B, and NF-234A) without draining the glycol mixture from the valve seats. The leakage rate acceptance criterion that would be imposed on these diaphragm valves would be zero indicated leakage (not including instrument error). In other words, the display device of the measurement system must read zero. Otherwise, if the leakage rate is greater than zero, the penetration will be fully drained and the valves leak tested in accordance with Appendix J.

Historically, the staff has not accepted the use of a liquid (usually water) in place of air or nitrogen as a testing medium for Type C tests (i.e., local tests of containment isolation valves). This is because it has not been possible to develop a sufficiently conservative, yet practically useful, conversion factor for converting water leakage to an equivalent air leakage. However, for the

proposed testing, no conversion factor is used; the acceptance criterion of zero leakage of glycol can be assumed to be equivalent to zero leakage of air, or, at worst, possibly a very small leakage of air. This is compared to the acceptance criterion provided by Appendix J for air tests, which is that the total of all local leakage rate tests must not exceed 0.6 La, where La is the maximum allowable leakage rate of the containment as a whole. Thus, Appendix J does not impose leakage rate limits on individual valves, but rather on the total leakage rate for all valves and penetrations. Therefore, the staff finds that an acceptance criterion of zero leakage of glycol, applied individually to each of the three valves, is at least as conservative as the acceptance criterion of Appendix J. For this reason, the staff finds that the requested exemption is acceptable.

If a valve fails the zero leakage criterion, the licensee will proceed to fully drain the penetration and test the valves with air or nitrogen in accordance with Appendix J. This is, of course, acceptable.

IV

Accordingly the Commission has determined that, pursuant to 10 CFR 50.12(a)(1) this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances is not necessary to achieve the underlying purpose of the rule. The underlying purpose of the rule is to require local leak rate testing at periodic intervals of certain types of containment isolation valves to determine whether there has been degradation in the leakage characteristics of these valves which might adversely affect containment integrity. The proposed alternative test method is sufficient to achieve this underlying purpose in that it provides a conservative assurance of continued leak-tight integrity of the three affected valves, NF–228A, NF–233B and NF–234A.

Accordingly, the Commission hereby grants an exemption as described in Section III above from Section III C.2(a) of Appendix J of 10 CFR Part 50 to the extent that Type C tests for containment penetration numbers M–372 and M–373, performed without draining the glycol-water mixture from the seats of their diaphragm valves NF–228A, NF–233B and NF–234A, and meeting a zero indicated leakage rate (not including instrument error) for these diaphragm valves, shall constitute an acceptable alternate to Type C tests using air or nitrogen as the test medium.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exempton will have no significant impact on the environment (March 7, 1986, 51 FR 8053).

This exemption is effective upon issuance.

Dated at Bethesda, Maryland this 31st day of March 1986.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Acting Deputy Director, Division of PWR Licensing–A.

[FR Doc. 86–7674 Filed 4–4–86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Solicitation of Public Comment on Wood Shakes and Shingles Import Relief

ACTION: Notice.

SUMMARY: Notice is hereby given that the President has received the recommendation of the United States International Trade Commission (ITC) regarding imports of wood shakes and shingles pursuant to section 201 of the Trade Act of 1974. Public comments are due by c.o.b. Wednesday, April 9, 1986.

SUPPLEMENTARY INFORMATION: On March 25, 1986 the ITC reported its finding in an investigation of the Wood Shakes and Shingles case, Inv. No. TA–201–56 to the President pursuant to section 201 of the Trade Act of 1974 (19 U.S.C. 2251). The ITC determined that imports of wood shakes and shingles, provided for in item 200.85 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing articles like or directly competitive with the imported articles.

Pursuant to section 201(d)(1), the Commission found and recommended the amount of increase in or imposition of, any duty or import restriction necessary to remedy the injury to the industry, as follows: Commissioners Eckes, Lodwick and Rohr recommended the imposition of a tariff of 35 percent ad valorem for a period of five years on imports of wood shingles and shakes of western red cedar. Chairwoman Stern advised that the provision of adjustment assistance would effectively remedy the serious injury found to exist. Commissioner Brunsdale dissented from the affirmative injury determination and recommended that the President consider a policy of assistance to retrain and relocate displaced workers. Vice Chairwoman Liebler also dissented and recommended that no relief be provided.

After receiving the ITC's recommendation, the President must (1) determine what method and amount of import relief he will provide or (2) determine that the provision of import relief is not in the national economic interest and, if so, whether he will direct expeditious consideration of adjustment assistance petitions. Under 19 U.S.C. 2252, the President has 60 days to make his decision regarding import relief.

In determining whether to provide import relief and the method and amount of relief, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition; and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic market for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on U.S. industries and firms as a consequence of any possible modification of duties or other import restrictions which may result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the U.S. market is a focal point for exports of such articles by reason of restraints on exports of such articles, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the United States Trade Representative (USTR) chairs the Trade Policy Committee (TPC). The USTR with the advice of the TPC will issue a recommendation to the President regarding what action, if any, he should take with respect to the ITC's report and findings.

USTR welcomes briefs and comments from interested parties and interested members of the public regarding the

imposition of import relief. Twenty (20) copies of any brief or comment must be filed in conformity with 15 CFR 2003.2 with the Secretary, Trade Policy Staff Committee, Room 521, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506. Briefs should be submitted as soon as possible but in any case no later than c.o.b. Wednesday, April 9, 1986.

FOR FURTHER INFORMATION CONTACT: Marian Barell, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506; telephone (202) 395-7271. For legal questions, contact Richard Parker, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506; telephone (202) 395-6800.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 86-7637 Filed 4-4-86; 8:45 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

March 31, 1986.

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:

Avery International Corporation
Common Stock, $1.00 Par Value (File No. 7-8886)
Fleming Companies, Inc.
Common Stock, $2.50 Par Value (File No. 7-8887)
Hallwood Group, Inc. (The)
Common Stock, $0.10 Par Value (File No. 7-8888)
Inspiration Resources Corporation
Common Stock, Par Value (File No. 7-8889)
Reynolds Metals Company
$2.30 Cumulative Convertible Exchange Preferred Stock (File No. 7-8890)
Storage Equities, Inc.
Common Stock, $0.10 Par Value (File No. 7-8891)
Vestron Inc.
Common Stock, $0.01 Par Value (File No. 7-8892)

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 April 21, 1986, 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, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications 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.

John Wheeler,

Secretary.

[FR Doc. 86-7677 Filed 4-4-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

March 31, 1986.

The above named national security 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:

International Banknote Company, Inc.
Common Stock, $1.00 Par Value (File No. 7-8893)
Aircal Inc.
Common Stock, No Par Value (File No. (File No. 7-8894)
Aircal Inc.
$1.20 Cumulative Convertible Exchange Preferred Stock (File No. 7-8895)
AFG Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-8896)
Allied Supermarkets, Inc.
Common Stock, $0.10 Par Value (File No. 7-8897)
American Capital Management and Research, Inc.
Common Stock, $0.10 Par Value (File No. 7-8898)
Audio/Video Affiliates, Inc.
Common Stock, $0.01 Par Value (File No. 7-8899)
Cannon Group, Inc. (The)
Common Stock, $0.01 Par Value (File No. 7-8901)
Diamond-Bathurst, Inc.
Common Stock, $0.01 Par Value (File No. 7-8902)
Eli Lilly and Co.
Warrants (File No. 7-8903)
Morgan Stanley
Common Stock, $1.00 Par Value (File No. 7-8904)
Universal Match Box Group Limited
Common Stock, $1.00 Par Value (File No. 7-8905)

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 April 21, 1986, 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, 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.

John Wheeler

Secretary.

[FR Doc. 86-7678 Filed 4-4-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23075; SR-MSE-85-4]

Self-Regulatory Organizations; Midwest Stock Exchange, Inc.; Order Approving Proposed Rule Change

I. Introduction and Background

Pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] the Midwest Stock Exchange, Inc. ("MSE"), submitted on May 30, 1985,[3] copies of a proposed rule change requesting Commission approval of a joint plan, and accompanying rule changes, implementing an electronic linkage between the MSE and the Toronto Stock Exchange ("TSE"). The

[1] 15 U.S.C. 78(c)(b) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] The proposal was published for comment in Securities Exchange Act Release No. 22156 (June 12, 1985), 50 FR 25501 (July 19, 1985); however, no comments were received.

linkage would provide for a direct flow of orders between the two exchanges on issues traded on both exchanges. The anticipated result of this direct flow of orders is greater liquidity for the dually listed issues and increased opportunities for investors in both the United States and Canada to obtain the best price available in those issues from either exchange.

The Commission previously has approved the establishment of two linkages between United States and Canadian exchanges. On November 1, 1984, an electronic linkage between the Boston Stock Exchange, Inc. ("BSE") and the Montreal Exchange was approved by the Commission,[4] and, on September 20, 1985, the Commission approved a linkage between the TSE and the American Stock Exchange ("Amex").[5] The Commission's order approving the Amex-TSE linkage addressed a number of issues that are similar to those presented by the proposed MSE–TSE linkage which is in most respects similar to the Amex/TSE linkage.

The TSE and the MSE have developed a Memorandum of Understanding Respecting a Trading Linkage ("Memorandum") which reflects the understanding of the parties with respect to the linkage. The Memorandum covers administration, dispute resolution, trading operations clearing and settlement of transactions and surveillance.[6] In addition, the MSE has a proposed new rule (Article XX, Rule 39), and amendments to certain existing rules (Article XX, Rules 5, 33, 34) to facilitate implementation of the proposed linkage.

The MSE and TSE have agreed to commence trading in six dually-listed securities, intending to expand to all MSE-TSE dually traded securities that are also listed on the New York Stock Exchange (currently numbering approximately 62) after the linkage becomes fully operational.[7] The exchanges expect to commence trading in the pilot securities on March 31, 1986. Initially, the linkage will operate on a one-way basis "southbound" allowing TSE members to direct orders from the TSE trading floor to the MSE trading floor for execution. The exchanges anticipate that the "northbound" aspect of the linkage, allowing orders to flow from the MSE to the TSE, will become operational when the TSE develops the capability to provide simultaneous currency transactions. Upon commencement of two-way trading, each exchange will display quotes from the other exchange on those stocks eligible to be traded through the linkage. The quotes received by the TSE from the MSE will represent the national best bid and offer distributed by the Consolidated Quotation System for any linkage-traded issue that is also traded through the ITS. Quotes received from the TSE will be converted to United States funds, and the MSE will have the option of displaying TSE quotes on United States funds.[8]

Quotes received by the MSE will represent the best bid and offer on the TSE. The TSE is not under an obligation to quote the nationwide Canadian best bid and offer.[9]

Initially, the linkage will provide only for the execution of marketable limit orders, that is, an order received at a price equal to or better than the quote being distributed on the receiving exchange. These orders will be treated as "immediate or cancel" orders, meaning that the order will be cancelled if, when received by the specialist on the receiving exchange, it is no longer a marketable order. If, however, it is a marketable order when received by the specialist it will be executed at that price or a more favorable price. Orders will be further identified as either professional or agency orders.[10]

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[4] Securities Exchange Act Release Nos. 21499 (November 1, 1984), 49 FR 44575 (November 7, 1984) (approving Phase I of the linkage); and 21925 (April 9, 1985), 50 FR 14460 (April 12, 1985) (approving Phase II of the linkage). Phase I of that linkage permitted Montreal members to direct marketable limit orders in approximately 40 United States listed Canadian stocks. Phase II expanded the list of securities to include approximately 850 United States listed securities eligible to be traded through the Intermarket Trading System ("ITS"). During its first year and a half of operation, the linkage has experienced moderate growth, with three Montreal member firms regularly using the linkage to route retail order flow. Activity in the linkage has increased more rapidly in the last eight months, growing from 150 trades and a volume of 40,686 shares in June 1985 to 529 trades with a total share volume of 422,679 shares in January 1986. *See* letter from Michael R. Lindburg, Vice-President and General Counsel, BSE, to Michael Cavalier, Branch Chief, Branch of Exchange Regulation, SEC, dated February 25, 1986.

[5] Securities Exchange Act Release No. 22442 (September 20, 1985), 50 FR 38291 (September 27, 1985) (File No. SR–Amex–85–5). The Amex-TSE linkage was the first electronic trading linkage between a primary market in the United States and a primary market in a foreign jurisdiction. The linkage permits order flow in securities dually listed on the Amex and the TSE to be routed between the two exchanges on both a northbound and southbound basis. The linkage is currently operating on a pilot basis in six dually-listed issues. Since commencement of linkage operations, southbound use has been steady, ranging from 14 trades and a volume of 18,500 in October 1985, to a peak of 78 trades and a total volume of 292,200 shares in January 1986. Linkage use northbound has been considerably less frequent, with a high in January 1986, of six trades and a volume of 9,000 shares. Telephone conversation between Michael Cavalier, Branch Chief, Branch of Exchange Regulation, SEC, and Bruce Ferguson, Amex, on March 20, 1986. In approving the Amex-TSE linkage, the Commission analyzed and found satisfactory the linkage's plans for trading, clearing and settling, surveillance and information sharing. Further, the Commission was satisfied that there existed sufficient cooperation between itself and the Ontario Securities Commission ("OSC") to ensure the integrity of the linkage and the protection of investors. *See* notes 26 to 28. *infra* and accompanying text.

[6] The Commission's description of the Memorandum herein is based on the following information: (1) The MSE's proposed rule change relating to the linkage (File No. SR–MSE–85–4), published for notice and comment in Securities Exchange Act Release No. 22136 (June 12, 1985); (2) letter from J. Craig Long, Vice President-Legal, MSE, to Brandon Becker, Assistant Director, Division of Market Regulation, SEC, dated February 7, 1986 (hereinafter "February 7 Letter"); (3) letter from John W. Carson, Director, Market Policy Division, TSE to Michael Cavalier, Branch Chief, Branch of Exchange Regulation, SEC, dated March 12, 1986, which includes a copy of a letter from the law firm of Blake Cassel and Graydon, counsel for TSE, to TSE, dated August 27, 1985.

[7] *See* February 7, 1986 Letter, *supra* note 6. The six issues scheduled to be traded initially are INCO Limited, Seagram Company Ltd., Bell Canada Enterprises Inc., Canadian Pacific Limited, Campbell Red Lake Mines Ltd., and Dome Mines Ltd. Any expansion of the linkage beyond the approximately 62 MSE-TSE dually traded securities also listed on the NYSE will necessitate a rule change by the MSE under Section 19(b) of the Act.

[8] *See* Memorandum, *supra* note 6, at 5; February 7 letter, *supra* note 6. When northbound transactions become available through the linkage, the MSE specialist will be able to call up manually the TSE Best Available Quote in Canadian dollars, along with a simultaneous foreign exchange quotation rate distributed by the TSE. The foreign exchange quotation will represent a five business day forward currency contract facility developed by the TSE. This facility will allow MSE members to settle in United States funds and TSE members to settle in Canadian funds. It is anticipated that within two months of the commencement of northbound trading, the necessary conversion will be calculated automatically and the quote will be displayed in equivalent United States funds on the MSE floor. Such a currency conversion system would have to be filed with the Commission as a proposed rule change under section 19(b) of the Act.

To the extent possible, orders will be transmitted between the trading floors using their existing automated routing systems, the Midwest Automated Execution System ("MAX") on the MSE and the Market Order System of Trading ("MOST") on the TSE.

[9] The Commission understands, however, that the TSE uses its best efforts to obtain the best prices for Canadian stocks by constantly monitoring share prices on the other exchanges in Canada. *See* TSE, *The Quality of the TSE Equity Market* 4 (1986).

[10] *See* Memorandum, *supra* note 6, at 2. The Memorandum defines the term "Professional Order" to mean an order "(i) for the account of a Market Maker as the proprietary account of his member firm, or (ii) for the proprietary account of any Exchange member or member firm if such order originates from the floor of the Originating Exchange, or (iii) for the proprietary account of any member firm that engages in trades for its own account on both the TSE and the MSE in interlisted stocks with the intention of immediately reversing the previous transaction executed in the other market in order to profit from the price differences between such markets, if such trading contains an element of continuity." All other orders will be considered agency orders.

Marketable agency orders will be guaranteed an execution at the best available quote up to a specified number of shares.[11] It is anticipated that "away from the market" orders will be permitted to be sent through the linkage shortly after the exchanges have gained experience with two-way trading and the execution, clearance and settlement of marketable orders.[12]

According to the Memorandum, administration of the linkage will be the responsibility of a six-member joint operating committee. Duties of the committee will include development and implementation of the linkage, monitoring its operation, exploration of any potential expansion or enhancement of the linkage, and addressing any potential problems or deficiencies with the linkage.[13]

The Memorandum also provides for the resolution of on-floor disputes. Disputes arising from specific orders transmitted and transactions effected through the linkage are to be resolved in accordance with the procedures and policies of the receiving exchange. Determinations that are binding on members of the receiving exchange are likewise binding on members of the originating exchange, including any determinations made on appeal. Further, the dispute resolution scheme contemplated by the Memorandum makes arbitration proceedings available to members of either exchange who desire to assert a claim arising out of a transaction or business conducted through the linkage.[14] Both exchanges indicate that they have the authority to enforce their rules governing trades sent by their respective members through the linkage for execution.[15]

In this connection, the Commission notes that the TSE's rules regualting trading and dispute resolution, as well as the antifraud provisions of the Ontario Securities Act under which it operates, are similar to the rules of the MSE and the antifraud provisions of the United States Federal securities laws.[16] For example, the TSE's rules include provisions relating to manipulation and abusive trading practices, including rules concerning suitability, short sales,[17] net capital [18] and best execution as well as rules that augment its surveillance program.[19]

Further, both the Criminal Code of Canada and the Ontario Securities Act contain general anti-fraud provisions.[20]

The Memorandum provides that all transactions effected through the linkage will be cleared and settled through an interface between the Midwest Clearing Corporation/Midwest Securities Trust Company ("MCC/MSTC") and the Canadian Depository for Securities, Ltd. ("CDS"). Each exchange is responsible for reporting all trades effected by its own members on either floor. The MSE is responsible further for submitting trade data for trades executed on the TSE to MCC/MSTC. The MSE will receive this information from the TSE through MOST after the trade is executed, and the information then will be transmitted via a tape to MCC/MSTC as floor compared trades, The CDS is a participant in the MCC/MSTC, and once the compared TSE trade information has been submitted to MCC/MSTC, settlement will take place in accordance with MCC/MSTC rules.[21]

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[11] *See id.* at 6. For trades executed on the TSE, the guaranteed minimum will range from 500 to 1,000 shares, unless the TSE specialist specifically agrees to a larger minimum. For trades executed on the MSE, the guaranteed minimum will be the number of shares represented by the best available quote, up to a ceiling of 1,000 shares, unless the MSE specialist specifically agrees to a larger minimum. Professional orders are not entitled to either exchange's guarantee, but will be executed in accordance with their terms to the extent that a quote is available at the time the orders are received by the receiving exchange. An order cannot be divided into multiple lots of 1,000 or fewer shares to take advantage of the guarantee. If several orders are received from one member for the account of one customer, the orders will be guaranteed up to the first 500 to 1,000 shares for orders placed on the TSE, or the size of the best available quote, up to 1,000 shares, on the MSE.

[12] *See id.* at 7. "Away from the market" orders will be subject to specific maximum order sizes, tentatively scheduled to be 1,000 shares. These orders will be specified as day orders and placed on the MSE specialist's book, and the Limit Order Trading System automated book on the TSE. Away from the market orders that are agency orders will be subject to the same priority rules as are applicable to all orders on the receiving exchange, except that the MSE requirement that any away from the market orders received through the MAX system be executed on the basis of 300 shares for every 500 shares traded at the limit price on the primary market will not extend to away from the market orders received from the TSE. In other words, an away from the market agency order received from the TSE will not receive the same degree of primary market protection as would an agency order received (via MAX) from a domestic broker-dealer. *See* Securities Exchange Act Release No. 22073 (May 23, 1985), 50 FR 23217 (May 30, 1985) (File No. SR–MSE–85–1). The MSE has indicated that it will implement the latter provision on a one year pilot basis and will revisit it at that time. Telephone conversation between Brandon Becker, Assistant Director, Division of Market Regulation, SEC, and J. Craig Long, Vice President-Legal, MSE, on March 6, 1986. Although Section 6(b)(5) of the Act specifically prohibits "unfair discrimination between customers, issuers, brokers, or dealers," the Commission does not believe that this type of interim arrangement, negotiated at arms-length between two marketplaces in the context of the evolving internationalization of the securities markets, is inappropriate. The Commission expects, however, that the MSE will evaluate carefully whether such a distinction continues to be necessary after the one year pilot.

[13] *See* Memorandum, p. 2.

[14] *See* Memorandum, *supra* note 6, at 3–4.

[15] *See* February 7 Letter, *supra* note 6. The MSE has stated that it has authority to discipline its members regarding orders sent through the linkage, citing paragraph (d) of new MSE Rule 39 of Article XX, which provides, in pertinent part, that "each member of the exchange shall be subject to and bound by the provisions of the relevant Linkage Plan as if the same were set forth in these Rules." Further, paragraph (e) of Rule 39 states that, "each transaction effected through the linkage shall be subject to (1) the rules of the Exchange applicable to trading on the Exchange, except to the extent such rules are inconsistent with the provisions of this Rule 30 or the relevant Linkage Plan and (2) all applicable federal securities laws." In addition, the MSE cites sections 9 and 10 of the Act, which proscribe manipulation and fraud perpetrated on a "facility of any national securities exchange," as a further basis for MSE's disciplinary jurisdiction over a MSE member who engages in fraud or manipulation through the use of the linkage.

The TSE also has stated that the TSE has the ability to discipline its members for trades conducted through the MSE–TSE linkage and has indicated that representations made by TSE counsel with respect to the TSE's ability to discipline its members in connection with the Annex-TSE linkage are equally applicable in connection with trading activities conducted through the MSE–TSE linkage. *See* letter from John W. Carson, Director, Market Policy Division, TSE, to Michael Cavalier, Division of Market Regulation, SEC, dated March 12, 1986, enclosing letter from Blake, Cassels & Graydon, counsel to TSE, to TSE, dated August 27, 1985.

[16] The Ontario Securities Act provides the OSC broad powers over the TSE, including jurisdiction over the manner in which the Exchange conducts its business or trading through its facilities. While somewhat different than the authority of the SEC over rulemaking by self-regulatory organizations, ("SROs"), the OSC has the authority to review any by-laws, rulings or other regulations of the TSE.

[17] *See* TSE by-laws, Section 11.27(1).

[18] *See* TSE by-laws, Section 16.13.

[19] *See* TSE by-laws, sections 16.02, 16.03, 16.09 and 16.36. These rules contain the basic record retention procedures of the TSE. These rules also include provisions for the maintenance of floor tickets and other records of customer orders, confirmations of purchases and sales, and written records of customer accounts and approval for a period of five years. *See also* TSE by-laws, Section 16.01. Section 16.01 imposes a "know your customer' requirement on members of the TSE similar to the requirement placed on members of all Untied States national securities exchanges. *Cf.* MSE Rules, Article VIII, Rule 17. Rule 17 states that no member may effect a transaction for a customer prior to approval of that customer by an officer or partner.

[20] *See* Criminal Code, RSC, 1980 sections 338(2), 340, 341, Ontario Securities Act, Part XXII ("Civil Liability").

[21] *See* Memorandum, supra note 6, at 9; February 7 Letter, *Supra* note 6. The MCC/MSTC requested that the Division of Market Regulation take a no-action position regarding CDS compliance with the clearing agency registration requirements of Section 17A of the Act. *See* letter from Michael Wise, Associate Counsel, MCC/MSTC, to Marc L. Weinberg, Branch Chief, Division of Market Regulation, SEC, dated October 23, 1985. The Division has granted no-action relief only with respect to CDS's membership in MSTC/MCC. *See* letter from Jonathan Kallman, Assistant Director, Division of Market Regulation, SEC, to Michael Wise, Associate Counsel, MSTC/MCC, dated March 21, 1986. Accordingly, before a full, two-way processing interface can be created (*i.e.*, before MSTC can become a CDS member) further action regarding the proposed clearing arrangements would be necessary.

II. Discussion

The proposed MSE-TSE linkage presents the Commission with similar regulatory issues to those considered by the Commission in approving the Amex-TSE linkage. The linkage, with its contemplated two-way order flow, may provide greater liquidity and increased market competition, clearly to the benefit of investors in both markets. The Commission recognizes , however, that approval of the linkage will serve to facilitate United States trading on a foreign exchange, over which the Commission lacks oversight responsibility regarding that exchange's trading and dispute resolution rules, as well as its foreign member broker-dealers. In approving the Amex-TSE link, the Commission looked to the linkage plan, the TSE rules and the OSC for assurances that the linkage would not impair the maintenance of fair and orderly markets as well as the protection of U.S. investors. Concerning the MSE-TSE linkage proposal, the Commission again has sought to address these concerns in detail with the exchanges and the OSC and is satisfied that the appropriate channels for information sharing and cooperation between the exchanges and the agencies are in place.

A. MSE-TSE Surveillance Procedures

According to the Memorandum, the Exchanges have agreed to a series of surveillance procedures, including the exchange, on a regular basis, of trade documentation including but not limited to surveillance reports and market data. This information should enable each exchange to carry out its respective surveillance responsibilities in relation to linkage transactions. The TSE maintains rules and surveillance procedures comparable to those of most United States exchanges.[22] The TSE will provide the MSE an audit trail report specifying the time, number of shares, price, clearing numbers of trade participants, dollars value of the transactions, and bid and ask prices.[23] Likewise, the MSE will provide the TSE with identical trade information, with the exception of bid and ask prices. The MSE also will furnish other information concerning certain market conditions, including fill or kill orders, limit orders, professional or agency orders, the current currency exchange rate and trade confirmations.

B. Information Sharing

In addition to the mechanism established for the exchange of routine surveillance information, the Memorandum provides for the exchange of additional information to assist each exchange in the investigation of particular transactions or trading patterns. The Memorandum states that each exchange shall supply such information upon the "reasonable" request of the other Exchange.[24] The Memorandum provides further that each exchange will "cooperate fully" in the investigation of any questions or complaints regarding transactions effected through the linkage, and use its "best efforts" to obtain relevant information concerning such questions or complaints.[25]

C. SEC-OSC Cooperative Efforts

In approving the Amex-TSE linkage, the Commission carefully considered the existing, longstanding cooperative efforts between the SEC and OSC and emphasized that regular channels for the exchange of information between the Amex and TSE, and between the SEC and OSC, must be maintained to facilitate any investigations and related subpoena enforcement actions. The Commission specifically considered the potential impact upon information exchanges of the Canadian Foreign Extraterritorial Measures Act ("FEMA")[26] which authorize the Attorney General of Canada to issue orders preventing the production or use of records or information in Canada in connection with the execution of foreign laws and proceedings, and to issue orders preventing persons in Canada from complying with foreign laws and orders when the Attorney General concludes that an exercise of jurisdiction by a foreign tribunal is likely to affect adversely significant Canadian interests. The OSC, as well as counsel for the TSE, represented to the Commission that it would be highly unlikely that the FEMA would be invoked for the purpose of interrupting the flow of information concerning linkage transactions. The counsel for the TSE pointed to the policy similarities of the United States and Canadian securities laws, concluding that it would be difficult to "conceive of a plausible scenario whereby the Attorney General might form the opinion necessary to interfere with an exchange of information pursuant to the Plan, or an investigation by . . . the SEC."[27] The OSC confirmed this opinion, stating that it was "extremely unlikely" that the blocking statute would be invoked, particularly in light of the Mutual Legal Assistance Treaty, which aims to improve the effectiveness of the two nations in the investigation and prosecution of securities offenses.[28]

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[22] *See* February 7 Letter, *supra* note 6. Surveillance efforts on the TSE are conducted by two separate offices. The Market Surveillance Department monitors trading activity in all listed securities continuously from the opening of the market until the close, and maintains a comprehensive file on every listed company. If, for example, the Surveillance Department becomes aware of any unusual trading, it will call a senior officer of that company and, in certain instances, ask for a statement to be issued. Further, if the Department sees evidence of insider trading, wash trading or other forms of market manipulation, the matter is forwarded to the TSE Division of Investigative Services and the OSC for follow-up. The TSE's Division of Investigative Services uses a specially designed computer program called TRACE to identify the clients behind trades made on the exchange when an in-depth investigation into trading in a particular stock appears necessary.

[23] The TSE has an on-line display of trades and quotes which identifies the most active securities, and further identifies instances of unusual volume or price movement for further investigation by the TSE staff.

[24] *See* February 7 Letter, *supra* note 6. The MSE defines the term "reasonably" in Section F of the Memorandum as the consideration of various factors in requesting the information. Those factors include the availability of the information,the difficulty and cost of compiling the information, the interference with other operations resulting from compliance and the importance of the information in relation to the difficulty of complying with the request. The MSE has indicated that this provision should allow for the availability of information from the TSE relating to non-linkage transactions in linkage-eligible securities, when such information is necessary for the MSE to carry out its investigatory responsibilities. Telephone conversation between Brandon Becker, Assistant Director, Division of Market Regulation, SEC, and J. Craig Long, Vice President-Legal, MSE, on March 6, 1986.

[25] *See February 7* Letter, *supra* note 6. The MSE defines "use best efforts" and "cooperate fully" as the exercise of the "same degree of diligence, the same allocation of resources and the same attention to regulatory concerns as that exchange would deem appropriate in an investigation falling solely within its area of regulatory responsibility."

[26] Stat. Can., c.49.

[27] *See* letter from Tory, Tory, DesLauriers and Binnington, Counsel to TSE, to TSE, dated June 18, 1985 ("Tory, Tory letter"). According to counsel for the TSE, the legislative history of FEMA makes clear that the statute is to be invoked only as a "mechanism of last resort" to be used "only if problems arise with respect to extraterritorial application of U.S. laws which U.S. and Canadian officials cannot handle in a satisfactory manner." The Honourable Nathan Murgitz, sponsor of the bill in the Canadian Senate, stated that the bill is "clearly designed to protect national sovereignty or exceptional cases, after diplomatic efforts have been exhausted and irreconcilable differences remain." *Id.* at 3-4.

[28] The as yet unratified Treaty Between the Government of Canada and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters provides for mutual legal assistance in, among other things, (1) exchanging information and objects; (2) locating or identifying persons; (3) serving documents; (4) taking the evidence of persons; (5) providing document and records; and (6) executing requests for searches and seizures.

Relying on these representations, and the history of cooperation between the SEC and OSC, the Commission approved the Amex-TSE linkage.

In considering the MSE–TSE linkage, the Commission has re-examined the issues of SEC–OSC cooperation and the potential interference of the blocking statute. In the course of exchange of correspondence, the SEC and OSC have reaffirmed their commitment to the maintenance of clear channels of information and assistance in the areas of investigation and subpoena enforcement, and the OSC reiterated its position regarding the extreme unlikelihood of the implementation of the blocking statute concerning linkage related activities.[29]

III. Conclusion

The Commission is satisfied that MSE's proposed rule change, the Memorandum and subsequent correspondence address the relevant issues relating to the effective operation of the MSE–TSE linkage. The exchanges have provided for surveillance and information sharing procedures similar to those in use in connection with the Amex-TSE linkage. Likewise the SEC and OSC have reiterated their commitment to an open and cooperative flow of information.[30]

Therefore, the Commission believes that there exist sufficient avenues of cooperation to ensure the integrity of the linkage and the protection of investors.

It Is Therefore Ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

Dated: March 28, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–767 Filed 4–4–86; 8:45 am]

BILLING CODE 8010–01–M

[29] *See* letter from Richard G. Ketchum, Director, Division of Market Regulation, and Gary Lynch, Director, Division of Enforcement, to Ermanno Pascutto, Director, OSC, dated March 28, 1986. The Commission understands that the OSC will be submitting a reciprocal letter to the Commission in the near future relating to cooperation between the SEC and OSC in connection with the linkage. *See also* letter from Ermanno Pascutto, Director, OSC, to Michael Cavalier, Branch Chief, Branch of Exchange Regulation, SEC, dated February 13, 1986, stating that the MSE–TSE trading link was approved by the OSC at a meeting held on January 21, 1986, and enclosing an excerpt from the minutes of that meeting.

[30] As it stated in approving the Amex-TSE linkage, the Commission believes that i the event FEMA were invoked regarding linkage related activities, the Commission would have to consider whether, or in what form, it would be appropriate to permit continued operation of the linkage.

[File No. 1–6534]

Application To Withdraw From Listing and Registration; Diamond-Bathurst, Inc.; Common Stock, $.01 Par Value

March 31, 1986.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2–2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

In order to avoid a dual listing, Diamon-Bathurst, Inc. wishes to withdraw the curent listing of the common stock from the American Stock Exchange since trading in their common stock on the New York Stock Exchange was scheduled to commence on March 25, 1986.

Any interested person may, on or before April 21, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–7680 Filed 4–4–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15023; 811–3195]

Application and Opportunity for Hearing; IDS Life Accounts C, D and E

April 1, 1986.

Notice is hereby given that IDS Life Accounts C, D and E ("Applicant"), IDS Tower, Minneapolis, Minnesota 44574, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on February 28, 1986, for an order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for the applicable provisions.

On May 29, 1981, Applicant, a separate account of IDS Life Insurance Company ("IDS Life"), filed a notification of registration on Form N–8A and a registration statement on Form S–6. The registration statement was declared effective on November 10, 1981, and the initial public offering commenced on the same date. Applicant states that on December 13, 1985, all of its assets were transferred in a merger to a corresponding series of another separate account of IDS Life, a unit investment trust consisting of IDS Life Accounts F, G and H (Accounts C, D, E, F, G and H, collectively will be referred to as the "Separate Accounts"). Applicant further states that interests of contractowners in Accounts C, D and E were the same as their interests, respectively, in Accounts F, G and H before the transfer. Applicant represents that no distributions were made to security-holders and that it has not retained any assets.

Applicant maintains that no debts or other liabilities remain outstanding and that it is not a party to any litigation or administrative proceedings. Applicant further represents that it has no securityholders and is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

The application states that on November 30, 1985, IDS Life Account C had 4,777 deferred variable annuity contracts totalling 17,680,248.395 accumulation units outstanding with an accumulation unit value of $1.8618; IDS Life Account D had 4,484 deferred variable annuity contracts totalling 23,409,404.714 accumulation units outstanding with an accumulation unit value of $1.8594; and IDS Life Account E had 1,525 deferred variable annuity contracts totalling 17,130,735.518 accumulation units outstanding with an accumulation unit value of $1.4184. There were no annuity units outstanding.

Applicant states that its board of directors, including a majority of the directors who are not interested persons of the Applicant, recommended a merger of the Separate Accounts on February 20, 1986. Applicant represents that proxy material was distributed to contractowners and filed with the Commission regarding the proposed

merger of certain open-end management investment companies underlying the Separate Accounts. Applicant states that it received an order of the Commission pursuant to section 17(b) of the Act on December 12, 1985, regarding the merger of the Separate Accounts, and received approval of the merger in a letter from the State of Minnesota Department of Commerce dated November 6, 1985. Applicant represents that all expenses of the merger were borne by IDS Life Insurance Company.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 28, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-7681 Filed 4-4-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15024; 811-3499]

Application and Opportunity for Hearing; IDS Life of New York Accounts 1, 2, and 3

April 1, 1986.

Notice is hereby given that IDS Life of New York Accounts 1, 2 and 3 ("Applicant"), 14 Computer Drive West, Albany, New York 12205, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, filed an application on February 28, 1986, for an order of the Commission pursuant to Section 8(f) of the Act, declaring the Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act and the rules thereunder for the applicable provisions.

On June 29, 1982, Applicant, a separate account of IDS Life Insurance Company of New York ("IDS Life of N.Y."), filed a notification of registration on Form N-8A and a registration statement on Form S-6. The registration statement was declared effective on November 9, 1982, and the initial public offering commenced on the same date. Applicant states that on December 13, 1985, all of its assets were transferred in a merger to a corresponding series of another separate account of IDS Life of N.Y., a unit investment trust consisting of IDS Life of New York Accounts, 4, 5 and 6, (Accounts 1, 2, 3, 4, 5 and 6 collectively will be referred to as the "Separate Accounts"). Applicant further states that interests of contractowners in Accounts 4, 5 and 6 were the same as their interests, respectively in Accounts 1, 2 and 3 before the transfer. Applicant, represents that no distributions were made to securityholders and that it has not retained any assets.

Applicant maintains that it has no debts or other liabilities outstanding and that it is not a party to any litigation or administrative proceedings. Applicant represents that it has no securityholders and is not now engaged, nor does it propose to engage in any business activities other than those necessary for the winding-up of its affairs.

The application states that on November 30, 1985, IDS Life of New York Account 1 had 169 deferred variable annuity contracts totalling 1,119,156.135 accumulation units outstanding with an accumulation unit value of $1.5055; IDS Life of New York Account 2 had 181 deferred variable annuity contracts totalling 1,667,811.511 accumulation units outstanding with an accumulation unit value of $1.4678; and IDS Life of New York Accounts 3 had 77 deferred variable annuity contracts totalling 602,600.925 accumulation units outstanding with an accumulation unit value of $1.2660. There were no annuity units outstanding.

Applicant states that its board of directors, including a majority of the directors who are not interested persons of the Applicant, recommended a merger of the Separate Accounts on September 12, 1985. Applicant represents that proxy material was distribute to contractowners and filed with the Commission regarding the proposed merger of certain open-end management investment companies underlying the Separate Accounts. Applicant states that it receive an order of the Commission pursuant to Section 17(b) of the Act on December 12, 1985, regarding the merger of the Separate Accounts, and received approval of the merger in a letter from the State of New York Insurance Department dated October 15, 1985. Applicant represents that all expenses of the merger were borne by IDS Life Insurance Company of New York.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 28, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-7682 Filed 4-4-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15022; (File No. 812-6252)]

Kemper Tax Exempt Income Trust et al.; Application for Order Pursuant to Section 6(c) of the Act Exempting Applicants From the Provisions of Rule 22c-1 Under the Act

March 31, 1986.

Notice is hereby given that Kemper Tax-Exempt Income Trust, 120 South La Salle Street, Chicago, Illinois 60603, Kemper Tax-Exempt Insured Income Trust, Kemper Tax-Exempt Income Trust-MultiState Series, Kemper Tax-Exempt Insured Income Trust-Multi-State Series, Kemper Tax-Exempt Income Trust-Short Intermediate Term Series, Kemper Government Securities Trust, any other unit investment trust ("UIT") created at a later date which is underwritten by Kemper Sales Company ("KSC"), each of which is, or will be, a UIT (collectively, "Trusts") registered under the Investment Company Act of 1940 ("Act") and KSC, the sponsor of the Trusts (collectively, "Applicants"), filed an application on November 19, 1985, for an order, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Rule 22c-1 under the Act to the extent necessary to permit KSC to

offer units of fractional undivided interest ("Units") of each series ("Series") of the Trusts on the first business day of the initial offering period of each Series at a public offering price determined as of 4:30 p.m., Central Time on the business day preceding receipt of the purchase order. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the complete text of the applicable provisions.

Applicants state that each Series of a Trust is a UIT created under the laws of the State of Missouri by a separate trust agreement between KSC as its sponsor and a trustee. Applicants further state that KSC acts as principal underwriter of each Series of the Trusts at public offering prices based on a pro rata share of the offering side prices of the securities in the portfolio of a Series, plus a sales charge, during the initial offering period. The application indicates that, as of September 30, 1985, 141 separate Series of the Trusts had been offered, each portfolio consisting of either municipal debt obligations or U.S. Government agency obligations ("Securities").

Applicants state that, some time prior to the expected Date of Deposit of a Series, KSC files with the Commission under the Securities Act of 1933 the documents necessary to register the Units of the particular Series for sale. On the Date of Deposit a trust agreement is signed, and KSC deposits the Securities or contracts to purchase the Securities with the trustee (accompanied by an irrevocable letter of credit, in an amount sufficient to complete the purchase), in exchange for the Units representing the entire ownership of that Series. Applicants further state that upon the effectiveness of the registration statement of such Series on the Date of Deposit, the initial offering period commences during which the Units of the Series are offered for sale to the public by KSC and the other underwriters of such Series. The initial offering period refers to a period of 30 days, including the Date of Deposit unless all Units are sold prior thereto, and may be extended for not more than four successive 30-day periods. The application indicates that the initial offering period of a Series may run for many days but that a significant number of trades are consummated on the Date of Deposit. This is true in part, according to the application, because indications of interest, received prior to the effectiveness of the registration statement for a Series, are solicited by the participating underwriters for such Series during the time between the sale of the last Units of one Series and the subsequent deposit of the next Series. The number of transactions which actually take place on the Date of Deposit is indeterminate, since the actual purchases upon the effectiveness of an offering may be considerably different from the number estimated by the underwriters owing to, among other things, changed market conditions or inaccurate estimates.

Applicants propose to offer Units of each future Series of the Trusts to the public on the first day of the initial offering period for such Series at a public offering price determined as of the close of KSC's business day (i.e., 4:30 p.m., Central Time) on the business day preceding receipt of the purchase order ("backward pricing") so that the price of Units purchased by an investor on the Date of Deposit would be based on such backward pricing of Units to the preceding day's price calculation. Since the public offering price so determined will be effective for all sales of Units purchased on the Date of Deposit, the "forward pricing" requirement of Rule 22c–1 under the Act would not be met.

Applicants state that the forward pricing requirements of Rule 22c–1 of the Act are often confusing to investors who purchase Units on the Date of Deposit. Applicants submit that the Sponsor intends to calculate the prices of Units of the Trusts in such a way as to create a market price as of the close of business on the day prior to the Date of Deposit equal to $1,000 per Unit (or $1.00 in the case of certain Series). To achieve the $1,000 price, a sufficient number of Units are created so that the aggregate offering price of the underlying portfolio Securities plus the applicable aggregate sales charge equal the number of Units divided by 1,000. Applicants state that this is the price shown in the related prospectus (which is dated as of the Date of Deposit) on the Essential Information page of the prospectus and that brokers have a difficult time explaining that, should the price of the Securities in a Trust's portfolio change on the Date of Deposit, the price the investor will have to pay will be different from that shown in the prospectus. Confirmations do, of course, include pricing information, as is required by the forward pricing procedure, and investors, upon receipt of this confirmation, often do not understand why, if they purchased Units on the Date of Deposit, they are not purchasing Units at the price shown in the prospectus.

Applicants state further that, particularly in the situation where prices have increased, investors frequently contact their brokers for an explanation of why they are being required to pay more for the Units than the price shown in the prospectus. Applicants assert that, even though they assume most brokers understand the general requirement for forward pricing, explaining the procedure to investors is, nevertheless, quite difficult and can be time-consuming. Further adding to the confusion is the fact that the estimated current return, which brokers assert is the single most significant factor in making an investment decision relating to UITs, will be somewhat different from that indicated in the prospectus if the price of a Unit changes. Applicants believe that backward pricing on the Date of Deposit would remove much of this investor confusion regarding pricing and insure the investor of his anticipated estimated current return.

Even though Applicants believe that backward pricing on the Date of Deposit would significantly reduce investor confusion and insure that the prices and returns shown in the prospectus equal actual ones received by investors, Applicants believe that any such confusion to investors is outweighed in situations where there is a decrease in the price per Unit and a resulting increase in estimated current return. Consequently, Applicants do not intend to use backward pricing if the price of a Unit decreases on the Date of Deposit. Applicants represent that, if the price per Unit increased on the Date of Deposit, the price indicated in the prospectus for such Series will apply for all trades on the Date of Deposit but if such price decreases, the lower price will be charged.

Applicants believe that Rule 22c–1 of the Act has two purposes: (1) To eliminate or reduce any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the practice of selling securities at a price based on a previously established value, which practice might permit a potential investor to take advantage of an upswing in the market and an accompanying increase in the value of investment company shares by purchasing those shares at a price which does not reflect such increase, and (2) to minimize speculative trading practices which so compromise registered investment companies as to be unfair to the holders of their outstanding

securities. Applicants submit that the proposed backward pricing of Units will not undermine or contravene the proposes of Rule 22c–1 of the Act. Applicants assert that dilution of the Trust is not a relevant consideration, since KSC and other underwriters, having deposited all of the Securities, own all of the Units of a Trust as of the Date of Deposit. The price at which the Sponsor and the other underwriters of a Trust sell those Units can affect only KSC and the underwriters and not the value of the Seurities nor the fractional undivided interest in the Securities represented by each Unit.

Applicants state further that possible speculative features relating to backward pricing are of such a limited nature as to be a practical impossibility. Applicants state that of the 50 Series of the Trusts initially offered by Kemper as the Sponsor of the Trusts during the period January 1, 1984 to October 15, 1985, the average daily price change on the Date of Deposit was $0.27 per Unit (or 0.027 percent of the initial public offering price) and that the largest price increase was only $3.76 per Unit. Applicants contend that in light of the applicable sales change, generally $47.00 per Unit (for the Kemper Tax-Exempt Income Trust-Short Intermediate Term Series the sales charge is 2.75% and for Kemper Government Securities Trust the sales charge is 3.75%) and the difference between offering prices of the underlying Securities, which are the prices used to compute the initial public offering price and the bid prices thereof, which are used to compute redemption prices (geneally a difference between $10 and $20 per Unit or the equivalent for $1.00 Units)), such one day price changes do not approach the transactional costs related to any attempted speculation by investors. Applicants maintain that even in those Trusts comprise of long-term securities, the volatility of market prices in any one day simply is not of such magnitude to overcome the related costs of speculation. In addition, Applicants submit that even if the volatility existed, it is unlikely a prospective investor would know what specific Securities are in a portfolio before he gets a prospectus, how much principal amount of each Security will be included or the market prices related thereto (since such Securities are not traded on any exchange), and that, thus, it will be practically impossible for an investor to accurately determine the amount, if any, of a change in the net asset value of a Trust on the Date of Deposit. Finally, Applicants assert that UITs are marketed in a manner that is the antithesis of speculation since Units are sold for long-term fixed income.

In connection with speculation by the Sponsor, underwriters and dealers, Applicants submit that, since the Sponsor and certain of the underwriters intend to maintain a market for Units, to allow immediate redemptions to occur is both disruptive and expensive because the current prospectus would have to be supplemented to indicate changes in the underlying portfolio resulting from sales of Securities to meet redemptions. Applicants state that such costs would be borne by the Sponsor. Moreover, it is contended that the Sponsor, underwriters and dealers have less incentive to speculate since they already share in the sale charge. Applicants assert that of the typical initial $47.00 sales charge per Unit, the Sponsor receives $12.00, the underwriters receive $35.00 ($37.00 in certain instances) if sold themselves or $5.00 if sold to dealers and dealers receive $32.00 for each Unit they sell. Applicants maintain that, consequently, even if the practical limitations discussed in the previous paragraph were ignored and the extremely unlikely possibility of a large one-day price increase occurred, the profits generated would be insufficient to warrant such activity, not to mention the potential loss of goodwill with investors and the likely loss of support from such investors and the dealer community with respect to future sales. Nevertheless, because speculation is still a remote possibility, Applicants propose to ban any redemptions during the first 30 days of an initial offering period of a series of a Trust by the Sponsor, other underwriters and dealers.

Notice is further given that any interested person may, not later than April 17, 1986, at 5:30 p.m., submit, in writing, a request for a hearing setting forth the nature of his interest, the reason for such request, and the issues, if any, of fact or law that are disputed, addressed to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon Applicants at the addrress stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–7683 Filed 4–4–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–15021; (812–6269)]

Nuveen California Tax-Free Fund, Inc., et al.; Application for Order Permitting Separate Classes of Shares Representing Interests in the Same Portfolio

March 31, 1986.

Notice is hereby given that Nuveen California Tax-Free Fund, Inc. ("California Fund"), 333 West Wacker Drive, Chicago, Illinois 60606, John Nuveen & Co., Incorporated, Chicago, Illinois 60606, John Nuveen & Co., Incorporated ("Nuveen") and Nuveen Advisory Corp. ("Nuveen Advisory"), 333 West Wacker Drive, Chicago, Illinois 60606, filed an application on December 26, 1985, and an amendment thereto on March 25, 1986, on behalf of themselves and all investment companies similar to the California Fund and portfolios thereof ("Future Funds") which may be sponsored or advised in the future by Nuveen or Nuveen Advisory (all of the above, "Applicants"), for an order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting them from the provisions of section 18(f), 18(g) and 18(i) of the Act to the extent necessary to permit the proposed issuance and sale of securities representing interests in a Fund's investment portfolios (including the allocation of voting rights thereto and the payment of dividends thereon) in the manner described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act, and the rules thereunder for the complete text of the applicable provisions.

The application states that a registration statement has been filed with the Commission seeking to register the California Fund, a Maryland corporation, as an open-end diversified management investment company under the Act. The California Fund proposes to issue common stock representing interests in three different investment portfolios: a Speical Bond Portfolio, which invests primarily in long-term California tax-exempt bonds; an Insured Bond Portfolio, which invests primarily in long-term California tax-exempt

bonds covered by portfolio insurance guaranteeing the timely payment of principal and interest; and a Money Market Portfolio, which invests primarily in high-quality short-term California tax-exempt money market instruments. Applicants state that those investment portfolios and all investment portfolios that may be organized in the future by the California Fund or by any Future Fund are referred to as the "Portfolios" and a class of shares representing interests in a particular Portfolio are referred to as a "Series" (class) of shares.

The application indicates that shares of the Money Market Portfolio are issued in three Series. Shares of the Money Market Portfolio—Service Plan Series are intended for purchase by or through banks and other organizations which have agreed to perform certain services for their customers who are shareholders of such series; shares of the Distribution Plan Series are intended for purchase by or through securities dealers who have entered into distribution agreements with Nuveen with respect to distribution of those shares; and shares of the Institutional Series are intended for purchase by trustees, banks, corporations and investment bankers or advisers.

Applicants represent that all expenses that are attributable to the operations of a particular Portfolio (such as management fees, transfer agent expenses, printing costs for prospectuses and reports sent to the Portfolio's shareholders and registration fees) will be allocated to that Portfolio. Expenses that are not directly attributable to the operations of a specific Portfolio will be allocated among the Portfolios of the California Fund upon the relative net assets of each Portfolio. Except as described below with respect to expenses related to the several Series in the Money Market Portfolio, expenses attributed to or allocated to each Portfolio will be borne pro rata by the Portfolio's shareholders. The California Fund has adopted Distribution and Service Plans with respect to certain shares of its Money Market Portfolio. Pursuant to such Plans, Nuveen and the California Fund will pay, in equal amounts, fees to securities dealers and service organizations which have entered into Service Agreements related to those Plans.

Applicants believe that as a result of increased competition for short-term investments it is highly desirable that the Funds be able to offer services that are adapted to the investment needs of particular investors. In order to offer a broad range of services and to have an array of marketing alternatives, the California Fund has proposed to issue three Series of shares in its single Money Market Portfolio with the characteristics described below.

Applicants represent that, except for Series designation and the allocation of certain expenses and voting rights as described below, each Series of shares in its Money Market Portfolio would be identical in all respects to shares of each other Series of Money Market Portfolio shares. Thus the shares would differ only in that certain Series of shares are proposed to be offered in connection with: (i) A Distribution Plan adopted pursuant to Rule 12b–1; (ii) a non-12b–1 Service Plan adopted pursuant to procedures offering the same protections to investors as are provided by Rule 12b–1 except, in some instances, those relating to shareholder voting rights and automatic termination of the Plan upon its assignment; or (iii) no plan. (The matching shares in Future Portfolios will likewise differ.) Applicants state that adoption and implementation of a Plan by one Fund would be made independently of, and would not be conditioned upon, the adoption or implementation of a Plan by any other Fund. In addition, each Plan would relate only to the shares of a particular Fund.

As described in the application, under each type of Plan, the Fund would enter into Distribution Agreements or Service Agreements (either or both of which may be referred to Service Agreements" with institutions concerning the provision of support services to the customers ("Customers") of the institutions who from time to time beneficially own shares that are offered in connection with such Plan. In addition, Service Agreements under a 12b–1 Plan would contemplate the provision of distribution assistance by an institution in connection with the distribution of shares that are offered in connection with that Plan. Applicants state that the provision of support services and distribution assistance under the Plans would augment and not be duplicative of the services that would otherwise have been provided to the Fund by its service contractors (*e.g.*, investment adviser, distributor, transfer agent and custodian).

According to the application, under each type of Plan the Fund would pay participating institutions for their services and assistance ("Service Payments") in accordance with the terms of the Plan and the related Service Agreement. The expense of those payments made by the Fund are to be borne entirely by the beneficial owners of the Series of the shares to which the Agreement relates. Service Payments paid to an institution pursuant to either the Distribution Plan or the Service Plan adopted by the California Fund would not exceed .25% (on an annualized basis) of the average daily net asset value of those shares beneficially owned by Customers of the institution from time to time with respect to which the institution provides services and assistance under a Service Agreement.

In the case of Future Funds or pursuant to approval by the shareholders of the affected series of the California Fund shares, payments made pursuant to a Rule 12b–1 Distribution and Service Plan or a non-Rule 12b–1 Service Plan could exceed .25% (on an annualized basis); in no event, however, would such payment exceed .75% (on an annualized basis) under a Rule 12b–1 Plan and .50% (on an annualized basis) under a non-Rule 12b–1 Service Plan. Further, because a Service Agreement necessarily contemplates the provision of services and assistance by an institution with respect to its Customers, the Fund would not knowingly enter into a Service Agreement with an institution in those situations where the institution invests as principal. Applicants state that under state law and under recent letters of the Comptroller of the Currency, the ability of a bank to accept a fee from an investment company in connection with the investment of the assets of its fiduciary accounts may be restricted. However, Applicants state that they do not propose to prohibit the investment of Customer accounts in shares offered in connection with a Plan because in certain instances, the bank can properly receive Service Payments. Applicants represent that to the extent that such investments are permitted, however, the Fund will include in its prospectus relevant disclosure relating to the Comptroller's letters.

Applicants represent that each of the Money Market Portfolio shares, regardless of Series (class), would represent an equal pro rata interest in the Portfolio and would have identical voting, dividend, liquidated and other rights, preferences, powers, restrictions, limitations, qualifications, designations and terms and conditions, except that (1) each Series would have a different Series designation; (2) each Series of shares offered in connection with a Plan would bear the expense of the Service Payments that were made by the Fund under the Service Agreements that have been entered into with respect to such Series; (3) each Series of shares would bear the expenses ("Series Expenses")

which are directly attributable to that Series; and (4) only the holders of the shares of the Series involved would be entitled to vote on matters pertaining to the 12b–1 Plan and the Service Agreements relating to such Series (for example, with respect to the adoption, amendment or termination of the Plan in accordance with the procedures set forth in Rule 12b–1).

Applicants state that the net asset value of all outstanding shares representing interests in the Money Market Portfolio would be computed on the same days and at the same times by adding the value of all Portfolio securities and other assets belonging to the Portfolio, subtracting the liabilities charged to the Portfolio and dividing the result by the number of such outstanding shares. Further, the gross income of the Portfolio would be allocated on a pro rata basis to each outstanding share in the Portfolio regardless of Series. Applicants represent that three "types" of expenses would be subtracted from the gross income per share of each Series of the Money Market Portfolio: (1) A pro rata share of all expenses incurred by the Fund (for example, fees of directors, auditors, and legal counsel) not attributable to a particular Portfolio or to a particular Series of the Money Market Portfolio; (2) a pro rata share of all expenses incurred by the Portfolio not attributable to any particular Series of the Portfolio's shares (for example, advisory fees) would be charged to the Portfolio:; and (3) a pro rata share of expenses (for example, registration, printing and mailing expenses, state registration expenses, and transfer agency fees) specifically attributable to the particular Series. Applicants state that expenses may be attributed differently if their method of imposition changes. Thus, if a Series Expense can no longer be attributed to a Series, it will be charged to a Portfolio or to the Fund; conversely, if a general expense becomes attributable to a Portfolio, it will become a Portfolio Expense, or if to a Series of the Money Market Portfolio, it will become a Series Expense. Service Payments that are made under a Plan that has been adopted in connection with a Series of shares will be apportioned to that Series.

Because of the Service Payments and any other Series Expenses that would be borne by a Series of shares, the net income of (and dividends payable to any Series may be different from the net income of the "matched" Series of shares that has different Service Payments and Series Expenses. Dividends paid to each Series of shares in a Portfolio would, however, be declared and paid on the same days and at the same times, and, except as noted with respect to the expenses of Service Payments and other Series Expenses, would be determined in the same manner and paid in the same amounts.

Applicants request an exemptive order, pursuant to section 6(c) of the Act, to the extent that the proposed issuance and sale of Series of shares representing interests in a Fund's Portfolios might be deemed: (1) To result in a "senior security" within the meaning of section 18(g) of the Act and to be prohibited by section 18(f)(1); and (2) to violate the equal voting provisions of section 18(i) of the Act.

Applicants assert that the issuance and sale of the described Series of shares in the Money Market Portfolio will better enable the California Fund to meet present competitive demands by facilitating the distribution of Fund shares and permitting the Fund to provide a broad scope and depth of services without assuming excessive accounting and bookkeeping costs or unnecessary investment risks. The Applicants further submit that the proposed allocation of expenses and voting rights is equitable and would not discriminate against any group of shareholders. Investors purchasing shares offered in connection with a Plan would bear the costs associated with services rendered pursuant to the Plan and would enjoy exclusive shareholder voting rights with respect to matters affecting such Plan, while investors purchasing shares that are not covered by such Plan would not be burdened with such expenses or enjoy such voting rights.

Applicants submit that the requested exemptions are appropriate in the public interest and are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants assert that the proposed arrangement does not involve borrowing and will not affect the Fund's assets or reserves. Nor, it is asserted, will the proposed arrangement increase the speculative character of the shares in a Portfolio since all shares will participate pro rata in all of the Portfolio's income and expenses (with the exception of the proposed Service Payments and Series Expenses). Applicants agree that the following conditions may be imposed in any order of the Commission granting the requested relief:

1. The only difference between each Series of shares representing interests in the same Portfolio will relate solely to priorities with respect to: (a) The payment of dividends, and such priority will reflect only the impact of the Service Payments made by the Fund under the Plans relating to particular Series of shares and any Series Expenses, and (b) voting rights on matters which pertain to Plans (and Service Agreements and Service Payments thereunder). In addition, the description of each Series of share in a Portfolio would be different.

2. The Plans (including both 12b–1 Plans and non-12b–1 Service Plans), Service Agreements and Service Payments relating to shares will be approved and reviewed by the Fund's Board of Directors in accordance with the procedures set forth in Rule 12b–1 and, in addition, the 12b–1 Plan (and, to the extent required, the Service Agreements and Service Payments thereunder) will be approved by those shareholders that are affected in accordance with said Rule. In addition, the Board, in approving and reviewing payments to an institution pursuant to any 12b–1 Plan or non 12b–1 Service Plan, will conclude in good faith based on information available to them that such expenditures are competitive with those offered in the industry.

3. Dividends paid by a Fund with respect to each Series of shares in a Portfolio will be calculated in the same manner and will be in the same amount as dividends paid by the Fund with respect to each other Series of shares in the same Portfolio, except that the expenses of any Service Payments and any Series Expenses will be borne exclusively by that Series.

4. Each prospectus relating to a Series of shares that is offered in connection with a Plan will: (a) Describe the services rendered by institutions under Service Agreements with respect to such shares and the fees payable by the Fund involved for such services; and (b) state that the beneficial owners of such shares should read the prospectus in light of the terms governing their institutional accounts.

5. Each Service Agreement entered into by a Fund will contain representations by the institution involved that: (a) The institution will provide to its Customers a schedule of any fees charged by it to the Customers relating to the investment of their assets in the Series of shares subject to the Service Agreement; and (b) the compensation paid to the institution under the Service Agreement, together with any other compensation the institution receives from its Customers for services contemplated by the Service Agreement, will not be excessive or unreasonable unde the laws and

instruments governing the institution's relationship with its Customers.

6. Applicants acknowledge that the grant of the exemptive order requested by this Application will not imply Commission approval, authorization or acquiescence in any particular level of payments that a Fund may make to institutions pursuant to Plans in reliance on the exemptive order.

Additionally, Applicants state that all representations described in the application as well as any conditions impose by any Commission order will also apply to any Future Funds and/or Portfolios.

Notice is further given than any interested person wishing to request a hearing on the application may, not later than April 21, at 5:30 p.m., do so by submitting a written request setting forth the nature of this interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon an Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-7684 Filed 4-4-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15020; File No. 812-6093]

The Piedmont Income Fund, Inc.; Application

March 31, 1986.

A second notice is hereby given that The Piedmont Income Fund, Inc. ("Applicant"), 1150 Connecticut Ave., NW., Suite 705, Washington, DC 20036, filed an amendment on February 11, 1986, to an application originally filed on April 16, 1985 (the April application), pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), for an order amending a previous order (Investment Company Act Release No. 14239, November 16, 1984) ("Previous Order"). The Previous Order exempted Applicant from the provisions of Sections 18(f)(1) and 17(f) of the Act to the extent necessary to permit Applicant to invest in options on stock indexes, stock index futures contracts and options thereon. A notice relating to the April application was issued on August 21, 1985 (Investment Company Act Release No. 14690), and no action has been taken since that date. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein which are summarized below. Such persons are also referred to the Act for the text of the provisions which are relevant to a consideration of the application.

According to the application, Applicant is a diversified, open-end management investment company. Its fundamental investment objective is to realize income by investing in stocks of large, established domestic corporations that have a history of yielding higher than average dividends. Applicant's shares will be sold only to corporate investors and it will endeavor to derive as much of its income as possible from dividends of "qualifying domestic companies" in order to maximize the percentage of its distributions of net investment income that will qualify for the 85 percent dividends received deduction for its shareholders.

Applicant intends to hedge its securities holdings by selling exchange-traded call options on its portfolio stocks and by selling futures contracts on stock indexes where there is some correlation between the stocks comprising the index and the stocks in its portfolio. As a further hedge against declines in the value of its portfolio, Applicant may purchase put options and/or write call options on stock indexes and purchase put options and/or write call options on stock index futures contracts.

In its application for the Previous Order, Applicant represented that, among other limitations, "[t]he aggregate market value at the time of sale of all open futures contracts sold by the Applicant, together with the aggregate market value of all futures contracts with respect to which, the Applicant is either a writer or a holder of options will not exceed 33⅓% of the Fund's net assets."

Applicant desires to eliminate the one-third limitation described above. Instead, Applicant will agree not to maintain open short positions in stock index futures contracts, call options written on stock index futures, and call options written on stock indexes if, in the aggregate, the value of the open positions (marked to market) exceeds the current market value of its securities portfolio plus or minus the unrealized gain or loss on those open positions, adjusted for the historical volatility relationship between the portfolio and the index contracts (*i.e.*, the Beta volatility factor). If this limitation should be exceeded at any time, Applicant will take prompt action to close out the appropriate number of open short positions to bring its open stock index futures and options positions within this limitation.

Applicant states that it believes that the restrictions on its trading in index contracts and options are consistent with the underlying purposes of section 18(f)(1), and prevent Applicant from becoming excessively leveraged. Applicant also believes that its transactions in index contracts and options, limited as described above, do not give rise to the speculative abuses which section 18(f)(1) was designed to prevent.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 21, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-7685 Filed 4-4-86; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Environmental Statements; Record of Decision on Permit for Work Under Olin Corp. Remedial Action Plan to Isolate DDT from the People and the Environment in the Huntsville Spring Branch-Indian Creek System, Wheeler Reservoir, AL

AGENCY: Tennessee Valley Authority.

ACTION: Notice is hereby given that in accordance with TVA's procedures for implemeting the National Environmental Policy Act (NEPA), 48 FR (April 28, 1983), and consistent with 40 CFR 1506.3 (1985), TVA as a cooperating agency has decided under section 26a of the

Tennessee Valley Authority Act of 1933, 16 U.S.C. 831–831dd (1982 & Supp. II 1984) to grant approval to Olin Corporation for work across, in, and along the Huntsville Spring Branch-Indian Creek (HSB–IC) System on Wheeler Reservoir upstream of the Town of Triana, Alabama. The U.S. Army Corps of Engineers (USACE) was the lead agency for the environmental impact statement (EIS) with TVA, the Environmental Protection Agency (EPA), and the U.S. Fish and Wildlife Service (FWS) participating as cooperating agencies. The title of the FEIS is *Final Environmental Impact Statement for Regulatory Actions Associated with the Olin Corporation Remedial Plan to Isolate DDT from the People and the Environment in the Huntsville Spring Branch-Indian Creek System, Wheeler Reservoir, Alabama.*

FOR FURTHER INFORMATION CONTACT: Write Mr. Martin E. Rivers, Director of Environmental Quality, Tennessee Valley Authority, Knoxville, Tennessee 37902, or call TVA's Citizen Action Office toll free: 1–800–251–9242 (in Alabama, North Carolina, Georgia, Kentucky, Virginia, Missouri, and Arkansas) or 1–800–362–9250 (in Tennessee).

SUPPLEMENTARY INFORMATION: DDT manufactured by the Olin Corporation on Redstone Arsenal (RSA), Alabama, has contaminated the HSB–IC system with an estimated 417 tons of DDT. A Consent Decree resulting from a suit filed in Federal Court against the Olin Corporation for DDT contamination established a Review Panel to oversee Olin's development of remedial measures to isolate DDT from the public and environment. The Review Panel consists of voting representatives from the Department of the Army (DOA), EPA, FWS, TVA, the State of Alabama; and nonvoting participants from the Town of Triana, Alabama, and the Olin Corporation. As required by the Consent Decree, Olin proposed an initial remedial action proposal. The Review Panel responsibilities as delineated in the Consent Decree included taking action on the remedial action plan to approve it, reject it, or designate a substitute remedy. On July 14, 1984, a public hearing was held in Triana, Alabama, before the Review Panel acted on Olin's proposal. The Review Panel also accepted additional written public comments. On August 31, 1984, the Revew Panel approved Olin's remedial action plan, with modification. The Review Panel decision evaluated reasonable alternatives and environmental effects.

Olin's proposal as modified by the Review Panel requires various permits or approvals from USACE, DOA, FWS, EPA, and TVA before implementation. USACE took the lead in preparing an EIS as part of the decisionmaking process on these permits and approvals with the cooperation of the other Federal entities. Draft EIS (DEIS) scoping comments were solicited by a Notice of Intent published in the Federal Register on February 22, 1985, by news releases sent to area newspapers, and by direct mailings. The scoping mailing list included State, local, and Federal agencies having jurisdiction by law or special expertise, local officials, prominent environmental organizations, and all persons registered in the previous Review Panel public involvement program. Scoping comments were considered in developing the DEIS. USACE issued the DEIS on July 9, 1985. Initial recipients of the DEIS included agencies having jurisdiction by law or special expertise, respondents in the scoping process, and those who requested copies. Comments on the DEIS were received from 15 organizations and individuals. The Final EIS was issued and noiced in the Federal Register on February 21, 1986.

The EIS discusses the objectives of remedial action measures required under the Court-apprved Consent Decree and how the various alternatives considered may affect these objectives. The EIS evaluates potential impacts from implementation of the preferred alternative, including the permanent or temporary loss or alteration of 70 acres of wetland habitat, 18 acres of aquatic habitat, and 13 acres of upland habitat. No significant adverse air or water quality impacts (surface and groundwater) are identified. The preferred alternative will have only minimal or no adverse impacts on socioeconomic resources, operation of RSA or Wheeler Reservoir, and cultural and human resources.

Alternatives Considered

The Review Panel evaluated a wide range of remedial action alternatives for mitigation of DDT contamination in the HSB–IC system and has previously subjected them to public review and comment. Remedial action alternatives discussed in the EIS consist of the alternatives considered by the Olin Corporation and the Review Panel.

The remedial action alternative proposed by Olin and approved with modifications by the Review Panel is the diversion of HSB around the contaminated channel between HSB Miles 5.5 and 4.0. The diversion channel involves the excavation of a 3,250-foot cut across an area of land formed by an "oxbow" and the excavation of a 1670-foot cut to an existing embayment. The Olin proposal is desirable in TVA's view because it is the one approved by the Review Panel, because it is consistent with the isolation of DDT in the HSB–IC system and therefore constitutes an environmental improvement, and because of its minimal adverse effect on the environment.

Options considered in the EIS in connection with permits and approvals for the Olin proposal are:

1. Permit or approval denial;
2. Permit or approval granted as applied for with no special conditions; and
3. Permit or approval granted as applied for with special conditions.

The remedial action approved by the Panel, subject to special permit conditions, is the environmentally perferred alternative. The preferred alternative will minimize adverse effects on Wheeler Reservoir operations, will not result in an increase in flooding, and will not cause a significant loss of flood storage or power generation capacity. The special conditions encompass all practical means to minimize environmental harm. These conditions, together with continued Review Panel oversight, will assure that work performed conforms with that approved, and that there is adequate progress toward attainment of the Consent Decree goals.

Basis for Decision

As a corporate agency of the United States, TVA's statutory responsibilities include the generation of electric power, flood control, navigation improvement and agricultural, natural resources, and industrial development in the seven-state Tennessee Valley region. The unified development and regulation of the Tennessee River system require that no dam, appurtenant works, or other obstruction affecting navigation, flood control, or public lands or reservations by constructed and thereafter operated or maintained across, along, or in the river or its various tributaries until plans for construction, operation, and maintenance have been approved by TVA pursuant to section 26a of the TVA Act. TVA's section 26a review is not a substitute for the requirements of any other law, but is in addition to any other permit, license, or approval that is needed.

Since the proposal of the Olin Corporation to carry out remedial work to isolate DDT from people and the environment in the HSB–IC system of

the Tennessee River watershed involves work in the flood zone area of Wheeler Reservoir, it is subject to TVA's review and approval under Section 26a. TVA does not have custody or control of lands in which work is to take place or the downstream portions of the HSB–IC system, so that no land use permit is required from TVA.

Commencing at the earliest possible time in this process, appropriate and careful consideration to those environmental aspects of the Olin proposal that woud be authorized by TVA's permit and over which TVA has direct control, has been built into TVA's section 26a decisionmaking process. The potential environmental effects of the work on the preferred alternative that would be authorized by other prmits and approvals were also carefully considered. This has been done to ensure that adverse environmental effects may be avoided or minimized consistent with NEPA and the decision of the Review Panel on the Olin proposal. This consideration has continued through TVA's final decision to issue the section 26a permit.

TVA has decided to grant section 26a approval to Olin Corporation for implementation of the preferred alternative for remedial action, and is satisfied that the work can be conducted in an environmentally satisfactory manner. This decision was reached after carefully weighing and balancing all of the pertinent information relative to the proposed remedial action. The decision is desirable because the impacts of the activities directly associated with the grant of the section 26a permit are not significantly adverse; because the remedial action is subject to continuing review by the Review Panel and other regulatory agencies; and because, as the Review Panel has determined, this project is a significant positive step toward achieving the performance standard of 5 parts per million of DDT in specified fish fillets in the HSB–IC system as set forth in the Consent Decree. Furthermore, the project will:

a. Isolate DDT from the people and environment to prevent further exposure;
b. Minimize further transport of DDT out of the HSB–IC system;
c. Minimize adverse environmental impacts of the remedial action;
d. Minimize adverse effects on operation of Wheeler Reservoir;
e. Not result in increased flooding to the Redstone Arsenal and City of Huntsville; and
f. Not result in significant loss of storage capacity for power generation.

TVA will continue to have a representative on the Review Panel throughout the course of implementation.

W. F. Willis,

General Manager, Tennessee Valley Authority.

[FR Doc. 86–7566 Filed 4–4–86; 8:45 am]

BILLING CODE 8120–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–86–7]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of centain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: April 18, 1986.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Petition Docket No. _____, 800 Independence Avenue SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 1, 1986.

John H. Cassady,

Assistant Chief Counsel Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24326–1	Hawaiian Airlines	14 CFR § 91.303	To allow petitioner to operate an additional Stage 1 DC–8 aircraft in the Pacific Basin until hush kits are installed.

[FR Doc. 86–7693 Filed 4–4–86; 8:45 am]

BILLING CODE 4910–13–M

Meeting: High Density Traffic Airport Slots

AGENCY: Federal Aviation Administration (FAA), Department of Transportation, (DOT).

ACTION: Notice of meeting to allocate High Density Traffic Airport cummuter slots by lottery.

SUMMARY: On December 16, 1985, the Department issued a rule establishing procedures for the allocation and transfer of operating slots at the four airports designated as high density traffic airports: Kennedy International, LaGuardia, O'Hare International, and Washington National Airports. The rule provides that slots are allocated to those carriers holding the slots as of December 16, 1985, and that unallocated and returned slots will be distributed by lottery.

This notice announces a meeting to conduct the first lottery for the distribution of unallocated commuter slots at each airport. The meeting will be held at FAA Headquarters on April 29, 1986.

DATE: The meeting will be held on Tuesday, April 29, 1986, at 9:00 a.m..

ADDRESSES: The meeting will be held at FAA Headquarters, Third Floor Auditorium, 800 Independence Avenue SW., Wasington, DC.

Requests to participate in the lottery should be submitted to: Office of the Chief Counsel, Docket Section, AGC–204, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC. 20591.

FOR FURTHER INFORMATION CONTACT: David L. Bennett, Manager, Airspace and Air, Traffic Law Branch, AGC–230, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; Telephone: (202) 426–3691.

SUPPLEMENTARY INFORMATION:

Availability of Document

Any person may obtain a copy of Amendment No. 93–49, "High Density Traffic Airports; Slot Allocation and Transfer Methods," by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, DC 20591; or by calling (202) 426–8058. Communications must identify the amendment number of the document.

Background

On December 16, 1985, the Department of Transportation issued Amendment No. 93–49, "High Density Traffice Airports; Slot Allocation and Transfer Methods; Final Rule" (50 FR 52180, December 20, 1985), adding new Subpart S to Part 93 of the Federal Aviation Regulations (FAR), 14 CFR Part 93, Subpart S. The amendment establishes procedures for the allocation and transfer of operating slots at the four airports designated as high density traffic airports under the Density Rule, 14 CFR Part 93, Subpart K: Kennedy International, LaGuardia, O'Hare International, and Washington National Airports. The rule provides that slots are allocated to these carriers holding the slots as of December 16, 1985, and that unallocated and returned slots will be distributed by lottery. Effective April 1, 1986, slots may, with certain exceptions, be bought, sold, or traded for any consideration.

On March 7, 1986, the Department issued Special Federal Aviation Regulation 48 (51 FR 8632, March 12, 1986) which announced the procedures for lotteries to reallocate certain air carrier slots at LaGuardia, O'Hare International, and Washington National Airports. A lottery to allocate five percent of slots at the three airports was held on March 27, 1986. Kennedy International Airport was not included in the March 27 lottery because new entrant carriers have been accommodated at Kennedy in the past, and a withdrawal from incumbent carriers was considered inappropriate. A separate lottery for air carrier slots at Kennedy Airport is unnecessary at this time because no unallocated slots are available.

Accordingly, the lottery to be conducted on April 29 will involve only commuter slots at each of the four airports.

Requests to participate

Each commuter operator at a high density airport will be included in the lottery for the airport upon written notification to the FAA by 5:00 p.m. on Friday, April 25.

Any commuter operator not operating at the airport, but wishing to initiate service at the airport, shall be included in the lottery if that operator notifies the Office of the Chief Counsel in writing. To be eligible to participate, the operator must hold appropriate economic authority under Title IV of the Federal Aviation Act of 1958, as amended, and must hold or have made substantial progress in obtaining FAA operating authority under Part 135 or Part 121 of Title 14 of the Code of Federal Regulations. "Substantial progress" for this purpose is defined in 14 CFR 93.225(g). The notification must be in duplicate and must be received by 5:00 p.m. on Monday, April 14. The additional notification time for new entrants is needed to confirm the certification status for applicants.

All notifications of intent to participate in the lottery must be submitted to the address listed under **"ADDRESSES"** above.

Lottery procedures

A list of the slots to be allocated will be prepared by the FAA and will be available by April 28, 1986. The list may be obtained by contacting the person listed under **"FOR FURTHER INFORMATION CONTACT."** Slots will be allocated in accordance with the lottery procedures set forth in 14 CFR Subpart S, § 93.225. A separate lottery will be conducted for slots at each airport. The procedures for the lottery at each airport may be summarized as follows:

1. A random lottery will be held to determine the order of slot selection.

2. During the first selection sequence, 15 percent of the slots available but no fewer than two slots shall be reserved for selection by new entrant carriers. This percentage may be revised by an amendment issued prior to the lottery.

3. Each carrier will make its selection in the order determined in the initial sequence lottery, except that only new entrant carriers will be permitted to make selections until the percentage of slots set aside for new entrants is selected. The normal sequence will resume at that time, beginning with the first incumbent carrier passed over during the new entrant selections.

4. An operator may select any two slots available at the airport during each selection sequence, except that new entrant carriers may select four slots, if available, in the first sequence.

5. Each operator must make its selection within 5 minutes after being called or it shall lose its turn. If capacity remains after each operator has had an opportunity to select slots, the allocation sequence will be repeated in the same order.

Slots obtained under this section shall retain their withdrawal priority number. Special provisions relating to the use and transfer of slots are set forth in §§ 93.221 and 93.227 of Subpart S.

Public Process

The meeting is open to the public and all interested persons are invited to attend. The meeting will begin at 9:00 a.m. on Tuesday, April 29, 1986, at FAA Headquarters, in the Third Floor Auditorium, and will continue on April 30 if necessary.

Issued in Washington, DC, on April 1, 1986.

E. Tazewell Ellett,

Chief Counsel.

[FR Doc. 86–7553 Filed 4–4–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

List of Countries Requiring Cooperation With an International Boycott

In order to comply with the mandate of section 999(a)(3) of the Internal Revenue Code of 1954, the Department of the Treasury is publishing a current list of countries which may require participation in, or cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954]. The list is the same as the prior quarterly list published in the **Federal Register.**

On the basis of the best information currently available to the Department of the Treasury, the following countries may require participation in, or

cooperation with, an international boycott [within the meaning of section 999(b)(3) of the Internal Revenue Code of 1954].

Bahrain
Iraq
Jordan
Kuwait
Lebanon
Libya
Oman
Qatar
Saudi Arabia
Syria
United Arab Emirates
Yemen, Arab Republic
Yemen, Peoples Democratic Republic of

J. Roger Mentz,

Acting Assistant Secretary for Tax Policy.

[FR Doc. 86-7508 Filed 4-4-86; 8:45 am]

BILLING CODE 4810-25-M

Senior Executive Service; Performance Review Board

This notice lists the membership of the Office of the Secretary Performance Review Board (PRB), superseding the list published in 50 FR 35901, September 4, 1985, in accordance with 5 U.S.C. 4313(c)(4).

Scope: This notice applies to all components within the Office of the Secretary, except the Legal Division.

Purpose: The purpose of the Board is to review performance appraisals, ratings, recommendations for performance awards, and other personnnel actions, and to make recommendations to the appointing authority, who is the Deputy Secretary or his designee.

Composition of PRB: Each session of the Performance Review Board will be attended by the Chairperson or his designee and at least two of the members listed below. The Board will be composed of more than 50 percent career appointees in cases involving the appraisal of an SES career appointee. The names and titles of the PRB members are as follows:

Chairperson, John F.W. Rogers, Assistant Secretary of the Treasury (Management)
Paul W. Bateman, Deputy Treasurer of the United States
George N. Carlson, Director, Office of Tax Analysis
Philip E. Carolan, Director of Personnel
Francis X. Cavanaugh, Director, Office of Government Finance and Market Analysis
James W. Conrow, Deputy Assistant Secretary (Developing Nations)
Paul H. Cooksey, Deputy Assistant Secretary (Administration)
Roger M. Cooper, Deputy Assistant Secretary (Management) for Information Systems
Robert A. Cornell, Deputy Assistant Secretary (Trade and Investment Policy)
Stephen J. Entin, Deputy Assistant Secretary (Econimic Forecasting)
Don Fullerton, Deputy Assistant Secretary (Tax Analysis)
Richard A. Greenstein, Director, Office of Information Resources Management
Michael F. Hill, Director, Office of Revenue Sharing
Michael R. Hill, Deputy Inspector General
Francis A. Keating, II, Assistant Secretary (Enforcement and Operations)
Jill E. Kent, Deputy Assistant Secretary (Departmental Finance and Planning)
Arthur W. Long, Senior National Intelligence Advisor
David C. Mulford, Assistant Secretary (International Affairs)
S.F. Timothy Muller, Director, Office of Administrative Programs
Robert P. Newcomb, Deputy (Regulatory, Trade and Tariff Affairs) to Assistant Secretary (Enforcement and Operations)
Thomas P. O'Malley, Director, Office of Procurement
Katherine D. Ortega, Treasurer of the United States
Daivid D. Queen, Deputy Assistant Secretary (Enforcement)
Charles Schotta, Deputy Assistant Secretary (Arabian Peninsula Affairs)
Margaret D. Tutwiler, Assistant Secretary (Public Affairs and Public Liaison)
D. Edward Wilson, Jr., Deputy General Counsel
Robert B. Zoellick, Deputy-Assistant Secretary (Financial Institutions Policy).

FOR FURTHER INFORMATION CONTACT: Philip E. Carolan, Acting Executive Secretary, PRB, Room 1306, Main Treasury Building, 15th and Pennsylvania Avenue NW., Washington, DC 20220, Telephone: (202) 566-5469.

This notice does not meet the Department's criteria for significant regulation.

Dated: March 27, 1986.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

[FR Doc. 86-7597 Filed 4-4-86; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1985 Rev., Supp. No. 15]

Surety Companies Acceptable on Federal Bonds; CIM Insurance Corp.

A Certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308 Title 31 of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1985 Revision, on page 27110 to reflect this addition:

CIM INSURANCE CORPORATION. BUSINESS ADDRESS: 3044 West Grand Boulevard, Detroit, MI 48202. UNDERWRITING LIMITATION [b]: *$2,278,000.* SURETY LICENSES [c]: AL, AK, DC, ID, IL, IN, KS, ME, MD, MI, MN, MS, NV, NY, NC, ND, OH, RI, SC, SD, TX, VT, WY. INCORPORATED IN: New York. FEDERAL PROCESS AGENTS [d].

Certificates of Authority expire on June 30 each year, unless revoked sooner. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service, Department of the Treasury, Washington, DC 20226.

Dated: March 28, 1986.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 86-7540 Filed 4-4-86; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1985 Rev., Supp. No. 16]

Surety Companies Acceptable on Federal Bonds; Chrysler Insurance Co.

A certificate of Authority as an acceptable surety on Federal bonds is hereby issued to the following company under sections 9304 to 9308 Title 31 of the United States Code. Federal bond-approving officers should annotate their reference copies of the Treasury Circular 570, 1985 Revision on page 27111 to reflect this addition:

CHRYSLER INSURANCE COMPANY. BUSINESS ADDRESS: 900 Tower Drive Troy, MI 48098. UNDERWRITING LIMITATION [b]: *$4,394,000.* SURETY LICENSE [c]: All except GU, KS, NC, PR, VI. INCORPORATED IN: Michigan. FEDERAL PROCESS AGENTS [d].

Certificates of Authority expire on June 30 each year, unless revoked sooner. The certificates are subject to subsequent annual renewal as long as the companies remain qualified (31 CFR Part 233). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to Underwriting Limitations, areas in which licensed to transact surety business and other information.

Copies of the Circular may be obtained from the Surety Bond Branch, Finance Division, Financial Management Service Department of the Treasury, Washington, DC 20226.

Dated: March 18, 1986.

W.E. Douglas,

Commissioner Financial Management Service.

[FR Doc. 86-7541 Filed 4-4-86; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1985 Rev., Supp. No. 18]

Surety Companies Acceptable on Federal Bonds; Termination of Authority Omaha Indemnity Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Omaha Indemnity Company, of Milwaukee, Wisconsin, under the United States Code, Title 31, sections 9304–9308, to qualify as an acceptable surety on Federal bonds is terminated effective this date.

The Company was last listed as an acceptable surety on Federal bonds at 50 FR 27126, July 1, 1985.

With respect to any bonds currently in force with Omaha Indemnity Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service Finance Division, Surety Bond Branch, Washington, DC 20226, telephone (202) 634–2347.

Dated: March 31, 1986.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 86-7542 Filed 4-4-86; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Giuseppe Maria Crespi and the Emergence of Genre Painting in Italy

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determined that the objects to be included in the exhibit, "Giuseppe Maria Crespi and the Emergence of Genre Painting in Italy" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the Kimbell Art Museum and various foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Kimbell Art Museum, Fort Worth, Texas, beginning on or before September 20, 1986, to on or about December 6, 1986, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: April 1, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-7601 Filed 4-4-86; 8:45 am]

BILLING CODE 8230-01-M

Culturally Significant Objects Imported for Exhibition; Determination; Amendment; Te Maori; Maori Art from New Zealand Collections

On June 4, 1984, notice was published at page 23139 of the **Federal Register** (49 FR 23139) by the United States Information Agency pursuant to Pub. L. 89–259 relatiang to the exhibit "Te Maori; Maori Art from New Zealand Collections."

A new exhibition site has been added to the itinerary published in the original notice. The exhibition will be on display at the Field Museum of Natural History, Chicago, Illinois, beginning on or about March 6, 1986, to on or about June 8, 1986.

Dated: April 1, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-7602 Filed 4-4-86; 8:45 am]

BILLING CODE 8230-01-M

UNITED STATES SENTENCING COMMISSION

Notice of Public Hearing

AGENCY: United States Sentencing Commission.

ACTION: Notice of public hearing.

SUMMARY: This notice announces a public hearing on criminal offense seriousness scheduled by the U.S. Sentencing Commission for Tuesday, April 15, 1986.

DATE: April 15, 1986.

Time: 10 a.m.

Location: U.S. Sentencing Commission Hearing Room, 14th Floor of the North Office Tower at National Place, 1331 Pennsylvania Avenue, Washington, D.C. 20004.

FURTHER INFORMATION: Contact Paul K. Martin, Communications Director, 1331 Pennsylvania Avenue, N.W., Suite 1400, Washington, D.C. 20004, (202) 662–8800.

SUPPLEMENTARY INFORMATION: The U.S. Sentencing Commission was established under the Comprehensive Crime Control Act of 1984 and is an independent commission in the Judicial Branch. The Commission is charged with developing a national sentencing policy, and pursuant to that, sentencing guidelines for the federal courts. The topic of this hearing, the ranking of offensesge by seriousness, is a crucial step in devloping sentencing guidelines.

Written statements on this topic may be submitted to the U.S. Sentencing Commission, 1331 Pennsylvania Avenue, N.W., Suite 1400, Washington, D.C. 20004. Anyone interested in testifying at this hearing must contact Paul Martin at (202) 662–8800 by Wednesday, April 9, 1986.

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 86-7764 Filed 4-4-86; 8:45 am]

BILLING CODE 2210-01-M

Meeting Policy

AGENCY: United States Sentencing Commission.

ACTION: Notice of meeting policy.

SUMMARY: This notice describes the policy adopted by the U.S. Sentencing Commission concerning the openness of meetings. The policy is as follows: all regular Commission meetings are open to the public. The date, time and agenda of Commission meetings for each week will be posted at noon the preceding Friday in the Sentencing Commission offices. This meeting information is also available by calling the Commission offices at (202) 662–8800.

ADDRESS: U.S. Sentencing Commission, 1331 Pennsylvania Avenue, N.W., Suite 1400, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: Paul K. Martin, Communications Director, 1331 Pennsylavania Avenue, N.W., Suite 1400, Washington, D.C. 20004, (202) 662–8800.

SUPPLEMENTARY INFORMATION: The U.S. Sentencing Commission was established under the Comprehensive Crime Control Act of 1984 and is an independent commission in the Judicial Branch. The

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[1] An itemized list of objects included in the exhibit is filed as part of the original document. A copy of this list may be obtained by contacting Mr. John Lingburg of the Office of the General Counsel of USIA. The telephone number is 202–485–7976, and the address is Room 700, U.S. Information Agency, 301 4th Street SW., Washington, DC 20547.

Commission is charged with developing a national sentencing policy, and pursuant to that, sentencing guidelines for the federal courts.

William W. Wilkins, Jr.,

Chairman.

[FR Doc. 86-7765 Filed 4-4-86; 8:45 am]

BILLING CODE 2210-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans' Administration.

ACTION: Notice.

The Veterans' Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (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 fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans' Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: April 1, 1986.

By direction of the Administrator.

Randall H. Bryant II,

Executive Assistant to the Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits.
2. Request for Verification of Deposit.
3. VA Form 26-8497a.
4. On occasion.
5. Businesses or other for-profit.
6. 313,048 responses.
7. 26,087 hours
8. Not applicable.

[FR Doc. 86-7635 Filed 4-4-86; 8:45 am]

BILLING CODE 8320-01-M

Agency Form Under OMB Review

AGENCY: Veterans' Administration.

ACTION: Notice.

The Veterans' Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). The document contains a revision and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (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 fill out the form, an (8) and indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans' Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger Officer of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: March 31, 1986.

By direction of the Administrator.

Randall H. Bryant II,

Executive Assistant to the Associate Deputy Administrator for Management.

Revision

1. Department of Veterans Benefits.
2. Manufactured Home Loan Claim Under Loan Guaranty (Manufactured Home Unit Only).
3. VA Form 26-8629.
4. On occasion.
5. Individuals or households; Businesses or other for-profit.
6. 3,319 responses.
7. 1,106 hours.
8. Not applicable

[FR Doc. 86-7636 Filed 4-4-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51 No. 66
Monday, April 7, 1986

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).

CONTENTS

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 10704. Dated March 28, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time) Monday, April 7, 1986.

CHANGE IN THE MEETING: Cancellation of Meeting.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634–6748.

Dated: April 2, 1986.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued April 2, 1986.

[FR Doc. 86–7748 Filed 4–3–86; 12:28 pm]

BILLING CODE 6750-06-M

2

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: Tuesday, April 15, 1986, 9:30 a.m. (eastern time).

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Proposed Revisions of the Commission's Regulations on Employee Responsibilities and Conduct
4. Proposed Final Equal Pay Act (EPA) Interpretive Regulations

Closed

1. Litigation Authorization: General Counsel Recommendations
2. Discussion of Certain Commissioners' Charges
3. Agency Adjudication and Determination on the Record of Federal Agency Discrimination Complaint Appeals

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: April 2, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued April 2, 1986.

[FR Doc. 86–7749 Filed 4–3–86; 12:32 pm]

BILLING CODE 6750-06-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the previously announced meetings of the Board of Directors of the Federal Deposit Insurance Corporation scheduled for 2:00 p.m. (open session) and 2:30 p.m. (closed session) on Monday, April 7, 1986, have been rescheduled for 10:30 a.m. and 11:00 a.m., respectively, that same day.

No earlier notice of the changes in the time of the meetings was practicable.

Dated: April 3, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–7776 Filed 4–3–86; 3:35 pm]

BILLING CODE 6714-01-M

4

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 7, 1986.

A closed meeting will be held on Tuesday, April 8, 1986, at 2:30 p.m. An open meeting will be held on Thursday, April 10, 1986, at 10:00 a.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.420(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Fleischman, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 8, 1986, at 2:30 p.m., will be:

Institution of injunctive actions.
Institution of administrative proceeding of an enforcement nature.
Settlement of administrative proceeding of an enforcement nature.
Settlement of injunctive action.
Regulatory matter regarding financial institution.

The subject matter of the open meeting scheduled for Thursday, April 10, 1986, at 10:00 a.m., will be:

1. Consideration of a petition for reconsideration of an earlier decision not to institute a rulemaking proceeding pursuant to Section 19(c) of the Securities Exchange Act of 1934 to exempt Special Purpose Broker-Dealers from certain requirements of the rules of the National Association of Securities Dealers, Inc. For further information, please contact Katherine England at (202) 272–2882.

2. Consideration of whether to issue a release adopting an amendment to Rule 9b–1 under the Securities Exchange Act of 1934 which deletes from the Rule the requirement that an options disclosure document contain information regarding the uses of the options classes covered by the document. The release also clarifies other aspects of the Rule concerning the transaction costs, margin requirements and tax consequences of options trading. For further information, please contact Holly H. Smith at (202) 272–2415.

At times changes in Commission priorities require alterations in the

scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Gerald Laporte at (202) 272–3085.

John Wheeler,

Secretary.

April 1, 1986.

[FR Doc. 86–7752 Filed 4–3–86; 12:12 pm]

BILLING CODE 8010–01–M

federal register

Monday
April 7, 1986

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Lesquerella Filiformis (Missouri Bladder-Pod) To Be an Endangered Species; Proposed Rule

DEPARTMENT OF THE INTERIOR

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Lesquerella Filiformis (Missouri Bladder-Pod) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to list *Lesquerella filiformis* (Missouri bladder-pod), an annual plant endemic to the unglaciated prairie area of southwest Missouri, as an endangered species under the authority of the Endangered Species Act of 1973, as amended. *Lesquerella filiformis* is presently known at only nine locations in Dade, Greene, and Christian Counties, Missouri. The species is vulnerable due to low population numbers, limited distribution, and potential destruction of prairies habitat. This proposal, if made final, would implement Federal protection provided by the Endangered Species Act of 1973, as amended, for *Lesquerella filiformis*. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 6, 1986. Public hearing requests must be received by May 22, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Endangered Species Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Engel, Endangered Species Coordinator (see **ADDRESSES** above) (612–725–3276 or FTS 725–3276).

SUPPLEMENTARY INFORMATION:

Background

Lesquerella filiformis, a member of the mustard family, was first collected in 1887 in Missouri. However, the name *Lesquerella angustifolia* was misapplied to these early collections (Payson, 1921). It was not until later that Rollins (1956) described *Lesquerella filiformis*. In later work, Rollins and Shaw (1973) maintained *Lesquerella filiformis* as a distinct species.

Lesquerella filiformis is an annual with erect hairy stems to approximately 20 centimeters (8 inches) in height, branching from the base. Basal leaves are hairy on both surfaces, 1–2.25 centimeters (0.4–0.9 inch) long, 0.3–1 centimeter (0.1–0.4 inch) wide broadly rounded, and taper to a narrow petiole. Stem leaves are 1–3.2 centimeters (0.4–1.3 inches) long, 1.6–16 millimeters (0.06–0.6 inch) wide, and are also hairy on both surfaces, appearing silvery. Light yellow flowers with four petals usually appear at the tops of the stems in late April or early May (Morgan 1980). Morgan (1983) observed that flowering and seed dispersal usually occur within a period of four weeks. As the green seed capsules develop and mature, they turn light tan, split open, and disperse the seeds, leaving a papery septum attached to the pedicel. The species survives the hot summer in the form of seeds; germination occurs in the fall, and the plants overwinter in the rosette stage. They flower, fruit, and shed seeds when favorable temperatures and peak rainfall occur in the spring (Morgan 1983).

Lesquerella filiformis is restricted to the unglaciated prairie region of southwest Missouri at nine sites within Greene, Dade, and Christian Counties. It is believed to be extirpated in Jasper and Lawrence Counties, Missouri. It can be distinguished from the only other *Lesquerella* in Missouri, *Lesquerella gracilis* var. *gracilis*, an introduced species, by its gray-silvery appearance.

According to Morgan (1983), *Lesquerella filiformis* is found in open limestone glades where soils are shallow and the underlying limestone bedrock outcrops at or very near the ground surface. Associated species frequently found with *Lesquerella filiformis* are *Arenaria patula, Camassia scilloides, Northoscordum bivalve, Opuntia compressa, Satureja arkansana, Tradescantia tharpii, Verbena canadensis*, and a species of *Sedum*. *Lesquerella filiformis* is usually not dominant within the community (Morgan 1980).

Three of the nine known populations of *Lesquerella filiformis* occur on Missouri State highway rights-of-way and are subject to periodic mowing; four populations are on private land with no protection; and two populations are found within the Wilson Creek National battlefield (Morgan, personal communication 1985).

Federal Government actions on this species began with section 12 of the endangered Species Act of 1973 (Act), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian Institution report as a petition within the context of section 4(c)(2) (petition acceptance is now governed by section 4(b)(3) of the Act), and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to section 4 of the Act. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94–51 and the July 1, 1975, **Federal Register** publication. *Lesquerella filiformis* was included in the July 1, 1975, notice of review and the June 16, 1976, proposal. General comments received in relation to the 1976 proposal were summarized in the **Federal Register** on April 26, 1978 (43 FR 17909). On December 10, 1979, the Service published a notice (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired due to a procedural requirement of the 1978 Amendments. On December 15, 1980 (45 FR 82479), and September 27, 1985 (50 FR 39525), the Service published revised notices of review for native plants in the **Federal Register**; *Lesquerella filiformis* was included in those notices as a category-1 species. Category-1 species are those for which data in the Service's possession indicate that proposing to list is warranted.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been submitted on that date. The deadline for a finding on those species, including *Lesquerella filiformis*, was October 13, 1983. On October 13, 1983, October 12, 1984, and again on October 11, 1985, the petition finding was made that listing *Lesquerella filiformis* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires that the petition be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The present proposal constitutes a finding that the listing is warranted. The Service proposes to implement the petitioned action in accordance with section 4(b)(3)(B)(ii) of the Act.

A status report compiled by Morgan (1980), as well as other pertinent literature (see "Literature Cited," below) provide the biological basis for this

proposed rule. The data demonstrate low numbers of plants and continuing threats to the species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Lesquerella filiformis* (Rollins) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range. Lesquerella filiformis occurs at nine locations in the unglaciated prairie area of southwest Missouri in limited portions of Dade, Greene, and Christian Counties. Historical data indicate that *Lesquerella filiformis* has probably never been more widespread than it is at present (Morgan 1983). Morgan (1980) estimated a total of about 550 individual plants at four sites. Although there are now nine known sites, the low number of individual plants makes the species vulnerable to collecting and other human disturbance. Two of the populations are within the Wilson's Creek National Battlefield (WCNB) in Christian and Greene Counties, where a system of interpretive trails extends through the sites. These populations receive some disturbance from visitors to the Battlefield site, but Morgan (1983) concluded that such disturbance may help maintain the *Lesquerella filiformis* populations. Over 124,000 people visited WCNB in 1984; by 1990, it is expected 500,000 people may visit the area (D.L. Lane, Superintendent, WCNB, pers. comm. 1985). Research is needed to determine proper management techniques for maintenance of the species, especially at disturbed sites. The National Park Service is aware of the significance of *Lesquerella filiformis*. Three populations of *Lesquerella filiformis* occur in Dade County within Missouri highway rights-of-way. Two of these populations extend onto private land. Because of yearly right-of-way treatments, there is a definite threat of destruction to these populations. Cooperation with the Department of Highways and Transportation is necessary in order to provide these sites additional protection from accidental mowing or chemical treatment. The remaining four populations are located on private property; two sites in Dade County and one each in Greene and Christian Counties. The Service is not aware of any plans to develop or alter these sites; however, the prairie habitat could be lost due to more intensive agricultural activities.

Morgan (1983) reported that *Lesquerella filiformis* populations can be found on highway rights-of-way for one or two seasons, then disappear completely from these known sites during the subsequent year. This phenomenon further points up the need for further research and management in order to maintain and promote the species.

B. Overutilization for commercial, recreational, scientific, or educational purposes. Wildflower collectors may reduce populations in more accessible sites. As Steyermark (1963) pointed out, this plant, with its handsome yellow flowers, makes a desirable addition to rock gardens and may be vulnerable to overcollecting. Plants within the Wilson's Creek National Battlefield cannot be collected without a permit from the National Park Service.

C. Disease or predation. Seed predation by insects and fungal infection of developing capsules have been reported by Morgan (1983). It is not known whether the ensuing loss of reproductive capacity constitutes a significant threat to the species.

D. The inadequacy of existing regulatory mechanisms. Lesquerella filiformis is officially listed as endangered by the State of Missouri. Missouri regulations prohibit exportation, transportation, or sale of plants on the State or Federal lists. Collecting, digging, or picking any rare or endangered plant without permission of the property owner is also prohibited by State regulation. Three populations of *Lesquerella filiformis* are found on State land within highway rights-of-way. Two populations of this species occur on Federal lands administered by the National Park Service. Park Service regulations prohibit the removal of plants from parks without a collector's permit; these regulations will be further strengthened by prohibitions of the Endangered Species Act. These restrictions on collecting and trade, however, do not specifically provide for protection or management of the species' habitat.

E. Other natural or manmade factors affecting its continued existence. None known.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Lesquerella filiformis* as endangered. Only nine populations of this species are known to exist and four of these populations are on privately owned property and receive no protection or management designed to enhance the species' continued existence. Endangered status is appropriate because of the vulnerability of this species. For reasons detailed below, it is not considered prudent to propose designation of critical habitat.

Critical Habitat

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

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for land acquisition, if necessary, and cooperation with the States. It also requires that recovery actions be carried out for all listed species. These actions are initiated by the Service following listing. The protection required of Federal agencies and applicable prohibitions against collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagnecy cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 19, 1983). Section 7(a)(4) requires Federal agencies

to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. When a species is listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If an activity may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The National Park Service has jurisdiction over a portion of this species' habitat. Federal activities that could impact *Lesquerella filiformis* and its habitat in the future may include recreational and interpretive development. It has been the experience of the Service that the majority of section 7 consultations are resolved so that the species is protected and the project can continue.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Lesquerella filiformis*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions would apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. International and interstate commerce in *Lesquerella filiformis* is not known to exist. It is anticipated that few trade permits would ever be sought or issued, since this plant is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species in areas under Federal jurisdiction. This prohibition would apply to *Lesquerella filiformis*. Permits for exceptions to this prohibition are available under regulations published September 30, 1985 (50 FR 39681, codified at 50 CFR 17.62). It is anticipated that few collecting permits for the species would ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered and threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule, are hereby solicited. Comments particularly are sought concerning the following:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Lesquerella filiformis*;

(2) The location of any additional populations of *Lesquerella filiformis* and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Lesquerella filiformis*.

Final promulgation of a regulation on *Lesquerella filiformis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

National Environmental Policy Act

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

Literature Cited

Morgan, S.W. 1980. Status report on *Lesquerella filiformis Rollins*. Missouri Department of Conservation. Unpub. ms. 15 pp.

Morgan, S.W. 1983. *Lesquerella filiformis*, an endemic mustard. Natural Areas Journal, Vol. 3. Oct. 1983.

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Steyermark, J.A. 1963. Flora of Missouri. Iowa State University Press, Ames.

Author

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

List of Subjects in 50 CFR Part 17

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

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter 1, Title 50 of the Code of Federal Regulations, as set forth below:

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

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

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Brassicaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Brassicaceae—Mustard family:						
Lesquerella filiformis	Missouri bladder-pod	U.S.A. (MO)	E		NA	NA

Dated: March 2, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-7555 Filed 4-4-86; 8:45 am]

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federal register

Monday
April 7, 1986

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Eriogonum humivagans (Spreading Wild-buckwheat) To Be an Endangered Species; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine, Eriogonum Humivagans To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Eriogonum humivagans* (spreading wild-buckwheat) to be an endangered species. There is only one extended population of this species, with six occurrences over a distance of about 10 miles in San Juan County, Utah. Except for one occurrence on public land administered by the Bureau of Land Management, all the occurrences are on private land. The size of the occurrences varies from 100 to 3,000 plants, with a total of approximately 5,000 plants known. They occur on remnant heavy clay soils of the Mancos Shale in an area of pinyon-juniper woodlands and sagebrush parks. Because of the good soils and adequate precipitation at this relatively high elevation (nearly 7,000 feet), much of the area has been cleared for cultivation. The majority of the occurrences are along the edges of agricultural fields at roadsides or in remaining uncultivated areas. There are undeveloped oil and gas leases and mining claims (uranium) on half of the occurrences. This proposal, if made final, would provide possibilities for protection and management of the species under the Endangered Species Act of 1973, as amended. The Service is requesting comments on this action.

DATES: Comments from all interested parties must be received by June 6, 1986. Public hearing requests must be received by May 22, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the U.S. Fish and Wildlife Service, Salt Lake City Field Office, Endangered Species, 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84104. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address or at the Service's Grand Junction Field Office, Endangered Species, Independence Plaza, Suite B113, 529 25½ Road, Grand Junction, Colorado 81505.

FOR FURTHER INFORMATION CONTACT: John L. Anderson, Botanist, at the Grand Junction address above (303/241–0563 or FTS 322–0348), or John L. England at the Salt Lake City address (801/524–4430 or FTS 588–4430).

SUPPLEMENTARY INFORMATION:

Background

Eriogonum humivagans, the spreading wild-buckwheat, was first described by James Reveal (1968) who made the type collection with Arthur Holmgren in 1966. Holmgren and Shultz (1976) found another occurrence ¼ mile (0.4 kilometers) from the type locality in 1976 while conducting a survey of rare and endangered plants for the Bureau of Land Management (BLM). Two earlier collections were made in the 1950's, but were not recognized as a new taxon. The spreading wild-buckwheat is a perennial species, 8 to 12 inches (20 to 30 centimeters) high and 12 to 16 inches (30 to 40 centimeters) across, with glabrous herbaceous stems and strictly basal leaves from a branched woody base, appearing scapose. The cymose inflorescence is trichotomously branched and spreading, with turbinate clusters of small ⅛ inch (3 millimeter) six-tepalled white flowers. The oblanceolate basal leaves are densely tomentose below and mostly green above. *Eriogonum humivagans* occurs at an elevation of about 6,800 feet, growing within pinyon-juniper woodlands and sagebrush parks on outcrops of heavy clay soils of the lowermost strata of the Mancos Shale. These soils are characterized by the presence of the marine bivalve fossil, *Gryphaea newberryi* (Hintze 1973). These heavy clay soils occur as uneroded remnants surrounded by coarser-textured alluvial soils derived from the underlying Dakota sandstone. Much of this high-elevation, relatively mesic area has been cleared and put under nonirrigated, dry land cultivation. *Eriogonum humivagans* now occurs as small remnants on the unplowed edges of fields, except for one small occurrence within a pinyon-juniper woodland on BLM land (Anderson 1982). All the other locations are on private land and in road rights-of-way. There are oil and gas leases and uranium mining claims in the area of several of the occurrences. Some exploration and surface disturbance have taken place on these leases, but no development has occurred. The population at the type locality is in a heavily impacted highway right-of-way.

A possible additional population of *E. humivagans* occurs at Brumley Ridge, San Juan County, about 40 miles north of the type locality. The Brumley Ridge population grows in a disturbed habitat and is morphologically variable. This population, however, appears to be intermediate between *E. humivagans* and *E. corymbosum*. On the basis of this apparent intermediacy, Welsh (1984) reduced *E. humivagans* to a variety of *E. corymbosum*. Regardless of the rank at which *E. humivagans* is recognized, its status as a distinct taxon has not been questioned. Further research may support inclusion of the disjunct Brumley Ridge population within an expanded concept of the taxon, but the Service now recognizes only the population at the type locality as representing *E. humivagans*. Endangered status is proposed on the basis of evident significant decline in this population.

Section 12 of the Endangered Species Act of 1973 (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of section 4(c)(2) of the 1973 Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended), and of its intention to review the status of those plants. *Eriogonum humivagans* was included in the July 1975, notice and was proposed by the Service for listing as endangered along with some 1,700 other vascular plants on June 16, 1976 (41 FR 24523). General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). Comments that are received during the comment period for this new proposal will be summarized in any final rule.

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn; proposals already over 2 years old were subject to a 1-year grace period. On December 10, 1979, the Service published a notice of the withdrawal of the still applicable portions of the June, 1976, proposal, along with other proposals that had expired (44 FR 70796). The July, 1975, notice was superseded on December 15, 1980, by the Service's publication in the **Federal Register** (45 FR 82480) of a new notice or review for plants, which included *Eriogonum humivagans* as a category-1 species. Category 1 comprises taxa for which the Service presently has sufficient biological information to support a proposal to list as endangered or threatened species. No comments on this species have been received in response to the 1980 notice. On February 15, 1983, the Service

published a notice in the Federal Register (48 FR 6752) of its prior finding that the petitioned action on this species may be warranted in accordance with section 4(b)(3)(A) of the Act as amended in 1982.

On November 28, 1983, the Service published a supplement to the 1980 notice of review (48 FR 53640) in which *Eriogonum humivagans* was placed in category 2. Category 2 comprises taxa for which the Service has information indicating the possible appropriateness of a proposal to list as endangered or threatened but for which more substantial data are needed on biological vulnerability and threats. Recent field checks by Service personnel, John L. England in 1983 and John Anderson in 1984 and 1985, verified the continued precarious existence of *Eriogonum humivagans*. This information was reflected in a revised notice of review published September 27, 1985 (50 FR 39526), which returned this species to Category 1.

The Endangered Species Act amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The deadline for a finding on such petitions, including that for *Eriogonum humivagans*, was October 13, 1983. On October 13, 1983, October 12, 1984, and again on October 11, 1985, the petition finding was made that listing *Eriogonum humivagans* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. This proposed rule constitutes the next required finding that the petitioned action is warranted, in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Eriogonum humivagans* Reveal (spreading wild-buckwheat) are as follows:

A. The present or threatened destruction, modification, or curtailment of its habitat or range.

Much of the habitat of *Eriogonum humivagans* has been lost to cultivation. Only one of its occurrences is in an undisturbed area. Most of the other occurrences only remain as small remnants along the edges of fields, sometimes on opposite sides of a field, implying the nearly total loss of larger continuous occurrences (Anderson 1982). The type locality, a remnant within a State highway right-of-way, is fenced off from further cultivation, but has been severely impacted by highway construction, which bisected this locality, and road maintenance, which includes seeding of crested wheatgrass (*Agropyron cristatum*), a nonnative range grass, for soil stabilization. The underlying geologic formations may contain uranium or oil and gas, and several of the occurrences are covered by mining claims and oil and gas leases (Anderson 1984a). Some leases have been allowed to expire by one company and then taken out later by another, indicating low commercial potential, and impact to the plants is more likely from surface disturbance associated with exploration and required annual assessment work. There is a drill pad near the one occurrence on BLM land (Anderson 1982).

B. Overutilization for commercial, recreational, scientific, or educational purposes

None.

C. Diseases or predation

Eriogonum humivagans does not appear to be heavily grazed, but is palatability has not been determined.

D. The inadequacy of existing regulatory mechanisms. Although BLM provides for special management of candidate and "sensitive" species of plants and wildlife, formal listing under the Act would invoke protections for this species that do not exist under current law or regulations. The Act offers possibilities for additional protection of this species through section 7 (interagency cooperation) requirements and through section 9, which prohibits removing and reducing to possession any endangered plant from an area under Federal jurisdiction. The one occurrence on public land near Monticello is within an isolated BLM tract of 160 acres surrounded by private land. The BLM-administrated parcel may be declared surplus and made available for disposal. Benefits of the Act to this portion of the species' population would then be lost. All other occurrences of the species are on private land and would not be protected by section 9(a)(2)(B) of the Act.

E. Other natural or manmade factors affecting its continued existence.

Potential habitat for *Eriogonum humivagans* may be limited by its local endemism and apparent restriction to a remnant habitat. Because it is a restricted endemic, the possibility is increased that one catastrophic disturbance, either natural or human-caused, could destroy a significant portion of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Eriogonum humivagans* as an endangered species. Because it occurs in low numbers on a restricted habitat that has been severely impacted or eliminated in places, endangered status seems an accurate assessment of the species' status. It is not prudent to propose critical habitat for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time because no additional benefit would be provided by the critical habitat designation that would not already be provided by listing and that would outweigh possible negative effects of designation. Any impacts to its habitat would also affect the plant itself as a rooted organism and, consequently, would be addressed under section 7 of the Act as a result of its listing. The BLM is already aware of the occurrence on its land, so that formal designation of critical habitat would not serve to notify the agency of its obligations under section 7. Listing highlights the rarity of a plant and can attract negative as well as positive attention. Publication of critical habitat descriptions and maps could be detrimental to the species by singling out the location of each occurrence, and exposing it to the risk of vandalism. Therefore, it would not be prudent to designate critical habitat for *Eriogonum humivagans* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species

Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against trade and collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible effects of this rule on the BLM might include restricting realty actions involving disposition of tracts with *Eriogonum humivagans*, as well as exercising care in administering leases and claims so that the species is accommodated in exploration or development activity.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Eriogonum humivagans*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. No such trade in *Eriogonum humivagans* is known. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This protection would apply to *Eriogonum humivagans*. Permits for exceptions to this prohibition are available through regulations promulgated September 30, 1985 (50 FR 39681, to be codified at 50 CFR 17.62). *Eriogonum humivagans* occurs primarily on private lands, with one occurrence on public lands managed by the BLM. It is anticipated that few collecting permits for the species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington DC. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning the following:

(1) biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Eriogonum humivagans;*

(2) the location of any additional populations of *Eriogonum humivagans* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) additional information concerning the range and distribution of this species; and

(4) current or planned activities in the subject area and their possible impacts on *Eriogonum humivagans.*

Final promulgation of the regulation on *Eriogonum humivagans* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Salt Lake City Field Office (see **ADDRESSES** section above).

National Environmental Policy Act

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

Literature Cited

Anderson, J.L. 1982. Unpublished field trip report for *Eriogonum humivagans*, November 1982. U.S. Fish and Wildlife Service, Denver, Colorado, 12 pp.

Anderson, J.L. 1984a. Unpublished trip report (on land status for *Eriogonum humivagans).* U.S. Fish and Wildlife Service, Grand Junction, Colorado. 2 pp.

Anderson, J.L. 1984b. Unpublished trip report of status reviews in Emery, Grand, and San Juan Counties, Utah. U.S. Fish and Wildlife Service, Grand Junction, Colorado.

Hintze, L.H. 1973. Geologic history of Utah. Brigham Young University Geology Studies 20(3):1–181.

Holmgren, A. and L. Shultz. 1976. Threatened, Endangered, or Rare Species of the Moab District, Bureau of Land Management. Utah State University, Logan, Utah.

Reveal, J.L. 1986. New species of *Eriogonum* from Utah. Madrono 19:289–300.

Welsh, S.L. 1984. Utah Flora: Polygonaceae. Great Basin Naturalist 44:519–557.

Authors

The primary author of this proposed rule is John Anderson, Botanist, Endangered Species Office, U.S. Fish and Wildlife Service, Grand Junction, Colorado. John L. England, Botanist, Endangered Species Office, U.S. Fish and Wildlife Service, Salt Lake City, Utah, served as editor (see **ADDRESSES** section above).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat.

3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the family Polygonaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Polygonaceae—Buckwheat family:						
*	*	*	*	*		
Eriogonum humivagans	Spreading wild-buckwheat	U.S.A. (UT)	E		NA	NA
*	*	*	*	*		

Dated: March 3, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–7556 Filed 4–4–86; 8:45 am]

BILLING CODE 4310–55–M

federal register

Monday
April 7, 1986

Part IV

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-5]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at the six airports listed below. Each location designated is a public airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA will require that pilots maintain two/way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 U.T.C., May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Columbus and January 19, 1985, for Austin were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 11 ARSA's as published in the **Federal Register** on November 1, 1985 (50 FR 45718), 11 ARSA's on December 9, 1985 (50 FR 50254), 12 on February 7, 1986 (51 FR 4872), and 11 on March 10, 1986 (51 FR 8284) in the implementation of this NAR recommendation.

On September 30, 1985, the FAA proposed to designate ARSA's at 6 airports under Airspace Docket No. 85-AWA-5 (50 FR 39822). This rule designates ARSA's at these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposals to the FAA. Additionally, the FAA has held informal airspace meetings for each of the proposed airports. In response to public comments received the FAA has modified several of the proposals.

Related Rulemaking

In addition to the airports addressed here and those previously designated, the FAA published proposed ARSA designations for 11 additional airports on September 30, 1985 (50 FR 39822).

Discussion of Comments

The FAA has received comments on the basic ARSA program as well as comments directed toward the proposed individual designations. Additionally, several of the comments on individual designations are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposals at particular locations.

ARSA Program Comments

Comments received from the Aircraft Owners and Pilots Association (AOPA) and several others claimed that the notification for some of the informal airspace meetings held for some of the candidate airports was inadequate. The schedule of the meetings was published in the Notice of Proposed Rulemaking (NPRM) on September 30, 1985 (50 FR 39822). Additionally, the FAA sent announcements to individuals, fixed-base operators, aviation user organizations, and to the news media organizations in each airport's area. The ARSA program has received considerable coverage in newsletters and official publications of aviation organizations and the schedule of the meetings mailed to members. Furthermore, a 154-day comment period was provided for Airspace Docket No. 85-AWA-5 in which the public could make comment to the public docket on the proposals. For the above reasons the FAA believes the opportunity was sufficient to permit full public comment on the proposals.

AOPA and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA and the Experimental Aircraft Association (EAA), disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is

relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

AOPA claimed the staffing at one facility doubled in the year prior to implementation of their ARSA. The facility's authorized staffing of 28 controllers did not change. In January 1985, there were 27 controllers on board but in January 1986, there were the authorized 28 on board. The FAA finds the AOPA claim to be without merit.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in VFR conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supesedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be indivídually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designated locations.

Numerous commenters also objected to the proposals based upon their belief that air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than was estimated by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that estimates of delays were quite preliminary, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. These cost estimates are expected to be transitory in nature in that actual delays will be reduced as pilot and controllers become experienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

AOPA discounted the FAA delay estimates claiming that they were based upon a standard ARSA. The FAA does not agree. FAA's preliminary delay estimates were based upon the ARSA proposed for the individual locations, whether standard or modified.

Several commenters questioned the validity of FAA's estimates of the time savings expected to be realized as a result of the greater flexibility allowed air traffic controllers in handling traffic within an ARSA. FAA wants to reemphasize that its estimates of expected savings in time and money which will result from the greater flexibility allowed air traffic controllers in handling traffic within an ARSA are quite preliminary. These estimated savings may or may not offset the delay anticipated at some sites after initial establishment of an ARSA, but are expected to provide overall time savings to all traffic, IFR as well as VFR, which will exceed delay as controllers gain experience with ARSA operating procedures.

Other commenters questioned the operating cost and passenger time values used to calculate delay costs and time savings. The value used are weighted averages of overall activity within an aircraft category for various aircraft types, and represent a typical mix of air passengers. FAA recognizes that for some specific operations actual operating cost and passenger time values will exceed the average values used, while in other cases, the actual values will be less. However, weighted averages represent the most appropriate and equitable measure to use when assessing *overall* impacts. Further, because the delay resulting from implementing ARSA procedures is expected to be transitory and efficiency improvements in the movement of traffic are ultimately expected to result, those operators whose variable cost and passenger time values exceed the average used in the regulatory evaluation may in fact realize above average benefits.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360 channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

SSA claimed that some FAA field personnel had indicated that a transponder would be needed to enter an ARSA, and thus, the cost to implement the program was grossly underestimated. An operable two-way radio is the only avionics required for flight in an ARSA. A transponder is not required and the costing estimates are correct.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ATC rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft

collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is signficantly reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset is based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore-Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, SSA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary of takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assemble of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

SSA, and other commenters, claimed that designation of these ARSA's would negatively impact cross-country glider flights operating out of airports 20 miles, or more, from these ARSA's. While some deviations may be required, the FAA does not agree that the minor deviations that may be required will result in negatively impacting cross-country glider operations.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and TRSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, EAA, and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1–2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The criteria for this group of candidates was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

AOPA, EAA, and others commented that the existence of a TRSA in the above mentioned category should not be

considered as justification for an ARSA. After a review of all comments received to the above referenced proposal, the FAA adopted that NAR recommendation (50 FR 9252, March 6, 1985). Therefore, absent a finding that designation would be inappropriate, the existence of a TRSA within that criteria is deemed sufficient for designation.

AOPA, EAA, and others indicated that several of the proposed locations do not meet the criteria that the FAA is considering for future ARSA candidates. The FAA has circulated proposed criteria for future application. However, whatever the nature of any criteria eventually adopted, this group of locations which qualify as ARSA candidates under the adopted NAR criteria would not be affected.

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with that assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, SSA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

AOPA and SSA objected to the ARSA's based upon a claim that an insufficient amount of pilot education had been accomplished by the agency. AOPA cited South Bend, IN as an example where there were 19 days between the informal airspace meeting and the closing of the comment period, and SSA claimed that the comment period and a single informal airspace meeting were insufficient. The FAA does not agree. The example cited by AOPA references the comment period, not the total period to provide for pilot education. Pilot education will continue after the comment period has ended and beyond the effective date of the ARSA's. Further user meetings will be held for each designated location following implementation of the ARSA's.

Underlying a great many of the comments received was the idea that some provision should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

AOPA commented that FAA underestimated the one-time cost of distributing Letters to Airmen and the Advisory Circular, and neglected costs related to the informal public meetings. Both of these issues were discussed in the detailed regulatory evaluation of the NPRM, which has been available in the regulatory docket since publication of the NPRM. The availability of this detailed evaluation was indicated in the introductory paragraph of the regulatory evaluation summary included in the Federal Register NPRM (50 FR 39822, 39824, September 30, 1985). AOPA's comments assumed that every active pilot would be notified at least once. However, FAA intends to mail individual Letters to Airmen only to those pilots living in the vicinity of ARSA sites, and consequently its cost estimate is less than that of AOPA. The total one-time cost of distributing Letters to Airmen and the Advisory Circular was also prorated to reflect only those sites included in the notice, and both total and prorated cost estimates were provided in the notice. Further, as FAA indicated in the detailed regulatory evaluation, the expenses associated with public meetings will be incurred regardless of whether or not an ARSA is ultimately established at a proposed site, and consequently these expenses are more appropriately considered sunken costs attributable to the rulemaking process rather than implementation costs of the ARSA program. Similarly, information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

SSA, and other commenters questioned whether the FAA considered the impact of the proposed ARSA's on individuals in making its Regulatory Flexibility Determination, and whether the threshold for determining if a significant economic impact on a substantial number of small entities had been exceeded because some small entities might be impacted. The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. Individual citizens, as such, are not considered small entities under the terms of the RFA; however, an individual whose business is a sole proprietorship would be considered a small entity under the RFA. Some of the small entities which could be potentially

affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding almost every satellite airport located within the 5-mile ring to avoid adversely impacting their operations, and in some cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, a substantial number of small entities, defined in FAA Order 2100.14, "Regulatory Flexibility Criteria and Guidance," as more than one-third (but not less than eleven) of the small entities subject to a proposed rule, clearly will not be impacted by this rulemaking. Therefore, adoption of this final rule will not result in a significant economic impact on a substantial number of small entities.

Numerous commenters objected to the ARSA designators claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and the normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Particular Locations

Adams Field, Little Rock, AR

The North Little Rock Airport Manager claimed that the altitude of the shelf area over North Little Rock Airport would cause aircraft transiting the area along an existing visual flight rule (VFR) flyway to endanger aircraft in the traffic pattern at the airport. The pattern altitude for the North Little Rock Airport extends upward to 2,000 feet mean sea level (MSL). Although the traffic pattern could be accommodated by a local letter of agreement, this would not necessarily be known to transient pilots. For these reasons, the FAA agrees and the shelf in the vicinity of the North Little Rock Airport has been modified and raised.

Several commenters claimed that aircraft required to hold outside the proposed ARSA to the north would violate Little Rock Air Force Base airspace. The FAA does not agree. Local procedures are already in place depicting division of jointly used airspace.

Several commenters requested that if an ARSA is implemented at Little Rock, the dividing line between segments should be along the localizer. The alignment adopted approximates the alignment of the localizer course.

The Air Transport Association (ATA) supported the implementation of an ARSA at Adams Field, Little Rock, AR.

General Mitchell Field, Milwaukee, WI

AOPA and others faulted the meeting notification in that only 5 days notification to individual pilots was given. The informal airspace meeting was scheduled in August 1985 to be held on November 6, 1985. The notifications to pilots were distributed under agency guidelines in effect at the time the distribution took place. Although this did not meet the 60-day requirement, subsequently adopted, concerted efforts by the FAA to best utilize news media and personal notifications to fixed-base operators resulted in above average attendance at this meeting.

The manager of Rainbow Airport and others claimed that the base of the outer core was too low and should be raised to allow sufficient terrain clearance over land areas and to reduce interference with the traffic pattern at Rainbow Airport. The FAA agrees in part and has raised the base altitude of the outer core over land areas to 2,200 feet MSL.

Several commenters expressed concern as to which facility should be contacted when inbound to Timmerman Airport. As earlier stated in general comments, if a pilot contacts the wrong facility, appropriate instructions on the proper facility and frequency will be given. Local procedures between the Timmerman Tower and Milwaukee Approach Control will be developed for use of overlapping airspace.

Numerous comments were received objecting to implementation of an ARSA and stating that the TRSA with amended rules would work better. General comments on these issues have been addressed above.

Greater Buffalo International Airport, NY

The Soaring Society of America (SSA) claimed the proposed ARSA will have no effect on their local training areas, towing routes, or landing patterns. However, their cross-country routes may be affected. As stated above, the ARSA should have minimal impact on these cross-country routes whereby only minor deviations may be required. Air traffic control personnel have worked closely with the glider operators in the past and can be expected to do so in the future in order to lessen any impact on these cross-country routes.

The Experimental Aircraft Association claimed the ARSA would cause the airliners and others in the ARSA to fly lower than they presently fly in the TRSA and thereby generate safety and noise problems. Although the floor of the ARSA outer core would be lower than that of the TRSA, the flight paths and minimum vector altitudes are not expected to change. For this reason, the FAA disagrees.

One commenter claimed the ARSA would have a negative impact on no-radio operations from Smith Field which lies 9.5 miles north of Buffalo. This airport is under the shelf area to the north and operations to and from Smith Field can continue to be conducted as at present.

Another commenter claimed the FAA would have to operate a position full time which is presently operated only part time. The commenter claimed there

would be additional manpower and costs involved in operating this position. The FAA disagrees. Present staffing allows for full time-operation of this position when needed.

AOPA and others claimed the ARSA would force the relocation of a training area associated with Buffalo Airpark to an area outside the ARSA. They also claim the costs associated with the training area relocation should have been included in the FAA cost analysis. The FAA disagrees. This practice area should not be impacted as the the major portion of this training area lies outside the proposed ARSA. As stated above, the FAA will establish procedures to minimize the impact on established training areas which lie within the regulatory portion of the ARSA.

The ATA responded in support of the Greater Buffalo ARSA as an improvement in safety and service.

Memphis International Airport, TN

The SAA and others claimed the Memphis ARSA will have a negative impact on the training and towing areas and cross-country routes from Colonial Airpark. The SSA request the local facility make allowances for the operation of gliders along the eastern edge of the ARSA. As stated above, local facilities will enter into agreements to allow for these kinds of operations, if necessary.

AOPA, SAA and other commenters faulted meeting notification given to balloon, lighter than air, and glider pilots. The local facility made direct efforts to notify these groups in sufficient time for the meeting. The completeness of their efforts was demonstrated by the high proportion of pilots from these groups at this meeting. For this reason, the FAA does not agree.

AOPA and others faulted the proposed ARSA for proposing a cutout for DeSoto Airport, which had been closed for a number of years. The text of this proposal was correct and did not propose this cutout although the graphic depicted this cutout in error.

Several commenters suggested raising the floor of the outer core to 2,500 or 3,500 feet MSL instead of the proposed 1,600 feet MSL. The FAA disagrees. The proposed floor allows in excess of the standard 1,200 feet above ground level requirement for the base of the outer core.

One commenter claimed the proposed ARSA would negatively impact his operation at a private strip 2 miles south of Bob White Airport. The strip is located approximately 8 miles south of Memphis International Airport under the outer core shelf where the base altitude of the proposed ARSA is 1,600 feet MSL. The FAA disagrees and believes there will be no significant change from present day operation.

AOPA and other commenters claimed the present operation under the TRSA at Memphis is satisfactory and that there is no need for change. While the operation under TRSA may be satisfactory today, the FAA does not agree that there is no need for improvement. As stated above, the FAA believes that replacing TRSA with ARSA will improve safety at each of the locations adopted.

One commenter claimed the ARSA would cause a race track effect around the perimeter of the ARSA and lead to compression and congestion in this area. The FAA does not agree. As stated above, observations at ARSA sites already implemented show that this compression and congestion does not occur.

Michiana Regional Airport, South Bend, IN

The SSA and others claimed the South Bend ARSA will have a negative impact on their training and towing areas and cross-country routes. The SSA requests the local facility make allowances for the operation of gliders along the eastern edge of the ARSA. As stated above, local facilities will enter into agreements to allow for these kinds of operations, if necessary.

Several commenters claimed the proposed ARSA would require them to purchase two-way radios to continue their operation from Chain-O-Lakes Airport. The FAA does not agree. A cutout has been provided for this airport to allow these no-radio aircraft to continue their no-radio operation.

Several commenters, including AOPA, claimed the top of ARSA should be 3,000 feet above the airport rather than 4,000 feet. The FAA does not agree. The NAR task group recommended the 4,000 foot top for safety and other reasons and the FAA adopted this recommendation.

Several commenters objected to the designation on grounds that the ARSA would negatively impact recreational flying. Some of these commenters indicated at the informal airspace meeting that the air traffic controllers at South Bend had been most cooperative in the past. The FAA envisions no change in that level of cooperation and recreational flying can be accommodated on the same basis as it has been in the past. If that should prove unsatisfactory, a local agreement can be established between such operators and the air traffic control facility to provide for this activity.

Several commenters claimed the proposed ARSA creates a problem for aircraft flying around or through the large area of antennas southeast of Michiana Regional Airport. The FAA agrees and has raised the floor of the ARSA between the 5- and 10- mile radius to 2,500 feet MSL from the 120° bearing clockwise to the 160° bearing.

Salt Lake City International Airport, UT

Several commenters, including The Utah Pilots Association, claimed the base altitude of the outer core in the vicinity of Salt Lake City Municipal 2 Airport is too low. The base altitude is 5,400 feet MSL and the traffic pattern altitude of Salt Lake City Municipal 2 Airport is at 5,600 feet MSL. The FAA agrees and has modified the ARSA in the vicinity of Salt Lake City Municipal 2 Airport to raise the base altitude to 5,800 feet MSL.

Several commenters claimed the proposed ARSA did not have easily identifiable boundaries. Others claimed the eastern boundary forced aircraft too close to the mountains and interfered with the existing north-south flyway. The FAA agrees and has modified the boundary between 5 and 10 miles to eliminate that airspace east of Interstate Highway 15. This action favorably responds to both comments.

Several commenters claimed the proposed ARSA does not allow sufficient terrain clearance in the vicinity of Kearns Ridge. The FAA agrees. For this reason, the airspace beyond 8 miles from Salt Lake City International Airport from the 200° bearing from the airport clockwise to Interstate Highway 80 southwest of the airport has been eliminated. This action eliminates the airspace over Kearns Ridge from the ARSA as adopted.

The Utah Soaring Association claims the ARSA would prevent their landing at any of the three airports in the Salt Lake City area. The two outlying airports are under the shelf of the proposed ARSA and present operations require two-way radio to operate to and from Salt Lake City International Airport. This requirement would not change from the present.

The Air Transport Association and others spoke in favor of the proposed Salt Lake City ARSA as a safety enhancement.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not

address them as a part of this rulemaking.

Regulatory Evaluation

Those comments which addressed information presented in the Regulatory Evaluations of the notices for the dockets included in this final rule have been discussed above. A detailed Regulatory Evaluation of this final rule has been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the group of ARSA sites established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM, and those comments which addressed it have been discussed above. For the reasons presented in the NPRM and clarified in the Discussion of Comments, FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates Airport Radar Service Areas (ARSA) at the six airports listed below. Each location designated is a public airport at which a nonregulatory Terminal Radar Service Area is currently in effect. Establishment of each ARSA will require that pilots maintain two-way radio communication with air traffic control while in the ARSA. Implementation of ARSA procedures at each of the affected locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

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; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

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

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) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

§ 71.50 [Amended]

2. § 71.501 is amended as follows:

Adams Field, Little Rock, AR—[New]

That airspace extending upward from the surface to and including 4,300 feet MSL within a 5-mile radius of Adams Field (lat. 34°43'48" N., long. 92°13'59" W.); and that airspace extending upward from 1,500 feet MSL to and including 4,300 feet MSL within a 10-mile radius of Adams Field from the 030° bearing from the airport clockwise to the 210° bearing from the airport, and that airspace extending upward from 1,800 feet MSL to and including 4,300 feet MSL within a 10-mile radius of the airport from the 210° bearing from the airport clockwise to the 310° bearing from the airport, and that airspace extending upward from 2,100 feet MSL to and including 4,300 feet MSL from the 310° bearing from the airport clockwise to the 030° bearing from the airport.

General Mitchell Field, Milwaukee, WI—[New]

That airspace extending upward from the surface to and including 4,700 feet MSL within a 5-mile radius of the General Mitchell Field (lat. 42°56'49" N., long. 87°53'49" W.); and that airspace extending upward from 1,900 feet MSL to and including 4,700 feet MSL within a 10 mile radius of the General Mitchell Field east of the shoreline of Lake Michigan, and that airspace extending upward from 2,200 feet MSL to and including 4,700 feet MSL within a 10-mile radius of the General Mitchell Field west of the shoreline of Lake Michigan.

Greater Buffalo International Airport, NY—[New]

That airspace extending upward from the surface to and including 4,700 feet MSL within a 5-mile radius of the Greater Buffalo International Airport (lat. 42°56'26" N., long. 78°43'57" W.); excluding that airspace within a 1-mile radius of the Buffalo Airpark (lat. 42°51'40" N., long. 78°43'00" W.), and excluding that airspace within a 1-mile radius of the Lancaster Airport (lat. 42°55'20" N., long. 78°36'45" W.); and that airspace extending upward from 2,200 feet MSL to 4,700 feet MSL within a 10-mile radius of the Greater Buffalo International Airport exclusive of Canadian Airspace.

Memphis International Airport, TN—[New]

That airspace extending upward from the surface to and including 4,300 feet MSL within a 5-mile radius of the Memphis International Airport (lat. 35°02'59" N., long. 89°58'43" W.), and that airspace extending upward from 1,600 feet MSL to and including 4,300 feet MSL within a 10-mile radius of the Memphis International Airport.

Michiana Regional Airport, South Bend, IN—[New]

That airspace extending upward from the surface to and including 4,800 feet MSL within a 5-mile radius of the Michiana Regional Airport (lat. 41°42'17" N., long. 86°19'00" W.), excluding that airspace within a 1-mile radius of the Chain-O-Lakes Airport (lat. 41°39'45" N., long. 86°21'15" W.) and excluding that airspace 1 mile either side of

the 214° bearing from Chain-O-Lakes Airport to the 5-mile radius from Michiana Regional Airport; and that airspace extending upward from 2,000 feet MSL to and including 4,800 feet MSL within a 10-mile radius of Michiana Regional Airport from the 160° bearing from the Michiana Regional Airport clockwise to the 120° bearing from the airport, and that airspace extending upward from 2,500 feet MSL to and including 4,800 feet MSL from the 120° bearing from the airport clockwise to the 160° bearing from the airport.

Salt Lake City International Airport, UT—[New]

That airspace extending upward from the surface to and including 8,200 feet MSL within a 5-mile radius of the Salt Lake City International Airport (lat. 40°47'13" N., long. 111°58'05" W.) excluding the airspace within a 1-mile radius of the Salt Lake Skypark Airport (lat. 40°52'10" N., long. 111°55'35" W.); and that airspace extending upward from 5,400 feet MSL to and including 8,200 feet MSL within a 10-mile radius of the Salt Lake City International Airport, excluding that airspace between the 5-and 10-mile radius east of Interstate Highway 15, and excluding that airspace beyond 8 miles from the 200° bearing from Salt Lake City International Airport clockwise to Interstate Highway 80, and excluding that airspace between 5 and 10 miles from Salt Lake City International Airport extending upward from 5,400 feet MSL to but not including 5,800 feet MSL in an area bounded on the west by the 200° bearing from the airport counterclockwise to Interstate Highway 15 on the east.

Issued in Washington, D.C., on April 2, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-7686 Filed 4-4-86; 8:45 am]

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Monday, April 7, 1986

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[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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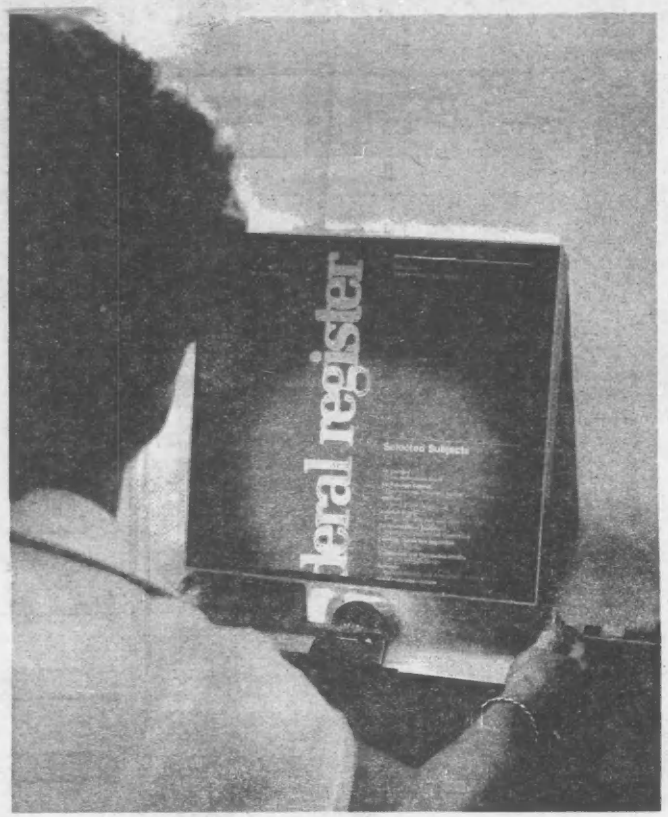

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